



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON FINANCIAL CONDITION EXAMINATION
OF THE
FIRST SECURITY BENEFIT LIFE INSURANCE AND ANNUITY COMPANY
OF NEW YORK

CONDITION:

DECEMBER 31, 2006

DATE OF REPORT:

MARCH 21, 2008

STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON FINANCIAL CONDITION EXAMINATION

OF THE

FIRST SECURITY BENEFIT LIFE INSURANCE AND ANNUITY COMPANY
OF NEW YORK

AS OF

DECEMBER 31, 2006

DATE OF REPORT:

MARCH 21, 2008

EXAMINER:

JULIUS ASUBONTENG

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	4
A. History	4
B. Holding company	4
C. Management	8
D. Territory and plan of operation	10
E. Reinsurance	11
4. Significant operating results	12
5. Financial statements	14
A. Assets, liabilities, capital and surplus	14
B. Condensed summary of operations	16
C. Capital and surplus account	17
6. Prior report summary and conclusions	18
7. Summary and conclusions	19



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

David Paterson
Governor

Eric R. Dinallo
Superintendent

November 12, 2008

Honorable Eric R. Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22669, dated July 31, 2007 and annexed hereto, an examination has been made into the condition and affairs of First Security Benefit Life Insurance and Annuity Company of New York, hereinafter referred to as “the Company” or (“FSBL”) at its home office located at 70 West Red Oak Lane, White Plains, New York 10604.

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, 2006 filed annual statement. (See item 5 of this report)

The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to abide with the provisions of its approved Investment Services Agreement with Security Benefit Life Insurance Company ("SBL"). (See item 3B of this report)

The Company violated Section 91.4(a)(3) of Department Regulation No. 33 by failing to maintain records in a manner that permits ready identification between the items allocated and the basis on which it was allocated, and by failing to maintain its records in a manner that is readily accessible for examination. (See item 3B of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2003. This examination covers the period from January 1, 2004 through December 31, 2006. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2006 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, 2006 to determine whether the Company's 2006 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
- Territory and plan of operation
- 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 recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 6 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

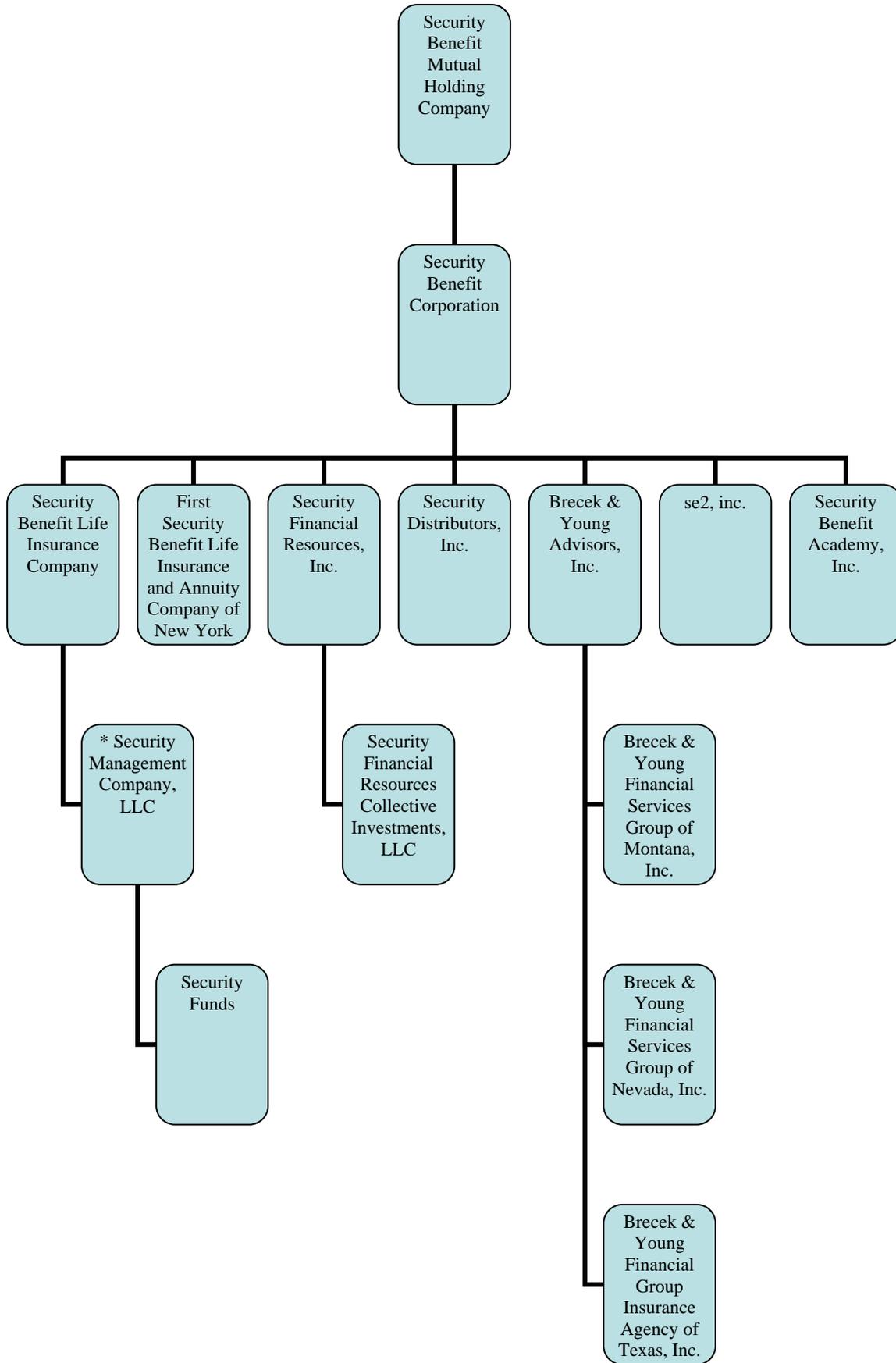
The Company was incorporated as a stock life insurance company under the laws of New York on November 8, 1994, and was licensed and commenced business on July 31, 1995. Initial resources of \$6,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$4,000,000, were provided through the sale of 200,000 shares of common stock (with a par value of \$10 each) for \$30 per share to SBL, a Kansas life insurance company. Subsequently, on February 24, 1995, all of the stock was transferred to Security Benefit Group, Inc. (“SBG”), a wholly owned subsidiary of SBL.

On September 8, 1995, the Company merged with Pioneer National Life Insurance Company (“PNL”), a stock life insurance company organized under the laws of the state of Kansas. As of that date, PNL ceased to exist and First Security Benefit Life Insurance and Annuity Company of New York became the surviving company. As a result of this transaction, the Company’s paid-in and contributed surplus was increased to \$4,600,000. In 2004, SBG contributed paid in capital to the Company in the amount of \$2,000,000. The contribution increased the Company’s gross paid-in and contributed surplus to \$6,600,000. In August 2006, SBG merged with and into the Company’s affiliate Security Benefit Corporation (“SBC”). In August 2006, SBC filed and the Department approved a surplus contribution of \$2,000,000 in cash to FSBL. As a result, as of December 31, 2006, the Company’s gross paid-in and contributed surplus increased to \$8,600,000.

B. Holding Company

The Company is a wholly owned subsidiary of SBC, a holding company and management services company domiciled in Kansas. The ultimate parent of the Company is Security Benefit Mutual Holding Company, a Kansas corporation.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2006 follows:



* Security Management Company, LLC (“SMC”) is owned by SBL (90%) and SBC (10%).

The Company had six service agreements in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Administrative Services Agreement (File #s 23841 and 34730)	1/1/06 and 1/1/97	SBL SBG	FSBL	Underwriting, Claims, Actuarial Accounting, Marketing, Advertising and Disaster Recovery	2006: (\$97,725) 2005: (\$94,086) 2004: (\$76,736)
Administrative Services Agreement (File #33228) replaces administrative agreement #23841	1/1/05	SBC	FSBL	Accounting, Marketing, Advertising, Functional Support, and Disaster Recovery	2006: (\$85,358) 2005: (\$64,273) 2004: \$0
Distribution Agreement (File #30355)	9/2/02	Security Distributors, Inc. (“SDI”)	FSBL	Distribution of variable annuity contracts	2006: (\$64,671) 2005: (\$55,595) 2004: \$0
Investment Services Agreement (File #34731) replaces the investment agreement below	1/1/06	SMC	FSBL	Investment Advisory and Operational Services	2006: (\$6,493) 2005: \$0 2004: \$0
Investment Services Agreement	6/12/95	SBL	FSBL	Investment Advisory and Operational Services	2005: \$0 2004: \$0
Services Agreement (File #35652)	10/1/06	FSBL	SMC	Administrative services	2006: \$5,756 2005: \$0 2004: \$0

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

The Company participates in a federal income tax allocation agreement with its parent and affiliates.

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

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

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

As part of the examination process, the examiner requested that the Company complete a service agreement table to include service agreements in effect with affiliates during the examination period, along with the amount of income or expense incurred by the Company. The investment services agreement between the Company and SBL that was in effect during the examination period was not included on the service agreement table. As a result of the examiner’s inquiry, the Company indicated that SBL provided investment services to the Company during 2004 and 2005, but did not charge the Company for such services, as required by the service agreement.

The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to abide with the provisions of its approved Investment Services Agreement with SBL.

Section 91.4(a)(3) of Department Regulation No. 33 states, in part:

“ . . . Such records shall be classified and indexed in such form as to permit ready identification between the item allocated and the basis upon which it was allocated, and shall be maintained in such a manner as to be readily accessible for examination. . . .”

The examiner requested that the Company provide detailed documentation to support the monthly inter-company expenses charged by its affiliates during the examination period. Such documentation (time studies, etc.) should support the Company’s method of allocating expenses

between companies in the holding company system in accordance with Department Regulation No. 33. The examiner requested that the detailed workpapers and records be classified and indexed in such form as to permit ready identification between the item allocated and the basis upon which it was allocated.

The Company provided the inter-company bills for the examination period without the supporting documentation. The Company stated via conference call that the level of detailed support requested for the examination period was too voluminous and would be impractical to provide or re-produce. As a compromise, the examiner requested and the Company agreed to provide the detailed support for the expenses charged and/or incurred for the months of October, November and December of 2005 and 2006. After several meetings and correspondence requesting clarification and additional documentation from the Company, it was apparent that the Company had to reconstruct some of the documentation provided to the examiners. At the end of the examination, the Company still had not provided the examiner with sufficient detailed supporting documentation for the expenses charged and/or incurred for the six months requested to permit ready identification between the items allocated and the basis upon which it was allocated.

The Company violated Section 91.4(a)(3) of Department Regulation No. 33 by failing to maintain records in a manner that permits ready identification between the item allocated and the basis upon which it was allocated and by failing to maintain its records in a manner that is readily accessible for examination.

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 21 directors. 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, 2006, the board of directors consisted of eight members as John E. Hayes, Jr. retired from the board in December 2006. Meetings of the board are held quarterly.

The eight board members and their principal business affiliation, as of December 31, 2006, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Stephen A. Crane* New York, NY	Self-Employed Insurance and Reinsurance Consultant	1999
Howard R. Fricke Topeka, KS	Former Chairman of the Board First Security Benefit Life Insurance and Annuity Company of New York	1994
Stephen R. Herbert* Pound Ridge, NY	Partner Locke and Herbert	1998
J. Michael Keefer Topeka, KS	Vice President, General Counsel and Secretary First Security Benefit Life Insurance and Annuity Company of New York	2004
Michael G. Odium Topeka, KS	Vice President and Chief Investment Officer First Security Benefit Life Insurance and Annuity Company of New York	2004
Kris A. Robbins Topeka, KS	Chairman of the Board, President and Chief Executive Officer First Security Benefit Life Insurance and Annuity Company of New York	1998
Thomas A. Swank Topeka, KS	Vice President and Chief Financial Officer First Security Benefit Life Insurance and Annuity Company of New York	2003
Katherine White* New York, NY	Adjunct Professor of Law Fordham University School of Law	1994

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

In December 2006, John E. Hayes, Jr. retired from the board and was replaced by Wayne S. Diviney in April 2007. In October 2007, Howard R. Fricke retired from the board and was

replaced by Richard M. Goldman. In December 2007, Michael G. Odlum resigned from the board and was replaced by David J. Keith.

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, 2006:

<u>Name</u>	<u>Title</u>
Kris A. Robbins	President and Chief Executive Officer
Thomas A. Swank	Vice President and Chief Financial Officer
J. Michael Keefer	Vice President, General Counsel and Secretary
Michael G. Odlum	Vice President and Chief Investment Officer
John T. Gaule	Actuary
Peggy Avey*	Chief Administrative Officer and Assistant Secretary

* 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 two states, namely New York and Kansas. In 2006, all annuity considerations were received from New York, and 69% of life insurance premiums were received from Kansas. Policies are written on a non-participating basis.

The Company primarily sells individual variable and fixed annuities and has never engaged in the sale of life or accident and health insurance. The Company inherited from PNL, some life insurance policies that were 100% reinsured with SBL at the time of the PNL merger with the Company. This business is in run-off status.

The Company's agency operations are conducted on a general agency and direct response basis, primarily marketing individual variable and fixed annuities through independent broker-dealer systems, T. Rowe Price Investment Services, Inc. and the bank market.

In 2006, the Company's variable annuity business generated 89% of annual new business, while the fixed annuity (introduced in August 2006) represented 11%. The variable annuity products comprised of AdvisorDesigns, SecurityDesigns and AdvanceDesigns, represents 86% of total new business, and the T. Rowe Price variable annuity, represents the remaining 3% of total new business. The variable products are distributed by SDI, an affiliate, through a service agreement. Neither the Company nor SDI has a captive sales force. SDI enters into selling agreements with independent member NASD broker-dealers to solicit applications for the Company's variable annuity products.

The Premier Choice fixed annuity, representing 11% of total new business, is sold through the bank market.

E. Reinsurance

As of December 31, 2006, the Company had two reinsurance treaties in effect with SBL, an affiliated accredited reinsurer. One treaty reinsures, on a 100% coinsurance basis, the life insurance policies that were inherited from PNL as a result of the merger. The other treaty reinsures, on a 100% coinsurance basis, the insurance risk of certain living benefit riders issued by the Company on its variable annuity policies, namely the Guaranteed Minimum Income Benefit (GMIB) and Guaranteed Minimum Withdrawal Benefit (GMWB) Riders. The total face amount of life insurance ceded as of December 31, 2006 was \$252,120, which represents 100% of the total face amount of 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>2003</u>	December 31, <u>2006</u>	<u>Increase</u>
Admitted assets	\$ <u>62,642,688</u>	\$ <u>154,564,092</u>	\$ <u>91,921,404</u>
Liabilities	\$ <u>55,748,796</u>	\$ <u>143,332,547</u>	\$ <u>87,583,751</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	4,600,000	8,600,000	4,000,000
Unassigned funds (surplus)	<u>293,892</u>	<u>631,545</u>	<u>337,653</u>
Total capital and surplus	\$ <u>6,893,892</u>	\$ <u>11,231,545</u>	\$ <u>4,337,653</u>
Total liabilities, capital and surplus	\$ <u>62,642,688</u>	\$ <u>154,564,092</u>	\$ <u>91,921,404</u>

The majority (93%) of the Company's admitted assets, as of December 31, 2006, was derived from Separate Accounts.

The Company's invested assets as of December 31, 2006, exclusive of separate accounts, were mainly comprised of bonds (81.3%), and cash and short-term investments (18.6%).

The Company's entire bond portfolio, as of December 31, 2006, 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:

	<u>Ordinary Annuities</u>		
	<u>2004</u>	<u>2005</u>	<u>2006</u>
Outstanding, end of previous year	704	1,009	1,219
Issued during the year	333	281	364
Other net changes during the year	<u>(28)</u>	<u>(71)</u>	<u>(91)</u>
Outstanding, end of current year	<u>1,009</u>	<u>1,219</u>	<u>1,492</u>

The primary reason for the increase in the number of annuities issued in 2006 was due to the August 2006 introduction of the Premier Choice Fixed Annuity product.

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>2004</u>	<u>2005</u>	<u>2006</u>
Ordinary:			
Individual annuities	<u>\$213,735</u>	<u>\$183,609</u>	<u>\$(20,454)</u>
Total ordinary	<u>\$213,735</u>	<u>\$183,609</u>	<u>\$(20,454)</u>

The primary reasons for the loss from operations in 2006, was increase in reserves, commissions and general expenses due to increased sales.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2006, as contained in the Company's 2006 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, 2006 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2006

Admitted Assets

Bonds	\$ 8,336,107
Cash, cash equivalents and short term investments	1,903,659
Other invested assets	7,688
Investment income due and accrued	42,986
Current federal and foreign income tax recoverable and interest thereon	35,653
Net deferred tax asset	47,904
Receivables from parent, subsidiaries and affiliates	543,349
Miscellaneous assets	8,975
From Separate Accounts, Segregated Accounts and Protected Cell Accounts	<u>143,637,771</u>
 Total admitted assets	 <u>\$154,564,092</u>

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$ 6,283,458
General expenses due or accrued	25,685
Transfers to Separate Accounts due or accrued	(6,901,906)
Taxes, licenses and fees due or accrued, excluding federal income taxes	53,340
Amounts withheld or retained by company as agent or trustee	11,406
Remittances and items not allocated	2,045
Miscellaneous liabilities:	
Asset valuation reserve	4,779
Payable to parent, subsidiaries and affiliates	215,969
From Separate Accounts statement	<u>143,637,771</u>
 Total liabilities	 <u>\$143,332,547</u>

Common capital stock	\$ 2,000,000
Gross paid in and contributed surplus	8,600,000
Unassigned funds (surplus)	<u>631,545</u>
Total capital and surplus	\$ <u>11,231,545</u>
Total liabilities, capital and surplus	<u><u>\$154,564,092</u></u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2004</u>	<u>2005</u>	<u>2006</u>
Premiums and considerations	\$37,136,333	\$30,976,102	\$36,059,803
Investment income	265,941	280,416	314,742
Miscellaneous income	<u>1,699,433</u>	<u>2,211,594</u>	<u>2,928,896</u>
Total income	<u>\$39,101,707</u>	<u>\$33,468,112</u>	<u>\$39,303,441</u>
Benefit payments	\$ 4,946,716	\$10,273,366	\$13,637,806
Increase in reserves	652,571	283,978	4,029,033
Commissions	1,216,917	1,814,372	2,232,827
General expenses and taxes	505,753	717,005	899,607
Net transfers to (from) Separate Accounts	28,968,656	18,133,464	16,269,552
Miscellaneous deductions	<u>2,309,057</u>	<u>1,900,872</u>	<u>2,319,421</u>
Total deductions	<u>\$38,599,670</u>	<u>\$33,123,057</u>	<u>\$39,388,246</u>
Net gain (loss)	\$ 502,037	\$ 345,055	\$ (84,805)
Federal and foreign income taxes incurred	<u>288,302</u>	<u>161,446</u>	<u>(64,351)</u>
Net gain (loss) from operations			
Before net realized capital gains	\$ 213,735	\$ 183,609	\$ (20,454)
Net realized capital gains (losses)	<u>0</u>	<u>0</u>	<u>(1,931)</u>
Net income	<u>\$ 213,735</u>	<u>\$ 183,609</u>	<u>\$ (22,385)</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>2004</u>	<u>2005</u>	<u>2006</u>
Capital and surplus, December 31, prior year	<u>\$6,893,892</u>	<u>\$9,085,302</u>	<u>\$ 9,260,935</u>
Net income	\$ 213,735	\$ 183,609	\$ (22,385)
Change in net deferred income tax	112,438	57,171	128,179
Change in non-admitted assets and related items	(133,272)	(69,277)	(134,705)
Change in asset valuation reserve	(1,489)	4,132	(479)
Surplus adjustment: Paid in	<u>2,000,000</u>	<u>0</u>	<u>2,000,000</u>
Net change in capital and surplus for the year	<u>\$2,191,412</u>	<u>\$ 175,635</u>	<u>\$ 1,970,610</u>
Capital and surplus, December 31, current year	<u>\$9,085,304</u>	<u>\$9,260,937</u>	<u>\$11,231,545</u>

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the 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 abide by the provisions of its administrative service agreements, and obtain and review the monthly statements of incurred expenses before payments are made for services.</p> <p>The Company obtains and reviews the monthly statements of incurred expenses before payments are made for the services.</p>
B	<p>The examiner recommends that the Company abide by the provisions of its distribution agreement with SDI and discontinue paying SBG for distribution services.</p> <p>The Company has discontinued paying SBG for distribution services. The Company obtains distribution service charges from SDI and makes payments directly to SDI in accordance with the provisions of its distribution agreement with SDI.</p>

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 1505(d)(3) of the New York Insurance Law by failing to abide with the provisions of its approved Investment Services Agreement with SBL.	7
B	The Company violated Section 91.4(a)(3) of Department Regulation No. 33 by failing to maintain records in a manner that permits ready identification between the item allocated and the basis upon which it was allocated and by failing to maintain its records in a manner that is readily accessible for examination.	7 – 8

Respectfully submitted,

_____/s/
Julius Asubonteng
Senior Insurance Examiner

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

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

_____/s/
Julius Asubonteng

Subscribed and sworn to before me
this _____ day of _____ 200

APPOINTMENT NO. 22669

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:

JULIUS ASUBOTENG

as a proper person to examine into the affairs of the

FIRST SECURITY BENEFIT LIFE INSURANCE & ANNUITY COMPANY OF NEW YORK

and to make a report to me in writing of the condition of the said

COMPANY

with such other information as he shall deem requisite.

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

this 31st day of July, 2007



ERIC R. DINALLO
Superintendent of Insurance

Eric Dinallo
Superintendent