



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
LINCOLN LIFE AND ANNUITY COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2004

DATE OF REPORT:

MARCH 31, 2006

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EXAMINER:

HENRY WONG

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

George E. Pataki
Governor

Howard Mills
Superintendent

March 31, 2006

Honorable Howard Mills
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22388, dated July 8, 2005 and annexed hereto, an examination has been made into the condition and affairs of Lincoln Life and Annuity Company of New York, hereinafter referred to as "the Company," at its home office located at 100 Madison Street, Suite 1860, Syracuse, New York 13202.

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, 2004 filed annual statement. (See item 5 of this report)

The Company violated Section 91.4(f)(5) of Department Regulation No. 33 by using general indexes as a basis for distributing costs among companies and annual statement lines of business within the Company. (See item 3 of this report)

The Company violated Section 91.4(a) of Department Regulation No. 33 by failing to maintain records with sufficient detail to show fully the system actually used for the allocation of expenses and the actual bases of the allocation under both its principal underwriter and its marketing and sales service agreements with Lincoln Financial Advisors ("LFA"). A similar violation appeared in the prior report on examination. (See item 3 of this report)

The Company violated Section 1505(d)(3) of the New York Insurance Law when it failed to comply with the terms of its approved principal underwriter agreement with LFA and its approved wholesaling service agreement with Delaware Distributors, L. P. ("Delaware") and LFA, by permitting The Lincoln National Life Insurance Company ("LNL") to pay for services on its behalf. A similar violation appeared in the prior report on examination. (See item 3 of this report)

The Company violated Section 1505(a)(2) of the New York Insurance Law by failing to reimburse LFA a reasonable amount for services provided under their sales and marketing service agreement, contrary to the filed administrative service agreement. (See item 3 of this report)

The Company violated Section 1505(d)(3) of the New York Insurance Law by having LFA perform selling services on a regular or systematic basis and by providing the use of its property, equipment, and facilities to two divisions of LFA on a regular or systematic basis without notifying the Superintendent in writing of its intention to enter into any such transaction at least 30 days prior thereto. (See item 3 of this report)

The Company violated Sections 51.6(b)(2), 51.6(b)(6) and 51.6(e) of Department Regulation No. 60, as well as Section 243.2(b)(1)(iv) of Department Regulation No. 152,

primarily for failing to maintain and date stamp certain documentation regarding replacements on a consistent basis. (See item 6 of this report)

The Company violated Section 2614 of the New York Insurance Law by using a policy application form that made a distinction associated with an applicant's past lawful travel experiences. (See item 6 of this report)

The Company violated Section 3201 of the New York Insurance Law by using a policy form that was not filed with and approved by the Superintendent. (See item 6 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2001. This examination covers the period from January 1, 2002 through December 31, 2004. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2004 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, 2004 to determine whether the Company's 2004 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

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

The examiner reviewed the corrective actions taken by the Company with respect to the violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 8 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

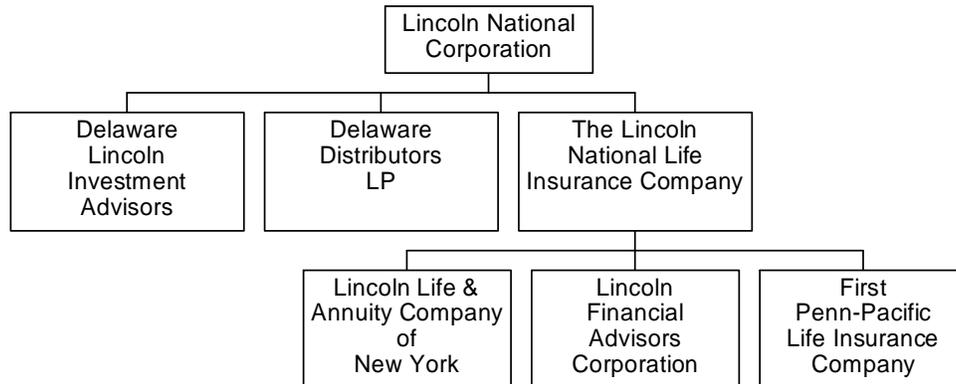
A. History

The Company was incorporated as a stock life insurance company under the laws of New York on June 6, 1996, was licensed on September 27, 1996 and commenced business on October 1, 1996. The Company was formed primarily to house the New York policyholders involved in its immediate parent's purchase of UNUM Corporation's group tax-sheltered annuity block of business. Initial resources of \$71,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$69,000,000, were provided through the sale of 20,000 shares of common stock (with a par value of \$100 each) for \$3,550 per share.

B. Holding Company

The Company is a wholly owned subsidiary of The Lincoln National Life Insurance Company ("LNL"), an Indiana life insurance company. The ultimate parent of the Company is Lincoln National Corporation ("LNC"), a publicly traded financial services firm.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2004 follows:



The Company had 13 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
Principal Underwriter Agreement (27029)	8/1/99	Lincoln Financial Advisors ("LFA")	The Company	LFA distributes and acts as principal underwriter of the Company's separate accounts.	2004 \$0** 2003 \$0** 2002 \$0**
Administrative Services Agreement (27481)	1/1/00	LFA	The Company	Sales and marketing services	2004 \$0** 2003 \$0** 2002 \$0**
Administrative Services Agreement (25015H)	1/1/04	LNL	The Company	Administrative services	2004 \$(20,665,547) 2003 \$(16,298,235) 2002 \$(13,136,204)
Legal Services Agreement	1/1/04	The Company	LNL	Legal services	2004 \$0*** 2003 \$0*** 2002 \$0***
Commission Consolidation and Cost Allocation Agreement (25277)	1/1/98	LNL	The Company	Consolidation of commission payment functions.	2004 \$(26,628,988) 2003 \$(23,862,459) 2002 \$(19,995,036)
Use of Services and Facilities Agreement (26870)	6/1/99	The Company	Lincoln Financial Group, Inc. ("LFG")	Sharing IT and electrical facilities	2004 \$(144,870) 2003 \$(98,877) 2002 \$(109,029)
Administrative Service Agreement (27509)	10/31/00 Terminated 1/1/04	The Company	First Penn-Pacific Life Insurance Company ("FPP")	Premium collection services	Amounts are netted and included in the FPP service agreement dated 1/1/04
Administrative Service Agreement (27220) Amended (27220G)	10/31/00 1/1/04	FPP	The Company	FPP to provide services in relation to the Company's term insurance business. Amended - FPP to perform premium collections, certain claim functions and financial reporting services.	2004 \$(557,544) 2003 \$ 27,042 2002 \$(275,473)
Administrative Service Agreement (33054)	10/1/04	LNC Administrative Services Corporation ("LNCASC")	The Company	Administrative services related to "Director" guarantee variable annuity business.	2004 \$0**** 2003 \$0**** 2002 \$0****

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
Wholesaling Agreement (27854)	5/1/00	Delaware Distributors, L. P. ("Delaware") and LFA	The Company	Delaware engages in activities relating to wholesaling of contracts for which LFA acts as principal underwriter.	2004 \$(786,864) 2003 \$ 0***** 2002 \$ 0*****
Investment Management Agreement (29233)	1/1/01	Delaware Lincoln Investment Advisers ("DLIA")	The Company	Investment management services (DLIA assigned its obligations to Delaware Investment Advisers ("DIA")).	2003 \$(2,577,174) 2002 \$(2,043,656)
Inter-Series Transfer of the Investment Management Agreement (29233G)	10/1/03	DIA	The Company	Investment management services	2004 \$(2,445,697)
Plan Record Keeping Agreement (31160)	8/1/03	Administrative Management Group ("AMG")	The Company	Recordkeeping services for "Alliance" group annuities.	2004 \$(1,148,562) 2003 \$(502,049) 2002 \$ 0

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

** Company failed to pay for services rendered as outlined in the Agreements

*** Company indicated that there were no actual services provided under the Agreement

**** The Agreement was effected on October 1, 2004, no transactions were incurred in 2004

***** Company failed to pay for services rendered as outlined in the Agreement during the years 2002 and 2003

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

Section 1505(a) of the New York Insurance Law states:

"Transactions within a holding company system to which a controlled insurer is a party shall be subject to the following:

(1) the terms shall be fair and equitable;

(2) charges or fees for services performed shall be reasonable; and

(3) expenses incurred and payments received shall be allocated to the insurer on an equitable basis in conformity with customary insurance accounting practices consistently applied."

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 . . .”

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

“ . . . (2) Each life insurer shall maintain records with sufficient detail to show fully:

(i) the system actually used for allocation of income and expenses;

(ii) the actual bases of allocation;

(iii) the actual monetary distribution of the respective items of income, salaries, wages, expenses, and taxes to . . .

(d) companies . . .

(3) 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 . . .

(5) Allocations of income and expenses between companies shall be treated in the same manner as if made for major annual statement lines of business.”

Section 91.4(f)(5) of Department Regulation No. 33 states, in part:

“General indexes such as premium volume, number of policies, and insurance in force shall not be used as basis for distributing costs among major annual statement lines of business, except where the incidence of cost is closely related to such general indexes, or except where there is no more appropriate basis for measurement. Such general indexes may not be used in distributing claim costs to secondary annual statement lines of business.”

The examiner reviewed the Company’s holding company service agreements and related transactions.

1. A review of the records maintained by the Company supporting the charges and fees under its inter-company service agreements with LNL and FPP indicated that general indexes such as reserves, sales and policies in-force were used as the sole basis to allocate expenses among the three companies and by line of business within the Company.

The Company violated Section 91.4(f)(5) of Department Regulation No. 33 by using general indexes as a basis for distributing costs among companies and annual statement lines of business within the Company.

2. The examiner requested documentation supporting the expenses charged and the basis of allocation for both the Company's principal underwriter and sales and marketing service agreements with LFA. The Company could not provide any documentation supporting the charges and fees allocated or the method of allocation used under its principal underwriter agreement with LFA for the period under examination. The Company indicated that the expenses associated with the agreement were charged to and paid by LNL and that such charges totaled approximately \$2 million for each year under examination.

The documentation supporting the method of allocation used and the resulting charges and fees allocated under the Company's sales and marketing service agreement with LFA indicated that the Company utilized a number of percentages to calculate the expense. However, the Company could not explain how these expense allocation percentages were determined. In addition, a review of the monthly billing records indicated that the Company never paid LFA for the services provided under the sales and marketing service agreement.

The Company violated Section 91.4(a) of Department Regulation No. 33 by failing to maintain records with sufficient detail to show fully the system actually used for the allocation of expenses and the actual bases of the allocation under both its principal underwriter and its marketing and sales service agreements with LFA. A similar violation appeared in the prior report on examination.

The Company violated Section 1505(d)(3) of the New York Insurance Law when it failed to comply with the terms of its approved principal underwriter agreement with LFA by permitting LNL to pay for services on its behalf. A similar violation appeared in the prior report on examination.

The Company violated Section 1505(a)(2) of the New York Insurance Law by failing to reimburse LFA a reasonable amount for services provided under the sales and marketing service agreement, contrary to the filed administrative service agreement.

The examiner recommends that the Company comply with the provisions of their filed principal underwriter and marketing service agreements or revise the agreements to accurately

reflect how the services are being billed and how settlements are made. A similar recommendation appeared in the prior report on examination.

3. The Company's wholesaling agreement with LFA and Delaware calls for LFA to act as the principal underwriter for the life insurance and annuity separate account products and for Delaware to act as a wholesaler for the Company. The agreement also calls for the Company to compensate Delaware for the sales of the contracts by its brokers according to percentages outlined in the wholesaling agreement.

The review of the expenses charged and the payments made under the agreement revealed that LFA performed the selling function of the agreement instead of Delaware. In addition, compensation for the sales of the contracts was paid on behalf of the Company by LNL directly to LFA. The Company subsequently reimbursed LNL for these expenses.

The Company violated Section 1505(d)(3) of the New York Insurance Law by having LFA perform selling services on a regular or systematic basis without notifying the Superintendent in writing of its intention to enter into any such transaction at least 30 days prior thereto. The Company also violated Section 1505(d)(3) of the New York Insurance Law when it failed to comply with the terms of its approved wholesaling service agreement by permitting LNL to pay for services on its behalf. A similar violation appeared in the prior report on examination.

The examiner recommends that the Company revise its wholesaling agreement to accurately reflect that the selling function is being performed by LFA rather than Delaware and to also accurately reflect how the services are being billed and how settlements are made. A similar recommendation appeared in the prior report on examination.

4. The Company's use of services and facilities agreement with LFG calls for the Company to allow LFG to use certain property, equipment and facilities in the Syracuse, New York office for its day-to-day operations. The documentation supporting the method of allocation used and the resulting charges indicated that the Company's property, equipment and facilities were also used by two divisions ("Sagemark" and "FBD") of LFA. However, LFA was not a party to the use of services and facilities agreement between the Company and LFG.

The Company violated Section 1505(d)(3) of the New York Insurance Law by providing the use of its property, equipment, and facilities to two divisions of LFA on a regular or

systematic basis without notifying the Superintendent in writing of its intention to enter into such transaction at least 30 days prior thereto.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of 13 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in May of each year. As of December 31, 2004, the board of directors consisted of 13 members. Meetings of the board are held immediately or 30 days thereafter the annual meeting of shareholders in May and at such intervals and on such dates as the board may designate or by means of unanimous written consent.

The 13 board members and their principal business affiliation, as of December 31, 2004, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
J. Patrick Barrett* Manlius, NY	Chairman and Chief Executive Officer CARPAT Investments	1996
Robert D. Bond Fort Wayne, IN	Vice President The Lincoln National Life Insurance Company	2000
Jon A. Boscia Philadelphia, PA	President and Chief Executive Officer Lincoln National Corporation	1996
Donna D. DeRosa Hartford, CT	Senior Vice President The Lincoln National Life Insurance Company	2003
John H. Gotta Hartford, CT	President Lincoln Life and Annuity Company of New York The Lincoln National Life Insurance Company	1999
Barbara S. Kowalczyk Philadelphia, PA	Senior Vice President Lincoln National Corporation	1996
M. Leanne Lachman* New York, NY	Real Estate Broker Lachman Associate LLC	1996
Louis G. Marcoccia* Syracuse, NY	Senior Vice President for Business, Finance, and Administrative Services Syracuse University	1996

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Gary W. Parker Hartford, CT	Senior Vice President The Lincoln National Life Insurance Company	2001
Ron J. Ponder* Indianapolis, IN	Executive Vice President and Chief Information Officer WellPoint, Inc.	2001
Jill S. Ruckelshaus* Medina, WA	Retired	2003
Michael S. Smith Philadelphia, PA	Senior Vice President, Chief Financial Officer and Chief Risk Officer The Lincoln National Life Insurance Company	2004
Richard C. Vaughan Philadelphia, PA	Executive Vice President and Chief Financial Officer Lincoln National Corporation	1996

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

In May 2005, Richard C. Vaughan retired from the board and was replaced by Frederick Crawford.

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, 2004:

<u>Name</u>	<u>Title</u>
John H. Gotta	President
Clara S. Womack	Secretary
Eldon J. Summers	Treasurer
Todd H. Erkis	Actuary

Cheryll Miller, assistant secretary, is the 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 Indiana. In 2004, 92.7% of life premiums and 97.8% of annuity considerations were received from New York

The Company currently offers life insurance, annuity products, and qualified pension plan products and services to individuals and groups in New York. The Company's portfolio includes term life, universal life and variable universal life insurance in addition to individual and group variable and fixed annuities. During 2004, 22.1% of total premiums and considerations was from life insurance and 77.9% was from annuity business, respectively. Policies are written on a non-participating basis.

The Company's agency operations are conducted on both a general agency and brokerage basis, selling to affluent individuals and business owners.

E. Reinsurance

Ceded

As of December 31, 2004, the Company had life and accident and health reinsurance treaties in effect with 65 companies, of which 34 were authorized or accredited. The Company's life and accident and health businesses are reinsured on a coinsurance, modified-coinsurance, and/or yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$500,000. The total face amount of life insurance ceded as of December 31, 2004, was \$11,906,694,593, which represents 76.5% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$32,443,824, was supported by letters of credit.

As of December 31, 2004, the Company had an individual accident and health reinsurance retrocession agreement with one reinsurer, Metropolitan Life Insurance Company, ("Met Life"), dated October 31, 1999. Met Life agreed to reinsure, on an indemnity basis, all disability income contracts that the Company had acquired from CIGNA.

Assumed

As of December 31, 2004, the Company assumed individual and group life business and individual and group annuity business from four unaffiliated insurers. The total face amount of life insurance assumed as of December 31, 2004 was \$7,273,315,658, or 46.7% of the total face amount of life insurance in force. Included in this amount is a block of individual life insurance policies and annuities acquired from Aetna Life Insurance and Annuity Company (“ALIAC”), Aetna Life Insurance Company (“ALIC”), and Connecticut General Life Insurance Company (“CIGNA”) through indemnity reinsurance agreements.

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>2001</u>	December 31, <u>2004</u>	Increase (Decrease)
Admitted assets	<u>\$2,344,479,471</u>	<u>\$3,208,226,019</u>	<u>\$863,746,548</u>
Liabilities	<u>\$2,153,868,554</u>	<u>\$2,941,472,389</u>	<u>\$787,603,835</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	384,128,481	384,128,481	0
Unassigned funds (surplus)	<u>(195,517,564)</u>	<u>(119,374,851)</u>	<u>76,142,713</u>
Total capital and surplus	<u>\$ 190,610,917</u>	<u>\$ 266,753,630</u>	<u>\$ 76,142,713</u>
Total liabilities, capital and surplus	<u>\$2,344,479,471</u>	<u>\$3,208,226,019</u>	<u>\$863,746,548</u>

The significant increase in assets is related to the increase in variable annuity sales and separate account asset appreciation. Invested assets also increased due to the growth in universal life sales.

The significant increase in liabilities is related to the increase in separate account liabilities. Policyholder reserve liabilities also increased due to the growth in universal life sales.

The increase in surplus is primarily related to net operating gain from variable annuity business and universal life business during the examination period.

The Company's invested assets as of December 31, 2004, exclusive of separate accounts, were mainly comprised of bonds (84%), mortgage loans (7%) and policy loans (7%).

The majority (96.9%) of the Company's bond portfolio, as of December 31, 2004, was comprised of investment grade obligations.

The following indicates, for each of the years listed below, the amount of life insurance issued and in force by type (in thousands of dollars):

<u>Year</u>	<u>Individual Whole Life</u>		<u>Individual Term</u>	
	<u>Issued</u>	<u>In Force</u>	<u>Issued</u>	<u>In Force</u>
2002	\$ 890,997	\$ 9,409,939	\$ 740,055	\$2,382,176
2003	\$1,150,860	\$ 9,660,726	\$1,780,010	\$3,869,207
2004	\$ 827,641	\$10,576,397	\$2,180,491	\$4,894,641

The increase in individual term life insurance issued during the examination period was primarily due to the Company's marketing strategy and the growth of the product in the Company's distribution channels.

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

	<u>Ordinary Annuities</u>			<u>Group Annuities</u>		
	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Outstanding, end of previous year	6,529	7,441	8,336	30,085	32,330	32,374
Issued during the year	393	479	210	0	0	6
Other net changes during the year	<u>519</u>	<u>416</u>	<u>1,578</u>	<u>2,245</u>	<u>44</u>	<u>438</u>
Outstanding, end of current year	<u>7,441</u>	<u>8,336</u>	<u>10,124</u>	<u>32,330</u>	<u>32,374</u>	<u>32,818</u>

It should be noted that the Company incorrectly reported the Exhibit of Annuities in the filed annual statements for each of the years under review. The Exhibit only reflects one annuity product properly by breaking out the number of contracts issued during year, increased during year, and deductions during year to the appropriate lines of the Exhibit. All other annuity products were reported on a net basis combining the number of contracts issued during year, increased during year, and the deductions during year in line 4 of the Exhibit, "Increased During Year".

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>2002</u>	<u>2003</u>	<u>2004</u>
Ordinary:			
Life insurance	\$17,993,898	\$ 2,996,904	\$11,710,670
Individual annuities	(958,372)	4,647,976	401,838
Supplementary contracts	<u>(14,394)</u>	<u>680,439</u>	<u>66,662</u>
Total ordinary	<u>\$17,021,132</u>	<u>\$ 8,325,319</u>	<u>\$12,179,170</u>
Group annuities	<u>\$ 6,088,860</u>	<u>\$10,789,715</u>	<u>\$ 6,476,245</u>
Accident and health-other	<u>\$ 551,433</u>	<u>\$ 97,944</u>	<u>\$ (18,203)</u>
All other lines	<u>\$ 6,688,861</u>	<u>\$ 116,499</u>	<u>\$ (124,942)</u>
Total	<u>\$30,350,286</u>	<u>\$19,329,477</u>	<u>\$18,512,270</u>

The significant decrease in operating income for the ordinary life line in 2003 was primarily due to an increase in reserves resulting from a significant increase in sales related to the Company's universal life products with lapse protection riders.

The significant increase in operating income for the ordinary life line in 2004 was primarily due to a reinsurance agreement that ceded the reserves for some of the Company's lapse protection riders which generated a positive impact to earnings of approximately \$17.2 million.

The significant increases in operating income for the individual annuity and group annuity lines of business in 2003 were primarily due to the Company allocating \$5.4 million and \$8.8 million of federal income tax benefit to those respective lines of business in 2003. This was due to the Company filing a consolidated tax return in 2002 and receiving an income tax benefit related to a large net operating loss carryforward of \$32 million. The effect of the tax benefit was reflected in the Company's books in 2003. In addition, an improving equity market and significant separate account fee income contributed to the increase in the Company's operating income for its individual annuity line of business in 2003.

The significant decreases in operating income for the individual and group annuity lines of business in 2004 were primarily due to an increase in tax expenses resulting from an Internal Revenue Service audit related to the federal tax benefit that the Company realized in prior years. In addition, an increase in annuity sales that generated increased commission expenses also contributed to the decrease in operation income for the individual annuity line in 2004.

The significant decrease in operating income for the “All other lines” of business between 2002 and 2003 was primarily due to the tax operating loss carryforward, which generated an \$8 million federal tax benefit that was reflected in the Company’s books in 2002. The Company started to allocate the tax benefit to various line of business after 2003.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2004, as contained in the Company's 2004 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, 2004 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2004

Admitted Assets

Bonds	\$1,956,073,174
Stocks:	
Preferred stocks	5,081,985
Common stocks	76,423
Mortgage loans on real estate	
First liens	168,764,666
Cash, cash equivalents and short term investments	49,757,437
Contract loans	158,486,500
Other invested assets	2,047,298
Other receivables related to investment	678,348
Investment income due and accrued	30,374,393
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	(672,736)
Deferred premiums, agents' balances and installments booked but deferred and not yet due	4,436,296
Reinsurance:	
Amounts recoverable from reinsurers	1,475,655
Other amounts receivable under reinsurance contracts	2,179,901
Net deferred tax asset	9,457,751
Electronic data processing equipment and software	5,143
Health care and other amounts receivable	3,709,107
From separate accounts, segregated accounts and protected cell accounts	<u>816,294,678</u>
 Total admitted assets	 <u>\$3,208,226,019</u>

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$2,012,722,295
Liability for deposit-type contracts	63,245,521
Contract claims	
Life	3,422,860
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts	
Dividends apportioned for payment	4,569,555
Premiums and annuity considerations for life and accident and health contracts received in advance	140,975
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	97,578
Interest maintenance reserve	8,283,424
Commissions to agents due or accrued	154,265
Commissions and expense allowances payable on reinsurance assumed	8,799
General expenses due or accrued	1,688,818
Transfers to separate accounts due or accrued	(33,863,749)
Taxes, licenses and fees due or accrued, excluding federal income taxes	227,168
Current federal and foreign income taxes	9,176,844
Unearned investment income	540,637
Amounts withheld or retained by company as agent or trustee	1,144,844
Amounts held for agents' account	2,579,207
Remittances and items not allocated	23,402,222
Miscellaneous liabilities:	
Asset valuation reserve	4,766,116
Reinsurance in unauthorized companies	73,158
Payable to parent, subsidiaries and affiliates	22,814,960
From separate accounts statement	<u>816,276,892</u>
 Total liabilities	 <u>\$2,941,472,389</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	384,128,481
Unassigned funds (surplus)	<u>(119,374,851)</u>
 Total capital and surplus	 <u>\$ 266,753,630</u>
 Total liabilities, capital and surplus	 <u>\$3,208,266,019</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Premiums and considerations	\$342,324,691	\$327,641,819	\$449,298,512
Investment income	133,307,853	136,215,430	139,774,566
Net gain from operations from separate accounts	(176,529)	0	0
Commissions and reserve adjustments on reinsurance ceded	8,218,849	11,059,059	3,074,609
Miscellaneous income	12,978,480	25,243,766	18,679,537
 Total income	 <u>\$496,653,343</u>	 <u>\$500,160,074</u>	 <u>\$610,827,224</u>
Benefit payments	\$217,661,794	\$205,656,689	\$225,627,794
Increase in reserves	115,920,502	114,692,684	51,370,890
Commissions	22,535,204	24,794,507	27,774,315
General expenses and taxes	40,565,197	49,761,436	43,404,755
Increase in loading on deferred and uncollected premium	(63,260)	(93,898)	(1,005,188)
Net transfers to (from) separate accounts	<u>64,767,709</u>	<u>83,435,947</u>	<u>220,906,359</u>
 Total deductions	 <u>\$461,387,145</u>	 <u>\$478,247,365</u>	 <u>\$568,078,925</u>
Net gain (loss)	\$ 35,266,198	\$ 21,912,709	\$ 42,748,299
Dividends	4,916,493	4,823,532	5,781,311
Federal and foreign income taxes incurred	<u>(582)</u>	<u>(2,240,309)</u>	<u>18,454,719</u>
 Net gain (loss) from operations before net realized capital gains	 \$ 30,350,287	 \$ 19,329,486	 \$ 18,512,269
Net realized capital gains (losses)	<u>(13,704,140)</u>	<u>(2,430,027)</u>	<u>2,246,551</u>
 Net income	 <u>\$ 16,646,147</u>	 <u>\$ 16,899,459</u>	 <u>\$ 20,758,820</u>

C. CAPITAL AND SURPLUS ACCOUNT

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Capital and surplus, December 31, prior year	\$ <u>190,610,916</u>	\$ <u>234,072,137</u>	\$ <u>251,034,494</u>
Net income	\$ 16,646,147	\$ 16,899,459	\$ 20,758,820
Change in net unrealized capital gains (losses)	(2,797,038)	2,420,155	1,026,073
Change in net deferred income tax	61,799,197	(6,819,618)	(3,948,540)
Change in non-admitted assets and related items	(43,754,319)	4,498,207	1,276,183
Change in liability for reinsurance in unauthorized companies	4,108	189,709	142,033
Change in reserve valuation basis	4,136	0	0
Change in asset valuation reserve	4,930,755	207,280	(3,135,065)
Surplus withdrawn from separate accounts during period	584,471	2,000	0
Other changes in surplus in separate accounts statement	(550,459)	1,872	260
Surplus adjustments:			
Change in surplus as a result of reinsurance	(473,398)	(436,707)	(400,628)
Correction of prior period error	7,054,643	0	0
Change in separate account receivable due to change in valuation	<u>12,978</u>	<u>0</u>	<u>0</u>
Net change in capital and surplus for the year	\$ <u>43,461,221</u>	\$ <u>16,962,357</u>	\$ <u>15,719,136</u>
Capital and surplus, December 31, current year	\$ <u>234,072,137</u>	\$ <u>251,034,494</u>	\$ <u>266,753,630</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.

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

“The words free, no cost, without cost, no additional cost, at no extra cost, without additional cost, or words of similar import, may not be used with respect to any benefit or service being made available with the policy. . . .”

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

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

A review of a sample of 130 advertisements revealed that in 23 of the cases (17.7%), the Company's advertisements contained words such as “there is no charge,” “no extra cost,” “no additional cost” and other similar terms to describe the benefit or service being made available with products being offered. In 15 of the advertisements reviewed (11.5%), the Company's advertisements failed to include the name of the city, town or village in which it has its home office.

The Company violated Section 219.4(e) of Department Regulation No. 34-A by using the words “there is no charge,” “no extra cost,” “no additional cost” and other similar terms to describe the benefit or service being made available with products being offered on its advertisements.

The Company violated Section 219.4(p) of Department Regulation No. 34-A by failing to include the name of the city, town or village in which it has its home office on its advertisements. This is a repeat violation from the prior report on examination.

Section 51.6 of Department Regulation No. 60 states, in part:

“ . . . (b)Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .

(2) Require with or as part of each application a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and proof of receipt by the applicant of the “IMPORTANT Notice Regarding Replacement or Change of Life Insurance Policies or Annuity Contracts” 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 . . .

(e) Both the insurer whose life insurance policy or annuity contract is being replaced and the insurer replacing the life insurance policy or annuity contract shall establish and implement procedures to ensure compliance with the requirements of this Part. These procedures shall include a requirement that all material be dated upon receipt. Such insurers shall also designate a principal officer specifically responsible for the monitoring and enforcement of these procedures. All insurers covered under this Part shall furnish the Superintendent of Insurance with these procedures and the name and title of the designated principal officer by the effective date of this Part. Any changes in these procedures or the designated principal officer shall be furnished to the Superintendent of Insurance within thirty days of such change.”

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 . . .

(iv) other information necessary for reconstructing the solicitation, rating, and underwriting of the contract or policy. . . .”

The examiner reviewed a sample of 132 replacement files which included 88 life policies and 44 annuity contracts.

In nine of the life policies (10.2%) and 13 of the annuity contracts (29.5%), the Disclosure Statements failed to indicate if sales material was used in the sale of the proposed policy or contract.

The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require completed Disclosure Statements, on a consistent basis.

In six of the life policies (6.8%) and four of the annuity contracts (9.1%), the Company failed to maintain the proposals, including sales material, as part of the replacement file when the Disclosure Statement indicated that a proposal or sales material was used in the sale.

The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain the proposals, including sales material, as part of the replacement file, on a consistent basis, when the Disclosure Statement indicated that a proposal or sales material was used in the sale.

In 26 of the life policies (29.5%) and 5 of the annuity contracts (11.4%), the Company failed to maintain the replaced company's response as part of the replacement file.

The Company violated Section 243.2(b)(1)(iv) of Department Regulation No. 152 by failing to maintain the replaced company's response as part of the replacement file, on a consistent basis.

A review of life and annuity replacement files revealed that the Company failed to date stamp various applications, Disclosure Statements, Important Notices, Definition of Replacements, Disclosure Authorizations and/or the replaced company's response.

The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp applications, Disclosure Statements, Important Notices, Definition of Replacements, Disclosure Authorizations and/or the replaced company's response upon receipt, and by not establishing or implementing procedures that all material be dated upon receipt.

The examiner recommends that the Company strengthen its replacement procedures to ensure the following:

- Disclosure Statements acknowledge whether sales material is used in the sale of the proposed policy or contract;

- Proposals, including sales material, are maintained as part of the replacement file when the Disclosure Statement indicates that a proposal or sales material was used;
- Documentation that supports the comparison section of the Disclosure Statement, including the replaced company's response and all necessary policy and/or contract information, is maintained; and
- All documentation is date stamped upon receipt.

B. Underwriting and Policy Forms

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

Section 2614 of the New York Insurance Law states:

“No insurer or entity authorized to offer the kinds of insurance specified in paragraph one, two or three of subsection (a) of section one thousand one hundred thirteen of this chapter, nor any agent, officer or employee of such insurer or entity shall make any distinction or otherwise discriminate between persons, reject an applicant, cancel a policy or demand or require a higher rate of premium for reasons associated with an applicant's or insured's past lawful travel experiences.”

A review of policies issued during the examination period indicated that the Company used a policy application that asked the following question:

“In the past two years have you traveled outside the U.S.A. or Canada or do you intend to do so in the next two years?”

Section 2614 of the New York Insurance Law was revised in October 2004. In response to this revision the Company revised its policy application in December 2005 (approved by the Department in February 2006) to eliminate the past travel question. However, the Company continued to use the policy application that contained the question regarding past travel through December 2005, approximately 14 months after the revision of Section 2614 of the New York Insurance Law.

The Company violated Section 2614 of the New York Insurance Law by using a policy application form that made a distinction associated with an applicant's past lawful travel experiences.

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. . . .”

The Company designed policy form no. BL2007AA (6/95) to be used in any instance where an application needed to be amended. The form was essentially a blank amendment form used to amend applications as the Company saw fit. A review of issued policies revealed that the Company used policy form no. BL2007AA (6/95) to clarify the issue of future travel when an applicant responded positively to the past travel question contained in its policy application. However, the examiner does not know the full extent to which this form was utilized or the types of other situations that may have been addressed using the form. The Company could not produce any evidence that the policy form was ever submitted to or approved by the Superintendent.

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.

The examiner recommends that the Company file the form with the Superintendent for approval.

C. Treatment of Policyholders

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

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

7. EXHIBIT OF LIFE INSURANCE AND ANNUITIES

Exhibit of Life Insurance

A review of the number of policies and amount of insurance reported in the Company's Exhibit of Life Insurance for the period under examination indicated that the Company could not provide policy level detail to support the reported number of policies and amount of decreases as reported on line 17 of the Exhibit. The Company indicated that unlike other deductions, reporting for decreases is generated by administration system programs which compare face amounts from one policy period to the next (monthly or quarterly).

The examiner recommends that the Company maintain policy level detail to support all numbers and amounts reported in its Exhibit of Life Insurance in the future.

Exhibit of Annuities

A review of the number of ordinary (immediate and deferred) and group (contracts and certificates) annuities reported in the Company's Exhibit of Annuities for the period under examination indicated that the Company only reported one annuity product properly by breaking out the number of contracts issued during year, increased during year, and deductions during year to the appropriate lines of the Exhibit. All other annuity products were reported on a net basis combining the number of contacts issued during year, increased during year, and the deductions during year in line 4 of the Exhibit, increased during year.

The examiner recommends that the Company correctly report the number of immediate and deferred annuities and group contracts and certificates issued during the year, increased during the year, and deductions during the year in its Exhibit of Annuities in the appropriate line of the Exhibit in the future.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Company review its service agreements and revise them accordingly to accurately reflect how services are billed, how settlements are made, and what affiliate is actually providing services.</p> <p>The Company revised a number of its service agreements to accurately reflect how services are billed, how settlements are made, and what affiliate is actually providing services. However, the examination revealed a number of additional violations related to how services are billed, how settlements are made, and what affiliate is actually providing services.</p>
B	<p>The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to reimburse an affiliate for services provided on a regular and systematic basis, contrary to the filed administrative service agreement.</p> <p>The Company reimbursed its affiliate, FPP for services provided in accordance with the filed administrative service agreement; however, a similar violation appears in this report on examination.</p>
C	<p>The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to bill or charge for services provided to an affiliate on a regular and systematic basis, contrary to the filed administrative service agreement.</p> <p>The Company terminated the agreement in question effective January 1, 2004.</p>
D	<p>The Company violated Section 4228(e)(3)(C) of the New York Insurance Law by paying compensation in the form of training allowance subsidies to certain agents, who did not qualify for such additional compensation.</p> <p>The examination did not reveal any instances in which the Company paid compensation in the form of training allowance subsidies to agents who did not qualify for such additional compensation.</p>
E	<p>The examiner recommends that the Company maintain policy level detail for its assumed and ceded reinsurance business that can be reconciled to the amounts reported in its filed annual statement.</p> <p>The Company now maintains policy level detail for its assumed and ceded reinsurance business that can be reconciled to the amounts reported in its filed annual statement.</p>

<u>Item</u>	<u>Description</u>
F	<p>The Company violated Sections 91.4(c)(2) and 91.5(b) of Department Regulation No. 33 by failing to allocate net investment income to annual statement lines of business in accordance with the requirements of Department Regulation No. 33.</p> <p>The Company adopted a method of allocating its net investment income that is in accordance with the requirements of Department Regulation No. 33.</p>
G	<p>The Company violated Section 91.4(a)(3) of Department Regulation No. 33 by not maintaining its records in a manner that permits ready identification with respect to the allocation of expenses.</p> <p>A similar violation appears in this report on examination.</p>
H	<p>The Company violated Section 91.4(f)(5) of Department Regulation No. 33 by failing to provide documentation that clearly supports the Company's method of distributing expenses to the annual statement lines of business.</p> <p>The Company provided documentation that supports its method of distributing expenses to the annual statement lines of business. However, the Company was unable to show clearly that the incidence of cost is closely related to such general indexes used for the allocation of expenses by line of business.</p>
I	<p>The examiner recommends that the Company enhance the scope of the internal audits and the reporting provided to management and the independent directors committee to more fully incorporate the Company into the ongoing assessments of its risk management processes and the accompanying system of internal control.</p> <p>A review of the board and independent committee minutes indicated that the Company enhanced the scope of the audits and the reporting provided to management and the independent directors committee to more fully incorporate the Company into the ongoing assessments of its risk management processes and the accompanying system of internal control.</p>

<u>Item</u>	<u>Description</u>
J	<p>The examiner recommends that the Company review the accounts that comprise the liability “Remittances and Items Not Allocated” and investigate, reconcile, and clear (resolve) suspense items on a timely and regular basis.</p> <p>The Company adopted a method of investigating, reconciling, and clearing suspense items on a timely and regular basis.</p>
K	<p>The Company violated Section 219.4(p) of Department Regulation No. 34-A by failing to include the name, city, town or village in which it has its home office on its advertisements.</p> <p>The Company again violated Section 219.4(p) of Department Regulation No. 34-A by failing to include the name, city, town or village in which it has its home office on its advertisements.</p>
L	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain a specimen copy of every advertisement printed, published, or prepared and disseminated in this state and by failing to maintain in this state information regarding the manner and extent of distribution of its advertisements.</p> <p>A review indicated that the Company maintains a specimen copy of every advertisement printed, published, or prepared and disseminated in this state and information regarding the manner and extent of distribution of its advertisements.</p>
M	<p>The Company violated Section 2611(b)(3) of the New York Insurance Law by failing to include required statements on its HIV consent forms.</p> <p>A review indicated that the Company included all required statements on its HIV consent forms.</p>
N	<p>The Company violated Section 2611(b)(5) of the New York Insurance Law by failing to include the department of health’s statewide toll-free telephone number on its HIV-related testing authorization forms.</p> <p>A review indicated that the Company included the department of health’s statewide toll-free telephone number on its HIV-related testing authorization forms.</p>

<u>Item</u>	<u>Description</u>
O	<p>The examiner recommends that the Company maintain copies of consent forms in the policy files in order to demonstrate compliance with Section 2611(b)(4) of the New York Insurance Law and Section 243.2(b) of Department Regulation No. 152.</p> <p>The examination did not reveal any instances where copies of consent forms were not maintained in the policy files.</p>
P	<p>The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest upon the principal sum paid from the date of death of the insured or annuitant to the date of payment.</p> <p>A review indicated that interest was paid upon the principal sum paid from the date of death of the insured or annuitant to the date of payment.</p>

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 91.4(f)(5) of Department Regulation No. 33 by using general indexes as a basis for distributing costs among companies and annual statement lines of business within the Company.	9
B	The Company violated Section 91.4(a) of Department Regulation No. 33 by failing to maintain records with sufficient detail to show fully the system actually used for the allocation of expenses and the actual bases of the allocation under both its principal underwriter and its marketing and sales service agreement with LFA. A similar violation appeared in the prior report on examination.	9
C	The Company violated Section 1505(d)(3) of the New York Insurance Law when it failed to comply with the terms of its approved principal underwriter agreement with LFA by permitting LNL to pay for services on its behalf. A similar violation appeared in the prior report on examination.	9
D	The Company violated Section 1505(a)(2) of the New York Insurance Law by failing to reimburse LFA a reasonable amount for services provided under the sales and marketing service agreement, contrary to the filed administrative service agreement.	9
E	The examiner recommends that the Company comply with the provisions of their filed principal underwriter and marketing service agreements or revise the agreements to accurately reflect how the services are being billed and how settlements are made. A similar violation appeared in the prior report on examination.	9-10
F	The Company violated Section 1505(d)(3) of the New York Insurance Law by having LFA perform selling services on a regular or systematic basis without notifying the superintendent in writing of its intention to enter into any such transaction at least 30 days prior thereto.	10
G	The Company violated Section 1505(d)(3) of the Law when it failed to comply with the terms of its approved wholesaling service agreement by permitting LNL to pay for services on its behalf. A similar violation appeared in the prior report on examination.	10

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	The examiner recommends that the Company revise its wholesaling agreement to accurately reflect that the selling function is being performed by LFA rather than Delaware and to also accurately reflect how the services are being billed and how settlements are made. A similar violation appeared in the prior report on examination.	10
I	The Company violated Section 1505(d)(3) of the New York Insurance Law by providing the use of its property, equipment, and facilities to two divisions of LFA on a regular or systematic basis without notifying the Superintendent in writing of its intention to enter into any such transaction at least 30 days prior thereto.	10-11
J	The Company violated Section 219.4(e) of Department Regulation No. 34-A by using the words “there is no charge,” “no extra cost,” “no additional cost” and other similar terms to describe the benefit or service being made available with products being offered on its advertisements.	23
K	The Company violated Section 219.4(p) of Department Regulation No. 34-A by failing to include the name of the city, town or village in which it has its home office on its advertisements. This is a repeat violation from the prior report on examination.	23-24
L	The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require completed Disclosure Statements, on a consistent basis.	25
M	The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain the proposals, including sales material, as part of the replacement file, on a consistent basis, when the Disclosure Statement indicated that a proposal or sales material was used in the sale.	25
N	The Company violated Section 243.2(b)(1)(iv) of Department Regulation No. 152 by failing to maintain the replaced company’s response as part of the replacement file, on a consistent basis.	25
O	The Company violated Section 51.6(e) of Department Regulation No. 60 by failing to date stamp applications, Disclosure Statements, Important Notices, Definition of Replacements, Disclosure Authorizations and/or the replaced company’s response upon receipt, and by not establishing or implementing procedures that all material be dated upon receipt.	25

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
P	The examiner recommends that the Company strengthen its replacement procedures.	25-26
Q	The Company violated Section 2614 of the New York Insurance Law by using a policy application form that made a distinction associated with an applicant's past lawful travel experiences.	26
R	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.	27
S	The examiner recommends that the Company file the form with the Superintendent for approval.	27
T	The examiner recommends that the Company maintain policy level detail to support all numbers and amounts reported in its Exhibit of Life Insurance in the future.	28
U	The examiner recommends that the Company correctly report the number of immediate and deferred annuities and group contracts and certificates issued during the year, increased during the year, and deductions during the year in its Exhibit of Annuities in the appropriate line of the Exhibit in the future.	28

APPOINTMENT NO. 22388

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, HOWARD MILLS, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

HENRY WONG

as a proper person to examine into the affairs of the

LINCOLN LIFE & 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 8th day of July, 2005



HOWARD MILLS

Superintendent of Insurance

Howard Mills

Superintendent