STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK

AS OF

DECEMBER 31, 2003

DATE OF REPORT: OCTOBER 1, 2004

EXAMINER: JOHN LETOURNEAU

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

George E. Pataki
Governor

Gregory V. Serio
Superintendent

October 1, 2004

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

Sir:

In accordance with instructions contained in Appointment No. 22131, dated January 15**,** 2004 and annexed hereto, an examination has been made into the condition and affairs of Reliastar Life Insurance Company of New York, hereinafter referred to as "the Company", at its home office located at 1000 Woodbury Road, Woodbury, New York 11797.

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

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

## 1. EXECUTIVE SUMMARY

On September 1, 2000, Reliastar Financial Corporation ("RFC"), the Company's ultimate parent at that time, was acquired by ING America Insurance Holdings, Inc. ("ING AIH"). ING AIH is owned by ING Groep N.V., a global financial services company based in the Netherlands.

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, 2003 filed annual statement. (See item 5 of this report)

The Company violated Section 1505(d)(3) of the New York Insurance Law by receiving services from various affiliates prior to having filed a revised agreement for such services with the Superintendent. (See item 3B of this report)

The Company violated of Section 1505(d)(1) of the New York Insurance Law by not complying with the conditions set forth in the non-disapproval letter for the reciprocal loan agreement with ING AIH. (See item 3B of this report)

The Company violated Section 1505(d)(2) of the New York Insurance Law by not notifying the Superintendent in writing of amendments to reinsurance agreements with affiliates at least 30 days before the effective dates of the amended agreements. A similar violation appeared in the prior report on examination. (See item 3E of this report)

The Company violated Section 4221(a)(7) by mailing annual reports to policyholders 90 days after the policy anniversary date which is beyond the prescribed 60 day limit. (See item of 6C this report)

The Company violated Section 243.2 of Department Regulation No. 152 by not maintaining complete complaint records for six calendar years after all elements of the complaint are resolved and the file is closed. (See item 6C of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1999. This examination covers the period from January 1, 2000 through December 31, 2003. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2003 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, 2003 to determine whether the Company's 2003 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, recommendation and comment contained in the prior report on examination. The results of the examiner's review are contained in item 7 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 on June 11, 1917 under the name The Morris Plan Insurance Society, and commenced business on September 18, 1917. The name was changed to Bankers Security Life Insurance Society ("Bankers") in July 1946. In 1962, through an exchange of securities, Bankers merged with Postal Life Insurance Company of New York. In 1971, also by an exchange of securities, the Congressional Life Insurance Company merged into Bankers.

On January 17, 1995, RFC, the parent of Reliastar Life Insurance Company ("RLIC"), acquired USLICO Corporation, the ultimate parent of Bankers at that time, through an exchange of stock. RFC became Bankers ultimate parent. As a condition to the approval of the acquisition by the Department, RLIC agreed to merge another one of its New York subsidiaries, North Atlantic Life Insurance Company of America, with and into Bankers. The merger became effective on December 28, 1995. On August 19, 1996, Bankers changed its name to ReliaStar Bankers Security Life Insurance Company.

On July 1, 1997, through an exchange of securities, Security-Connecticut Corporation ("SCC") merged into RFC. SCC owned Security-Connecticut Life Insurance Company ("SCLIC") which, in turn, owned Lincoln Security Life Insurance Company ("Lincoln Security"), a domestic stock life insurer. On January 1, 1998, Lincoln Security was merged into the Company and the Company changed its name to Reliastar Life Insurance Company of New York.

On September 1, 2000, ING AIH acquired RFC. ING AIH is owned by ING Groep N.V., a global financial services company based in the Netherlands.

On April 1, 2002, First Golden America Life Insurance Company ("FGALIC"), an affiliate, was merged into the Company.

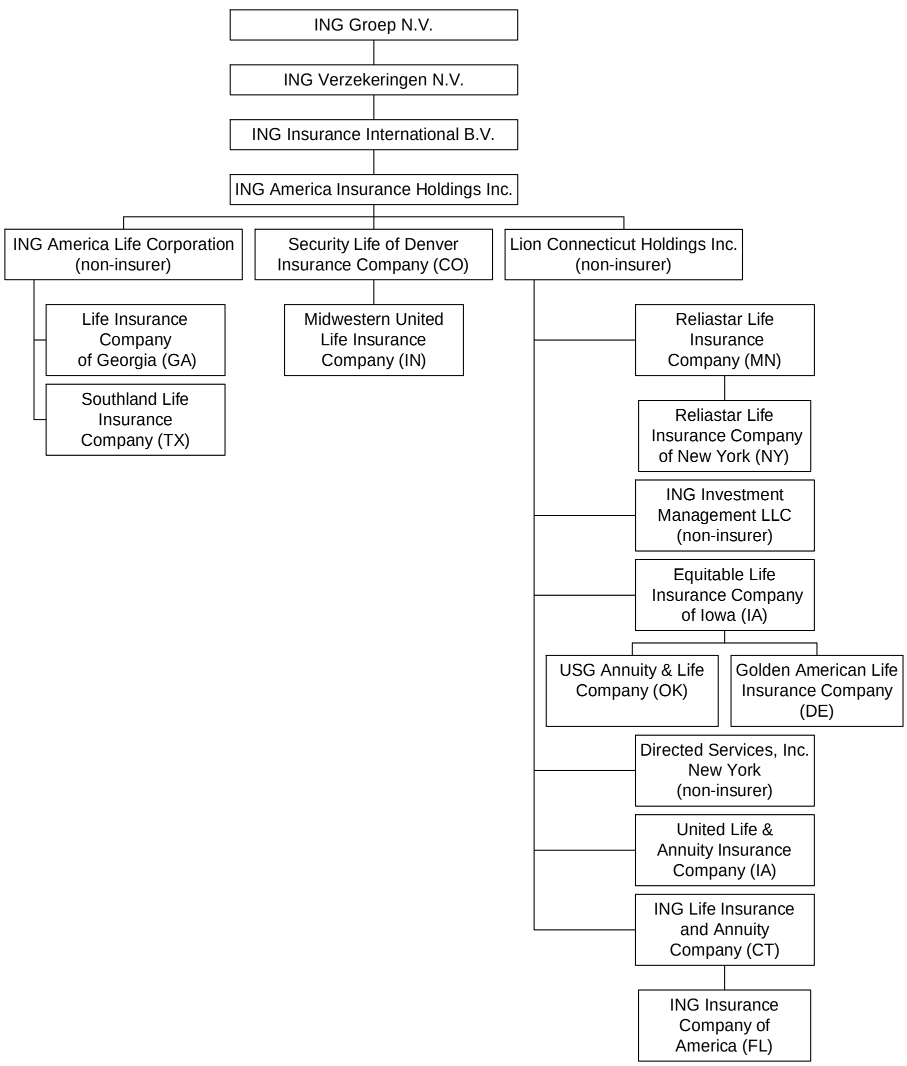
On December 31, 2002, RFC merged with and into Lion Connecticut Holdings, Inc. ("Lion"), a Connecticut holding and management company who then became the parent of RLIC within the ING Holding Company.

As of December 31, 2003, the Company reported capital stock in the amount of $2,755,726, consisting of 1,377,863 shares of common stock with a par value of $2 each, and paid in and contributed surplus of $138,881,164.

B. Holding Company

The Company is a wholly-owned subsidiary of RLIC, an insurance company domiciled in the State of Minnesota, which, in turn, is a wholly owned subsidiary of Lion. Lion is a wholly-owned subsidiary of ING Groep N.V.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2003 follows:



The Company had three service agreements in effect during the examination period.

| Type of Agreement | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/ (Expense)* For Each Year of the Examination |
|---|---|---|---|---|---|
| Administrative Services Agreement | 11/8/97 Amended 1/27/98 6/1/99 3/1/03 | Various affiliates | the Company | All services except for some sales, policyholder, financial and technical services. | 2000-$(19,819,041)<br>2001-$(16,544,688)<br>2002-$(13,712,133)<br>2003-$(15,424,036) |
| | | | | | |
| Asset Management Agreement | 1/17/95 Amended 3/30/98 1/1/01 | ING Investment Management LLC | the Company | Investment advisory services, reinvestment management and servicing of assets. | 2000-$(1,267,562)<br>2001-$(1,488,576)<br>2002-$(1,656,863)<br>2003-$(1,487,701) |
| | | | | | |
| Administrative Services Agreement | 11/8/96 | Directed Services, Inc. | the Company | Administrative and special services | 2000-$0<br>2001-$(88,629)<br>2002-$(71,514)<br>2003-$(67,536) |

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

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

> "The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period . . .
> (1) sales, purchases, exchanges, loans or extensions of credit, or investments, involving more than one-half of one percent but less than five percent of the insurer's admitted assets at last year-end . . .
> (3) rendering of services on a regular systematic basis . . ."

Pursuant to Section 1505(d) of the New York Insurance Law, the Company submitted a revised multiparty administrative service agreement among various affiliates to the Superintendent on October 7, 2002. The agreement was non-disapproved by the Department effective March 1, 2003. The agreement consolidates and replaces several agreements previously in force between the Company and its affiliates, and adds certain other services to be provided to the Company. A number of services incorporated into the agreement such as, medical advice, billing, compliance, corporate management, legal, actuarial and product development, data center, personnel, compensation design, benefits & training, accounting, tax, internal and external audit services, raising capital, and risk management had actually been provided to the Company by affiliates since January 2002, prior to the agreement being filed with the Superintendent. In addition, fulfillment and printing services had been provided since September 2002 and conservation and rollover payout services had been provided since October 2002.

The Company violated Section 1505(d)(3) of the New York Insurance Law by receiving services from various affiliates prior to having filed the revised agreement for such services with the Superintendent.

The Company participates in a reciprocal loan agreement with ING AIH. The loan agreement was non-disapproved by the Department effective March 7, 2002, subject to certain conditions. During 2002, the Company borrowed funds from ING AIH when ING AIH owed the Company money. This transaction is in violation of the conditions set forth in the non-disapproval letter for the agreement, which prohibits the Company from borrowing funds from ING AIH when ING AIH has an outstanding loan with the Company.

The Company violated of Section 1505(d)(1) of the New York Insurance Law by not complying with the conditions set forth in the non-disapproval letter for the reciprocal loan agreement with ING AIH.

## C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 22 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, 2003, the board of directors consisted of 12 members. A vacancy existed at December 31, 2003 due to the resignation of P. Randall Lowery on October 31, 2003. Meetings of the board are held quarterly.

The 12 board members and their principal business affiliation, as of December 31, 2003, were as follows:

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| Brian Comer<br>Weatogue, CT | Vice President<br>Reliastar Life Insurance Company of New York | 2003 |
| R. Michael Conley*<br>Plymouth, MN | Retired | 1997 |
| James R. Gelder<br>Minnetonka, MN | Chairman, President and Chief Executive Officer<br>Reliastar Life Insurance Company of New York | 1999 |
| Keith Gubbay<br>Atlanta, GA | President<br>Reliastar Life Insurance Company | 2002 |
| Ulric S. Haynes, Jr.*<br>Kissimmee, FL | Retired | 1998 |
| James F. Lille*<br>Gansevoort, NY | Retired | 2003 |
| Gregory G. McGreevey<br>Highlands Ranch, CO | Vice President<br>Reliastar Life Insurance Company of New York | 2003 |
| Stephen J. Preston<br>West Chester, PA | Executive Vice President<br>Reliastar Life Insurance Company of New York | 2002 |
| Mark A. Tullis<br>Atlanta, GA | General Manager<br>ING America Insurance Holdings, Inc. | 2001 |
| Charles B. Updike*<br>Westport, NY | Partner<br>Schoeman, Marsh & Updike | 1990 |
| Ross M. Weale*<br>South Salem, NY | President<br>Putnam County Economic Development Corporation | 1984 |

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| David A. Wheat<br>Duluth, GA | Senior Vice President and Chief Financial Officer<br>Reliastar Life Insurance Company of New York | 2003 |

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

On October 31, 2003, P. Randall Lowery resigned from the board and was replaced by Audrey R. Kavanagh on February 19, 2004.

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, 2003:

| Name | Title |
|---|---|
| James R. Gelder | Chairman, President and Chief Executive Officer |
| Roger D. Roenfeldt | Executive Vice President and Chief Marketing Officer |
| William D. Bonneville | Executive Vice President and Chief Administrative Officer |

Mr. Philip W. Ricker is the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

In June 2004, Roger D. Roenfeldt retired.

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 all 50 states, the District of Columbia, the Cayman Islands and the Dominican Republic. In 2003, 58% of life insurance premiums, 97% of annuity considerations, and all deposit type funds were received from New York State. Policies are written on a participating and non-participating basis.

The Company's principal line of business during the examination period was ordinary life insurance, with an emphasis on retail universal life insurance and worksite payroll deduction life insurance. The Company also markets group life insurance, individual whole life and variable life insurance, group accident and health insurance, and single and flexible premium deferred annuity contracts. The Company had discontinued writing individual variable annuities effective May 1, 1999. However, the Company resumed writing individual variable annuity business in 2002, and inherited some annuity business, primarily individual annuities, from FGALIC in 2003. The deposit type funds consist almost entirely of 401(k) group pension contracts. The Company ceased writing this business in June 2002.

The Company's agency operations are conducted on a general agency basis. In the retail life distribution channel, the Company does business with independent general agents and independent personal producing general agents. The employee benefits division of the Company distributes worksite payroll deduction life and health insurance products through general agents, brokers and consultants, primarily to employers and their employees.

E. Reinsurance

As of December 31, 2003, the Company had reinsurance treaties in effect with 60 companies, of which 48 were authorized or accredited. Individual and group life insurance and individual and group accident and health insurance are ceded on a coinsurance, modified-coinsurance and yearly renewable term basis.

The maximum retention limit for individual retail life contracts is $300,000 while the retention limit for group and payroll deduction is $500,000. The total face amount of life insurance ceded as of December 31, 2003 was $13,149,577,934, which represents 31% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $6,594,697, was supported by letters of credit.

The total face amount of life insurance assumed, as of December 31, 2003, was $3,719,960,754.

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 . . .
> (2) reinsurance treaties or agreements . . ."

The Company amended two reinsurance agreements in effect with SCLIC (and then RLIC subsequent to the merger of SCLIC with and into RLIC) on two occasions during the examination period and on nine occasions subsequent to the examination period but prior to the date of this report. The Company failed to notify the Superintendent in writing of the amendments to these reinsurance agreements at least 30 days prior to the effective dates of the amended agreements.

The Company violated Section 1505(d)(2) of the New York Insurance Law by not notifying the Superintendent in writing of amendments to reinsurance agreements with affiliates at least 30 days before the effective dates of the amended agreements. A similar violation appeared in the prior report on examination.

## 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 (decline) during the period under review:

| | December 31, 1999 | December 31, 2003 | Increase (Decrease) |
|---|---|---|---|
| Admitted assets | $2,677,971,973 | $2,595,107,941 | $ (82,864,032) |
| Liabilities | $2,456,192,643 | $2,316,445,320 | $(139,747,323) |
| Common capital stock | $ 2,755,726 | $ 2,755,726 | $ 0 |
| Gross paid in and contributed surplus | 111,768,164 | 138,881,164 | 27,113,000 |
| Group contingency reserve | 6,142,792 | 0 | (6,142,792) |
| Unassigned funds (surplus) | 101,112,648 | 137,025,731 | 35,913,083 |
| Total capital and surplus | $ 221,779,330 | $ 278,662,621 | $ 56,883,291 |
| Total liabilities, capital and surplus | $2,677,971,973 | $2,595,107,941 | $ (82,864,032) |

The decrease in admitted assets is due to the decrease in market value of the separate account assets.

The Company's invested assets, as of December 31, 2003, exclusive of Separate Accounts, were mainly comprised of bonds (82.2%) and mortgage loans (10.5%). The majority (94.0%) of the Company's bond portfolio, as of December 31, 2003, was comprised of investment grade obligations.

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

| | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|
| Ordinary: | | | | |
| Life insurance | $10,283,306 | $ 22,276,055 | $25,776,686 | $31,263,009 |
| Individual annuities | 7,349,135 | 7,547,023 | 805,281 | 5,948,602 |
| Supplementary contracts | 552,700 | 1,322,702 | 1,354,465 | (289,940) |
| Total ordinary | $18,185,141 | $ 31,145,780 | $27,936,432 | $36,921,671 |
| Group: | | | | |
| Life | $ (519,593) | $ 3,005,526 | $ 5,102,104 | $ 3,448,397 |
| Annuities | 1,002,574 | 2,127,003 | (123,334) | (159,247) |
| Total group | $ 482,981 | $ 5,132,529 | $ 4,978,770 | $ 3,289,150 |
| Accident and health: | | | | |
| Group | $ 363,555 | $ 467,959 | $ (1,907,291) | $ 2,943,247 |
| Other | (550,190) | (22,281,683) | (2,221,609) | (385,286) |
| Total accident and health | $ (186,635) | $(21,813,724) | $ (4,128,900) | $ 2,557,961 |
| Total | $18,481,487 | $ 14,464,584 | $28,786,303 | $42,768,782 |

The reason for the large loss in the accident and health other line of business in 2001 is due to the misallocation of federal income taxes. Federal income taxes were not allocated to the various lines of business. The total federal income tax expense of $18,497,338 was reported in the accident and health other line of business.

In 2002, the net gain in the individual annuity line of business was understated, and the gains in the other lines were overstated, due to a disproportionate amount of federal income tax being allocated to the individual annuity line.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2003, as contained in the Company's 2003 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, 2003 filed annual statement.

### A. ASSETS, LIABILITIES, CAPITAL, SURPLUS AND OTHER FUNDS AS OF DECEMBER 31, 2003

Admitted Assets

| | |
|---|---|
| Bonds | $1,659,316,121 |
| Stocks: | |
| Preferred stocks | 4,000,000 |
| Common stocks | 602,977 |
| Mortgage loans on real estate: | |
| First liens | 211,151,076 |
| Cash, cash equivalents and short term investments | 37,262,099 |
| Contract loans | 86,557,329 |
| Other invested assets | 12,480,300 |
| Receivable for securities | 7,228,289 |
| Investment income due and accrued | 18,869,448 |
| Premiums and considerations: | |
| Uncollected premiums and agents' balances in course of collection | (5,439,226) |
| Deferred premiums, agents' balances and installments booked but deferred and not yet due | 11,719,418 |
| Reinsurance: | |
| Amounts recoverable from reinsurers | 14,651,244 |
| Other amounts receivable under reinsurance contracts | 1,352,679 |
| Amounts receivable relating to uninsured plans | 1,572,634 |
| Net deferred tax asset | 10,030,002 |
| Guaranty funds receivable or on deposit | 10,784 |
| Electronic data processing equipment and software | 1,463 |
| Reinsurance receivable | 6,289,744 |
| Other assets | 1,643 |
| From Separate Accounts statement | 517,449,917 |
| Total admitted assets | $2,595,107,941 |

Liabilities, Capital, Surplus and Other Funds

| | |
|---|---|
| Aggregate reserve for life contracts | $1,517,230,608 |
| Aggregate reserve for accident and health contracts | 5,986,727 |
| Liability for deposit-type contracts | 71,440,079 |
| Contract claims: | |
| Life | 23,357,073 |
| Accident and health | 1,274,345 |
| Policyholders' dividends and coupons due and unpaid | (18,678) |
| Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts: | |
| Dividends apportioned for payment | 668,824 |
| Premiums and annuity considerations for life and accident and health contracts received in advance | 2,084,635 |
| Contract liabilities not included elsewhere: | |
| Provision for experience rating refunds | 2,114,232 |
| Other amounts payable on reinsurance | 4,956,689 |
| Interest maintenance reserve | 7,703,425 |
| Commissions to agents due or accrued | 846,377 |
| General expenses due or accrued | 6,610,080 |
| Transfers to Separate Accounts due or accrued | (10,970,694) |
| Taxes, licenses and fees due or accrued | 4,662,175 |
| Current federal and foreign income taxes | 3,653,620 |
| Unearned investment income | 3,252,427 |
| Amounts withheld or retained by company as agent or trustee | 907,157 |
| Amounts held for agents' account | 178,386 |
| Remittances and items not allocated | 4,483,206 |
| Borrowed money and interest thereon | 101,461,618 |
| Miscellaneous liabilities: | |
| Asset valuation reserve | 14,170,744 |
| Reinsurance in unauthorized companies | 1,125,776 |
| Payable to parent, subsidiaries and affiliates | 13,307,827 |
| Drafts outstanding | 1,832,681 |
| Other contingency reserves | 14,630,520 |
| Other miscellaneous liabilities | 4,284,764 |
| Payable to reinsurer | 260,779 |
| From Separate Accounts statement | 514,949,917 |
| Total liabilities | $2,316,445,320 |
| Common capital stock | $ 2,755,726 |
| Gross paid in and contributed surplus | 138,881,164 |
| Unassigned funds (surplus) | 137,025,731 |
| Total capital, surplus and other funds | $ 278,662,621 |
| Total liabilities, capital, surplus and other fund | $2,595,107,941 |

## B. CONDENSED SUMMARY OF OPERATIONS

| | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|
| Premiums and considerations | $ 190,324,373 | $197,388,580 | $200,873,051 | $207,791,586 |
| Investment income | 142,835,083 | 136,901,070 | 129,569,165 | 121,019,955 |
| Net gain from operations from Separate Accounts | (155,768) | 546,098 | (10,480) | 0 |
| Commissions and reserve adjustments on reinsurance ceded | 5,042,123 | 8,325,808 | 8,462,244 | 7,303,464 |
| Miscellaneous income | 132,396,421 | 3,052,364 | 19,514,585 | 17,992,115 |
| Total income | $ 470,442,232 | $346,213,919 | $358,408,565 | $354,107,120 |
| Benefit payments | $ 434,923,982 | $250,831,300 | $214,307,490 | $180,861,152 |
| Increase in reserves | (118,048,901) | (15,818,780) | 32,743,031 | 22,817,091 |
| Commissions | 36,944,809 | 39,752,174 | 41,683,517 | 36,415,058 |
| General expenses and taxes | 59,744,116 | 50,526,609 | 38,321,045 | 44,080,444 |
| Increase in loading on deferred and uncollected premiums | (4,465,916) | 5,374,054 | (3,027,542) | (115,369) |
| Net transfers to (from) Separate Accounts | (36,783,588) | (25,254,568) | (14,236,251) | (113,880) |
| Miscellaneous deductions | 65,998,905 | 7,317,886 | 1,036,610 | 2,912,591 |
| Total deductions | $ 438,313,407 | $312,728,675 | $310,827,900 | $286,857,087 |
| Net gain (loss) | $ 32,128,825 | $ 33,485,244 | $ 47,580,665 | $ 67,250,033 |
| Dividends | 499,838 | 523,220 | 619,502 | 617,492 |
| Federal and foreign income taxes incurred | 13,147,500 | 18,497,336 | 18,174,863 | 23,863,763 |
| Net gain (loss) from operations before net realized capital gains | $ 18,481,487 | $ 14,464,688 | $ 28,786,300 | $ 42,768,778 |
| Net realized capital gains (losses) | (12,366,179) | (3,459,919) | (10,803,165) | 29,093 |
| Net income | $ 6,115,308 | $ 11,004,769 | $ 17,983,135 | $ 42,797,871 |

## C. CAPITAL AND SURPLUS ACCOUNT

| | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|
| Capital and surplus, December 31, prior year | $221,779,330 | $222,118,378 | $214,554,322 | $267,041,225 |
| Net income | $ 6,115,308 | $ 11,004,769 | $ 17,983,135 | $ 42,797,871 |
| Change in net unrealized capital gains (losses) | 2,209,372 | 281,031 | (938,788) | 2,972,983 |
| Change in net unrealized foreign exchange capital gain (loss) | 0 | (14,621) | (1,563,463) | (2,088,345) |
| Change in net deferred income tax | 0 | 0 | 2,290,277 | (1,890,008) |
| Change in non-admitted assets and related items | 4,562,638 | (3,254,679) | 172,930 | (2,145,162) |
| Change in liability for reinsurance in unauthorized companies | (4,840,436) | 3,230,970 | (563,300) | 2,466,551 |
| Change in reserve valuation basis | (8,421) | 0 | 0 | 307,113 |
| Change in asset valuation reserve | 4,300,587 | (4,574,129) | 9,895,009 | (3,652,942) |
| Cumulative effect of changes in accounting principles | 0 | 3,754,182 | 11,915,808 | 0 |
| Dividends to stockholders | (12,000,000) | (18,000,000) | (14,400,000) | (25,500,000) |
| Change in reserve | 0 | 8,421 | 0 | 0 |
| Cash paid - merger with First Golden America Life Insurance Company | 0 | 0 | 27,695,295 | 0 |
| Adjustment to asset valuation reserve | 0 | 0 | 0 | (1,646,665) |
| Net change in capital and surplus | $ 339,048 | $ (7,564,056) | $ 52,486,903 | $ 11,621,396 |
| Capital and surplus, December 31, current year | $222,118,378 | $214,554,322 | $267,041,225 | $278,662,621 |

## 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, and the Department actuaries reviewed a sample of policy forms.

The Department actuaries were still in discussion with the Company regarding certain policy form issues as of the date of this report.

### 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 4221(a)(7) of the New York Insurance Law states, in part:

> "That the company shall deliver at issue to each holder of a policy under which additional amounts may be credited pursuant to subsection (b) of section four thousand two hundred thirty-two of this article, or under which cash surrender values and policy loan values are adjusted in accordance with a market-value adjustment formula, a statement containing such information as the superintendent prescribes, and shall mail to each such holder at least once every policy year or within sixty days after the end of a policy year a statement as of a date during such year as to the death benefit, cash surrender value and loan value under the policy (and any amount by which such cash surrender value and loan

> value were adjusted in accordance with a market-value adjustment formula) on such date as well as such further information as the superintendent requires. . . ."

In response to an inquiry from the Department's Consumer Services Bureau, the Company indicated that they had scheduled annual reports, which denote the death benefit, cash surrender value and loan value under the policy, to be mailed 90 days after policy anniversaries. This is beyond the 60-day limit prescribed by Section 4221(a)(7) of the New York Insurance Law. The Company stated that 40,553 policyholders were impacted by this procedural error. As of May 1, 2003, the Company corrected the system such that annual reports are automatically generated and mailed to policyholders within 60 days of the end of the policy year.

The Company violated Section 4221(a)(7) of the New York Insurance Law by mailing annual reports 90 days after the policy anniversary date, which is beyond the prescribed 60-day limit.

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

> "(a) In addition to any other requirement contained in Insurance Law Section 325, any other section of the Insurance Law or other law, or any other provision of this Title, every insurer shall maintain its claims, rating, underwriting marketing, complaint, financial, and producer licensing records, and such other records subject to examination by the superintendent, in accordance with the provisions of this Part.
> (b) . . . an insurer shall maintain . . .
> (6) A complaint record . . . for six calendar years after all elements of the complaint are resolved and the file is closed. . . ."

Section 216.4(e) of Department Regulation No. 64 states, in part:

> " As part of the complaint handling function, an insurer's consumer services department shall maintain an ongoing central log to register and monitor all complaint activity."

Department Circular Letter No. 11 (1978) advises, in part:

> " . . . As part of the complaint handling function, the company's consumer services department will maintain an ongoing central log to register and monitor all complaint activity . . . The log is also to be an internal control for monitoring activity on individual cases and focusing accountability during the pendency of complaint investigations to insure timely and complete responses to the Consumer Services Bureau. . . ."

The examiner reviewed 38 complaint files. Of the 38 files, 19 files did not contain complete documentation related to the complaint. The Company's procedures indicate that an acknowledgement letter or a resolution letter will be sent to each customer. The procedures also indicate that employees are trained to make significant communications with the policyholder in writing. Many of the complaints dealt with significant policy matters. None of the 19 incomplete files contained an acknowledgment letter or resolution letter. In addition, many of the files did not contain enough documentation for the examiner to reconstruct the actual events that took place or the timing of the events, nor the documentation to support the resolution. The Company should maintain all documentation related to complaints for six calendar years after all elements of the complaint are resolved and the file is closed.

The Company violated Section 243.2 of Department Regulation No. 152 by not maintaining complete complaint records for six calendar years after all elements of the complaint are resolved and the file is closed.

Several of the complaints listed on the Department complaint log did not appear on the Company's complaint log. The Company was able to provide these files when the examiner specifically requested them. In addition, five of the 38 complaint files originally requested were not provided. The Company explained that these complaints were not the Company's complaints but were complaints of affiliates. This information was not noted on the complaint log.

The examiner recommends that the Company establish adequate controls over the maintenance of the complaint log in order to ensure that all of the Company's complaints appear on the log. Any complaints related to the Company's affiliates that appear on the log should reflect such and indicate the manner in which they were disposed of (e.g., forwarded to the appropriate affiliate).

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 in a timely manner a report of the findings of its review of past and present underwriting practices regarding race-based underwriting made in accordance with the requirements of the Supplement.

The Company reported that a review of the policy forms and rate manuals used in the underwriting of its written and assumed business was performed. In summary, the Company's findings were that there was no evidence of race-based underwriting.

Initially, the Company was not able to provide the examiner with documented workpapers regarding its review of race-based underwriting. The Company was ultimately able to reconstruct the workpapers and the examiner found no evidence, based on this limited scope review, of race-based underwriting. The Company's review of its past and present underwriting practices complied with the requirements of the Supplement.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

| Item | Description |
|---|---|
| A | The Company violated Section 1505(d)(2) of the New York Insurance Law by not notifying the Superintendent in writing of its intention to enter into reinsurance agreements with affiliates at least 30 days before their effective dates.<br><br>A similar violation appears in this report. (See item 3E of this report) |
| B | The Department had not certified, as to accuracy or adequacy, the Company's reserves as of December 31, 1999, due to concerns regarding the underlying policy-level valuation detail.<br><br>The Department certified the Company's reserves as of December 31, 1999. |
| C | The Company violated Section 3207(c) of the New York Insurance Law by issuing policies which exceeded the limit of life insurance in force on minors.<br><br>The examiner's review of policies that were issued on the life of minors did not reveal policies that exceeded the prescribed limits. |
| D | The examiner recommended that the Company retroactively grant higher interest rates on the dividend accumulations of those policyholders of the same class who did not receive a liberalized benefit.<br><br>The examiner's review indicated that the Company credited the higher interest rate to the affected policyholders. |
| E | The Company violated Section 4230(c) of the New York Insurance Law by granting stock options to officers without such options being submitted to and approved by its board of directors.<br><br>The board of directors approved all options that were granted during the examination period. |
| F | The Company violated Section 701 of the New York Abandoned Property Law by not reporting outstanding checks with no ascertainable addresses to the New York State Comptroller.<br><br>The Company filed the appropriate abandoned property reports with the New York State Comptroller. |

## 8. SUMMARY AND CONCLUSIONS

Following are the violations and the recommendation contained in this report:

| Item | Description | Page No(s). |
|---|---|---|
| A | The Company violated Section 1505(d)(3) of the New York Insurance Law for receiving services from various affiliates prior to having filed a revised agreement for such services with the Superintendent. | 6 – 7 |
| B | The Company violated of Section 1505(d)(1) of the New York Insurance Law by not complying with the conditions set forth in the non-disapproval letter for the reciprocal loan agreement with ING AIH. | 6 – 7 |
| C | The Company violated Section 1505(d)(2) of the New York Insurance Law by not notifying the Superintendent in writing of amendments to reinsurance agreements with affiliates at least 30 days before the effective dates of the amended agreements. A similar violation appeared in the prior report on examination. | 11 |
| D | The Company violated Section 4221(a)(7) of the New York Insurance Law by mailing annual reports 90 days after the policy anniversary date, which is beyond the prescribed 60-day limit. | 18 – 19 |
| E | The Company violated Section 243.2 of Department Regulation No. 152 by not maintaining complete complaint records for six calendar years after all elements of the complaint are resolved and the file is closed. | 19 – 20 |
| F | The examiner recommends that the Company establish adequate controls over the maintenance of the complaint log in order in ensure that all of the Company's complaints appear on the log and that any complaints related to the Company's affiliates that appear on the log should reflect such and indicate the manner in which they were disposed of (e.g., forwarded to the appropriate affiliate). | 20 |

Respectfully submitted,

/s/
John Letourneau
Senior Insurance Examiner

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

John Letourneau, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his/her knowledge and belief.

/s/
John Letourneau

Subscribed and sworn to before me

this__________ day of ____________________2004.

*APPOINTMENT NO. 22131*

***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:*

***JOHN LETOURNEAU***

*as a proper person to examine into the affairs of the*

***RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK***

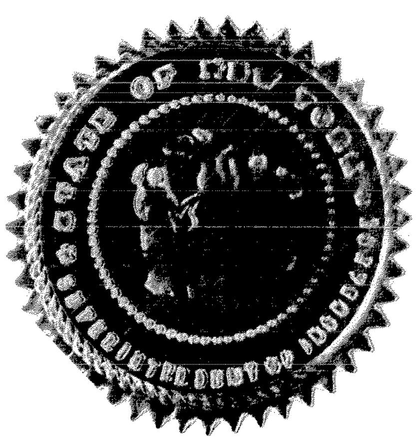
*and to make a report to me in writing of the condition of the said*

***COMPANY***

*with such other information as she shall deem requisite.*

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

*this 15th day of January, 2004*



***GREGORY V. SERIO***

*Superintendent of Insurance*

*Superintendent*