



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
PROTECTIVE LIFE INSURANCE COMPANY
OF NEW YORK

CONDITION:

DECEMBER 31, 2007

DATE OF REPORT:

JULY 9, 2009

STATE OF NEW YORK INSURANCE DEPARTMENT

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OF THE

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AS OF

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EXAMINER:

DENNIS G. BENSEN

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

David Paterson
Governor

James J. Wrynn
Superintendent

November 9, 2010

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22746, dated January 15, 2008 and annexed hereto, an examination has been made into the condition and affairs of Protective Life Insurance Company of New York, hereinafter referred to as "the Company," at its home office located at 300 Broadhollow Road, Suite 125, Melville, New York 11749.

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. SCOPE OF EXAMINATION

This is the first examination of the Company as Protective Life Insurance Company of New York. The Company was formally known as Chase Life and Annuity Company of New York ("CLACNY"). The prior examinations of CLACNY and Chase Insurance Life Company of New York ("CILCNY"), a domestic affiliate of CLACNY that was merged into CLACNY, were conducted as of December 31, 2003. This examination covers the period from January 1, 2004 through December 31, 2007. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2007 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, 2007 to determine whether the Company's 2007 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Company history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- 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, recommendations and comments contained in the prior CILCNY report on examination. The results of the examiner's review are contained in item 6 of this report. The examiner also reviewed the prior CLACNY report on examination which did not contain any violations, recommendations or comments.

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

2. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company named Chase Life and Annuity Company of New York (“CLACNY”), under the laws of New York on May 19, 1998 and commenced business on August 31, 2000. On July 3, 2006, Protective Life Insurance Company and its subsidiary West Coast Life Insurance Company (“WCL”), purchased the stock of five Chase insurance companies including CLACNY and CILCNY, both New York domestic life insurers. Effective January 1, 2007, CILCNY merged into CLACNY, with CLACNY becoming the surviving entity, and CLACNY was renamed Protective Life Insurance Company of New York.

Initial resources of \$6,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$4,000,000, were provided through the sale of 200,000 shares of common stock (with a par value of \$10 each) for \$30 per share.

Capital and paid in and contributed surplus were \$2,000,000 and \$179,606,972 as of December 31, 2003. Subsequent to December 31, 2003 the Company noted a tax error in the amount of \$236,025 which was corrected in 2004 and resulted in an increase in paid in capital of \$236,025. At December 31, 2004 the Company’s paid in and contributed surplus was \$179,842,997.

On September 28, 2007 the Company paid a dividend of \$34,164,817 to its stockholder. The Company treated the dividend as a return of capital and reduced the paid in and contributed surplus to \$145,678,180 at December 31, 2007. The Company was notified by the Department that the treatment of the dividend as a return of capital was incorrect and directed the Company to take the dividend funds from its unassigned fund and increase the paid in and contributed capital by the same amount. The Company did so subsequent to December 31, 2007.

B. Holding Company

The Company is a wholly owned subsidiary of WCL, a Nebraska life insurance company. WCL is in turn a wholly owned subsidiary of Protective Life Insurance Company, a Tennessee insurance company. The ultimate parent of the Company is Protective Life Corporation (“PLC”), a Delaware holding company. Protective Life and Annuity Company, an Alabama life

insurance company and an affiliate of the Company, is commercially domiciled in New York and markets life insurance and annuity products in New York.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2007 follows:

Prior to merger, both CILCNY and CLACNY each had one service agreement with Chase Insurance Life and Annuity Company (“CILAC”), another of the five Chase insurance companies acquired by PLC on July 3, 2006. Although the acquisition by PLC took effect July 3, 2006 both these service agreements continued to operate during the period from July 3, 2006 through December 31, 2006. The three service agreements in effect with affiliates since the Company’s acquisition by PLC appear in the chart below.

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
Service Agreement 35056A	1/1/2007	PLC	The Company	Administrative services, legal services, investment services, and data processing services	2007 - \$(4,131,427)
Administrative Services Agreement 34555	6/1/2005	CILAC	CILCNY	Accounting, data processing, taxes, auditing, and customer support services	7/3/06 through 12/31/06 \$(415,570)
Administrative Services Agreement	8/16/1999	CILAC	CLACNY	Policy administration, accounting, facilities maintenance	7/3/06 through 12/31/06 \$(2,358,969)

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

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than nine and not more than 21 directors. The board of directors shall be increased to not less than 13 within one year following the end of a calendar year in which the Company's admitted assets exceed \$1,500,000,000. 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, 2007, the board of directors consisted of nine members. Meetings of the board are held at least once a year.

The nine board members and their principal business affiliation, as of December 31, 2007, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Marcia Alazraki* New York, NY	Attorney Manatt, Phelps & Phillips LLP	2006
Richard J. Bielen Birmingham, AL	Chief Financial Officer Protective Life Insurance Company of New York	2006
Perry H. Braun* Scarsdale, NY	Senior Vice President Wilton Re	2006
Stephen D. Foster* Little Rock, AK	Attorney Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C	2006
Carolyn Johnson Birmingham, AL	Executive Vice President and Chief Operating Officer Protective Life Insurance Company of New York	2007
Carolyn King Birmingham, AL	Senior Vice President, Acquisition and Corporate Development Protective Life Insurance Company of New York	2006
Mark R. Sarlitto* Cross River, NY	General Counsel Wilton Re	2006
Wayne E. Stuenkel Birmingham, AL	President Protective Life Insurance Company of New York	2006
Steven G. Walker Birmingham, AL	Senior Vice President, Controller and Chief Accounting Officer Protective Life Insurance Company of New York	2006

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

The examiner's review of the minutes of the meetings of the board of directors indicated that meetings were well attended and that each director attended a majority of the meetings.

Section 1202(b)(2) of the New York Insurance Law states:

“The board of directors of a domestic life insurance company shall establish one or more committees comprised solely of directors who are not officers or employees of the company or of any entity controlling, controlled by, or under common control with the company and who are not beneficial owners of a controlling interest in the voting stock of the company or any such entity. Such committee or committees shall have the responsibility for recommending the selection of independent certified public accountants, reviewing the company's financial condition, the scope and results of the independent audit and any internal audit, nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed by such committee or committees, to be principal officers of the company and recommending to the board of directors the selections and compensation of such principal officers and in the case of a domestic stock life insurance company, recommending to its board of directors any plan to issue options to its officers and employees for the purchase of shares of stock, pursuant to section one thousand two hundred seven of this article.”

The Company's Audit and Nominating Committee is comprised solely of directors who are not officers or employees of the Company or any entity controlling or controlled by, or under common control with the Company and who are not beneficial owners of a controlling interest in the voting stock of the Company or any such entity. A review of the meetings of the board of directors and their committees indicated that from July 3, 2006 through December 31, 2007 the independent audit committee did not meet and therefore did not perform the duties required of the committee.

The Company violated Section 1202(b)(2) of the New York Insurance Law when it failed to have its Audit and Nominating Committee meet and perform the duties required of it by such Section.

The following is a listing of the principal officers of the Company as of December 31, 2007:

<u>Name</u>	<u>Title</u>
Wayne E. Stuenkel	President
Steven G. Walker	Senior Vice President, Controller and Chief Accounting Officer
Richard J. Bielen	Chief Financial Officer
Carolyn Johnson	Executive Vice President and Chief Operating Officer
Lance P. Black	Treasurer
Sarah J. Hamid	Chief Actuary
Deborah J. Long	Executive Vice President, Secretary & General Counsel
Lynn W. Williams*	Senior Associate Counsel

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

In March of 2008, Mr. Kevin B. Borie replaced Ms. Sarah J. Hamid as Chief Actuary.

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. After the first quarter of 2007 the Company ceased writing all new business. The Company plans to allow all existing business to run-off.

The Company is licensed to transact business only in New York. In 2007, 96.5% of life premiums, annuity considerations, and deposit type funds were received from New York. Policies are written on a non-participating basis.

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

E. Reinsurance

As of December 31, 2007, the Company had reinsurance treaties in effect with eight companies, of which six were authorized or accredited. The Company's life business is reinsured on a coinsurance, modified-coinsurance, or yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$300,000. The total face amount of life insurance ceded as of December 31, 2007, was \$5,658,635,172, which represents

91.7% of the total face amount of life insurance in force. Reserve credits taken for reinsurance ceded to unauthorized companies totaling \$9,105,186, were supported by letters of credit and funds withheld.

The Company had no life insurance assumed as of December 31, 2007.

3. 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, 2003*	December 31, 2007	Increase (Decrease)
Admitted assets	<u>\$996,444,913</u>	<u>\$1,119,494,391</u>	<u>\$123,049,478</u>
Liabilities	<u>\$833,815,792</u>	<u>\$ 991,967,663</u>	<u>\$158,151,871</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	179,606,972	145,678,180	(33,928,792)
Unassigned funds (surplus)	<u>(18,977,851)</u>	<u>(20,151,452)</u>	<u>(1,173,601)</u>
Total capital and surplus	<u>\$162,629,121</u>	<u>\$ 127,526,728</u>	<u>\$ (35,102,393)</u>
Total liabilities, capital and surplus	<u>\$996,444,913</u>	<u>\$1,119,494,391</u>	<u>\$123,049,478</u>

* The figures noted above are presented as if the merger of CILCNY and CLACNY had occurred as of December 31, 2003.

The Company's invested assets as of December 31, 2007, were mainly comprised of bonds (98.7%). The majority (97.8%) of the Company's bond portfolio, as of December 31, 2007, 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:

	<u>2004*</u>	<u>2005*</u>	<u>2006*</u>	<u>2007</u>
Ordinary:				
Life insurance	\$ (2,628,868)	\$(4,372,150)	\$ (637,699)	\$ (793,933)
Individual annuities	18,753,143	3,698,670	16,844,107	1,291,221
Supplementary contracts	<u>0</u>	<u>0</u>	<u>(24,267)</u>	<u>127,030</u>
Total ordinary	<u>\$16,124,275</u>	<u>\$ (673,480)</u>	<u>\$16,182,141</u>	<u>\$ 624,318</u>
All other lines	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$1,656,141</u>
Total	<u>\$16,124,275</u>	<u>\$ (673,480)</u>	<u>\$16,182,141</u>	<u>\$2,280,459</u>

* The figures noted above are presented as if the merger of CILCNY and CLACNY had occurred as of December 31, 2003.

4. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2007, as contained in the Company's 2007 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, 2007 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2007

Admitted Assets

Bonds	\$1,078,151,643
Stocks:	
Preferred stocks	3,000,000
Cash, cash equivalents and short term investments	10,549,382
Contract loans	3,919
Receivable for securities	77,138
Derivative assets	327,426
Investment income due and accrued	10,470,202
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	(244,296)
Deferred premiums, agents' balances and installments booked but deferred and not yet due	272,177
Reinsurance:	
Amounts recoverable from reinsurers	7,102
Other amounts receivable under reinsurance contracts	66,256
Current federal and foreign income tax recoverable and interest thereon	15,198,999
Net deferred tax asset	1,381,614
Receivable from parent, subsidiaries and affiliates	110,924
State taxes recoverable	121,575
Insolvency fund	330
 Total admitted assets	 <u>\$1,119,494,391</u>

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	\$ 972,083,567
Liability for deposit-type contracts	259,750
Contract claims:	
Life	6,395,618
Premiums and annuity considerations for life and accident and health contracts received in advance	43,600
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	880,691
Commissions to agents due or accrued	59,565
General expenses due or accrued	3,949
Taxes, licenses and fees due or accrued, excluding federal income taxes	86,671
Amounts withheld or retained by company as agent or trustee	9,474
Remittances and items not allocated	4,947,268
Miscellaneous liabilities:	
Asset valuation reserve	5,551,384
Payable to parent, subsidiaries and affiliates	1,283,658
Other payables	<u>362,467</u>
 Total liabilities	 \$ <u>991,967,663</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	145,678,180
Unassigned funds (surplus)	<u>(20,151,452)</u>
Surplus	\$ <u>125,526,728</u>
Total capital and surplus	\$ <u>127,526,728</u>
 Total liabilities, capital and surplus	 \$ <u><u>1,119,494,391</u></u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2004*</u>	<u>2005*</u>	<u>2006*</u>	<u>2007</u>
Premiums and considerations	\$148,701,568	\$214,393,230	\$120,935,782	\$ 7,447,646
Investment income	48,167,261	54,035,717	63,246,385	60,337,587
Commissions and reserve adjustments on reinsurance ceded	3,340,686	3,347,640	14,062,710	(123,108,525)
Miscellaneous income	<u>1,191,072</u>	<u>1,460,556</u>	<u>29,961</u>	<u>0</u>
Total income	<u>\$201,400,587</u>	<u>\$273,237,143</u>	<u>\$198,274,838</u>	<u>\$ (55,323,292)</u>
Benefit payments	\$ 56,297,100	\$ 84,383,745	\$ 93,308,950	\$127,840,371
Increase in reserves	105,991,774	169,771,991	62,058,512	(191,311,055)
Commissions	8,757,782	5,865,427	8,498,110	1,159,071
General expenses and taxes	8,866,756	10,908,605	7,854,311	4,903,011
Increase in loading on deferred and uncollected premiums	21,369	(646,676)	(133,339)	1,038,325
Miscellaneous deductions	<u>0</u>	<u>137</u>	<u>0</u>	<u>3,244</u>
Total deductions	<u>\$179,934,781</u>	<u>\$270,283,229</u>	<u>\$171,586,544</u>	<u>\$(56,367,033)</u>
Net gain (loss)	\$ 21,465,806	\$ 2,953,914	\$ 26,688,293	\$ 1,043,741
Federal and foreign income taxes incurred	<u>5,341,531</u>	<u>3,627,394</u>	<u>10,506,152</u>	<u>(1,236,718)</u>
Net gain (loss) from operations before net realized capital gains	\$ 16,124,275	\$ (673,480)	\$ 16,182,141	\$ 2,280,459
Net realized capital gains (losses)	<u>(21,650)</u>	<u>138,653</u>	<u>(92,807)</u>	<u>0</u>
Net income	<u>\$ 16,102,625</u>	<u>\$ (534,824)</u>	<u>\$ 16,089,334</u>	<u>\$ 2,280,459</u>

* The figures noted above are presented as if the merger of CILCNY and CLACNY had occurred as of December 31, 2003.

C. CAPITAL AND SURPLUS ACCOUNT

	<u>2004*</u>	<u>2005*</u>	<u>2006*</u>	<u>2007</u>
Capital and surplus, December 31, prior year	<u>\$162,629,121</u>	<u>\$177,541,998</u>	<u>\$174,242,350</u>	<u>\$163,284,608</u>
Net income	16,102,625	(534,827)	16,089,335	2,280,460
Change in net unrealized capital gains (losses)	0	0	330,060	(415,134)
Change in net deferred income tax	(1,793,545)	2,696,338	3,795,012	2,350,065
Change in non-admitted assets and related items	3,619,348	(3,897,864)	(3,758,433)	(4,286,156)
Change in liability for reinsurance in unauthorized companies	(1,715)	4,149	(267)	1,074
Change in asset valuation reserve	(2,049,119)	(1,567,444)	1,595,170	(587,084)
Surplus adjustments:				
Paid in	236,025	0	0	(34,164,817)
Change in surplus as a result of reinsurance	0	0	9,710,432	(936,288)
Dividends to stockholders	0	0	(41,333,855)	0
Correction of annuity reserve error	(1,200,742)	0	0	0
Prior period adjustment (CLACNY)	<u>0</u>	<u>0</u>	<u>2,614,803</u>	<u>0</u>
Net change in capital and surplus for the year	<u>\$ 16,085,958</u>	<u>\$ (3,299,648)</u>	<u>\$ (10,957,743)</u>	<u>\$ (35,757,880)</u>
Capital and surplus, December 31, current year	<u>\$177,541,998</u>	<u>\$174,242,350</u>	<u>\$163,284,607</u>	<u>\$127,526,728</u>

* The figures noted above are presented as if the merger of CILCNY and CLACNY had occurred as of December 31, 2003.

5. 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 51.7 of Department Regulation No. 60 states, in part:

“(b) No insurer, agent, broker, representative, officer, or employee of an insurer or any other licensee of this Department shall fail to comply with or engage in other practices that would prevent the orderly working of this Part in accomplishing its intended purpose in the protection of policyholders and contract holders. Any person failing to comply with this Part, or engaging in other practices that would prevent the orderly working of this Part, shall be subject to penalties under the Insurance Law of the State of New York, which may include, but shall not be limited to, monetary restitution, restoration of policies or contracts, removal of directors or officers, suspension or revocation of agent's, broker's or company's licenses and monetary fines. . . .”

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 . . .

(3) Examine any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the "Disclosure Statement," and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part . . .”

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

“(b) 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. Policy records need not be segregated from the policy records of other states as long as they are maintained in accordance with the provisions of this Part. A separate copy need not be maintained in an individual policy record, provided that

any data relating to a specific contract or policy can be retrieved pursuant to Section 243.3(a) of this Part . . . (8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review. . . .”

The examiner selected a sample of 28 annuity replacements issued during the period from January 1, 2004 through the first quarter of 2007. The Company ceased writing all new business after the first quarter of 2007.

The replacements were reviewed for compliance with Department Regulation No. 60. The review revealed the following:

1. Two replacements contained an application that was dated prior to the Disclosure Statement.
2. In two replacements the agent’s statement on the Disclosure Statement which requests the advantages of the existing contract indicated “none” although a more appropriate answer existed.
3. In two external cases, information to support the surrender and death benefit values used in the Disclosure Statement for the existing annuity was not maintained in the policy record.

The Company violated Section 51.7(b) and Section 51.6(b)(3) of Department Regulation No. 60 and Section 243(b)(1) and (8) of Department Regulation No. 152 in the cases where it failed to provide an accurate and timely Disclosure Statement to the applicant.

B. Underwriting and Policy Forms

The examiner reviewed a sample of twenty new underwriting files and the applicable policy forms.

Based on the sample reviewed, no significant underwriting or policy form findings were noted.

C. Treatment of Policyholders

The examiners reviewed samples of surrenders and death claims. 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 on the sample reviewed, no significant treatment of policyholder findings were noted.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Company abide by the terms of its filed service agreement and process all expenses incurred under the administrative service agreement through FKLA.</p> <p>The Company terminated the service agreement with FKLA.</p>
B	<p>The Company violated Section 1201(a)(5)(B)(vi) of the New York Insurance Law by having less than the minimum number of directors from the State of New York.</p> <p>The Company has the required number of directors.</p>
C	<p>The examiner recommends that the Company: 1) comply with their charter by holding an annual meeting or special meeting of shareholders in May of each year, in order to elect their directors; and 2) comply with their by-laws by having a board of director's meeting as soon as practical following the annual meeting of the shareholders.</p> <p>The Company is in compliance with its charter and by-laws and holds shareholder and board of director's meetings as stipulated in such documents.</p>
D	<p>The examiner recommends that the Company take steps to remove in a timely manner any director who is unable or unwilling to perform the duties required of directors.</p> <p>The Company's directors have been performing their requisite duties.</p>
E	<p>The Company violated Section 1411(a) of the New York Insurance Law by making investments without having the investments authorized or approved by the board of directors or a committee thereof.</p> <p>All investments made during the period under examination were authorized and approved by the board of directors on a quarterly basis.</p>

<u>Item</u>	<u>Description</u>
F	<p>The Company violated Section 127.3(a) of Department Regulation No. 102 by taking reserve credits under reinsurance contracts that were not duly executed by both parties by the “as of date” of the Company’s filed annual statements. The total amount of reserve credit taken for 2003 under such reinsurance contracts was \$2,533,543, which is hereby disallowed as of December 31, 2003.</p> <p>During the period under examination the Company had one reinsurance agreement in place for which it takes a reserve credit. This agreement was duly executed by both parties.</p>
G	<p>The reinsurance reserve credit of \$1,196,009 taken for the Transamerica International Re treaty in the 2003 filed annual statement is also disallowed because the credit is not in compliance with Section 127.2(a)(7)(b) of Department Regulation No. 102 in that mortality risk has not been adequately transferred under the treaty.</p> <p>During the period under examination the Company had one reinsurance agreement in place for which it takes a reserve credit and this agreement was approved by the Department and is adequately transferring mortality risk.</p>
H	<p>The examiner recommends that the Company strengthen controls over their reinsurance treaty procurement and reinsurance reporting processes so that reserve credits are only taken for reinsurance agreements that have been duly executed by both parties no later than the “as of date” of the financial statement and where there has been an appropriate transfer of risk under the treaty. The examiner also recommends that the Company properly report reinsurance contracts with unauthorized insurers in accordance with the annual statement instructions and report the appropriate liability related to such contracts as reinsurance in unauthorized companies in future annual statements. Further, the examiner recommends that only persons authorized by the board of directors execute reinsurance agreements for the Company.</p> <p>During the period under examination the Company had three reinsurance agreements in place. The review of these agreements indicated that each was approved by the Department and each was operating in accordance with its provisions.</p>

<u>Item</u>	<u>Description</u>
I	<p>The examiner recommends that the Company include the language required by Circular Letter No. 1976-13 in their custodian agreement.</p> <p>The custodial agreement in use during the period under examination was reviewed and found to contain the language required by Circular Letter No. 1976-13.</p>
J	<p>The Company reported general account deferred annuity reserves on the December 31, 2003 statement that were deficient by \$1.2 million because the return of premium provision was not recognized in the reserve.</p> <p>The Company corrected the reserve deficiency on December 31, 2004.</p>
K	<p>The Company violated Section 219.4(a)(1) of Department Regulation No. 34-A by incorrectly identifying an affiliate as the insurer on the website, instead of the Company, in cases where a New York quote was generated, and by using the IMSA designation when the Company is not an IMSA member.</p> <p>The Company is properly identified on the website and the website does not indicate that the Company is an IMSA member.</p>
L	<p>The Company violated Section 219.4(p) of Department Regulation No. 34-A by not correctly identifying the city in which the Company's home office in the United States is located.</p> <p>The Company no longer does any marketing.</p>
M	<p>The Company violated Section 420.18(b) of Department Regulation No. 169 by obtaining an authorization to disclose nonpublic personal health information for more than 24 months, which is the maximum length of time permitted by the Regulation.</p> <p>The Company corrected their procedures so that the authorization to disclose non-public personal health information does not exceed 24 months.</p>

<u>Item</u>	<u>Description</u>
N	<p>The Company violated Section 2611(a) of the New York Insurance Law by requiring an individual proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing.</p> <p>The Company developed an HIV consent form that complies with Section 2611(a) of the New York Insurance Law.</p>
O	<p>The examiner recommends that the Company expand the role of the current internal audit function to adequately assess the Company's specific risk management processes and the accompanying system of internal control.</p> <p>The Company expanded the role of its internal audit function to adequately assess the Company's specific risk management processes and the accompanying system of internal control.</p>

7. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1202(b)(2) of the New York Insurance Law when it failed to have its Audit and Nominating Committee meet and perform the duties required of it by such Section.	8
B	The Company violated Section 51.7(b) and Section 51.6(b)(3) of Department Regulation No. 60 and Section 243(b)(1) and (8) of Department Regulation No. 152 in the cases where it failed to provide an accurate and timely Disclosure Statement to the applicant.	18

APPOINTMENT NO. 22746

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, ERIC R. DINALLO, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

DENNIS BENSEN

as a proper person to examine into the affairs of the

PROTECTIVE 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 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 15th day of January, 2008

ERIC R. DINALLO
Superintendent of Insurance


Superintendent

