# STATE OF NEW YORK INSURANCE DEPARTMENT

# REPORT ON EXAMINATION

# OF THE

# PRESIDENTIAL LIFE INSURANCE COMPANY

# AS OF

# DECEMBER 31, 2000

DATE OF REPORT: JANUARY 11, 2002

EXAMINER: WILLIAM M. TARDOGNO

REPORT ON ASSOCIATION EXAMINATION

OF THE

PRESIDENTIAL LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2000

BY THE INSURANCE DEPARTMENTS

OF

NEW YORK

AND

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DATE OF REPORT: JANUARY 11, 2002

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

Honorable Gregory V. Serio
Superintendent of Insurance
State of New York

Honorable John Oxendine
Chairman, Southeastern Zone
Commissioner of Insurance
State of Georgia

Sirs:

Pursuant to your instructions an examination has been made into the condition and affairs of the Presidential Life Insurance Company, hereinafter referred to as "the Company" or "Presidential Life," at its home office located at 69 Lydecker Street, Nyack, New York 10960.

The examination was conducted by the State of New York Insurance Department, hereinafter referred to as "the Department," with participation from the State of Mississippi representing the Southeastern zone.

The report on examination is respectfully submitted.

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

January 11, 2002

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

Sir:

In accordance with instructions contained in Appointment No. 21739, dated June 12, 2001, and annexed hereto, an examination has been made into the condition and affairs of the Presidential Life Insurance Company, hereinafter referred to as "the Company" or "Presidential Life," at its home office located at 69 Lydecker Street, Nyack, New York 10960.

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 Company reported investments in Enron Corporation and its subsidiaries in its 2000 filed annual statement totaling $23,977,401. Subsequent to the examination period, the Company liquidated these investments on December 5, 2001, and reported a realized loss of $19,945,272. (See item 5D of this report)

The examiner recommends that the Company have its officers and directors complete appropriate conflict of interest questionnaires. (See item 3C of this report)

The examiner recommends that the investment monitoring function be performed by another area within the Company other than the investment committee, which performs the investment function. (See item 3C of this report)

The examiner recommends that the Company revise its custodian agreement with Irvington Trust to include the indemnification clause suggested in Department Circular Letter No. 13 (1976). (See item 3C of this report)

The Company violated Sections 2112(a) and (d) of the New York Insurance Law when it failed to notify the Superintendent regarding the appointments of a number of its agents. (See item 6A of this report)

The examiner recommends that the Company implement a disaster recovery plan. (See item 7 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1996. This examination covers the period from January 1, 1997 through December 31, 2000. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2000 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, 2000 to determine whether the Company's 2000 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

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

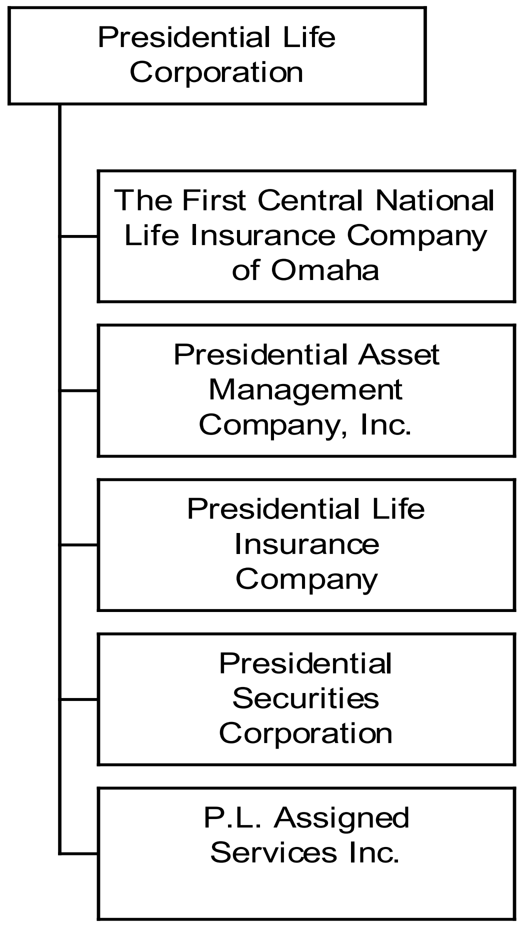
The Company was incorporated as a stock life insurance company under the laws of New York on May 17, 1965, was licensed and commenced business on October 20, 1966. Initial resources of $2,850,000, consisting of common capital stock of $950,000 and paid in and contributed surplus of $1,900,000, were provided through the sale of 475,000 shares of common stock (with a par value of $2 each) for $6 per share. Prior to 1997, the Company increased the par value of its common stock five times. Currently, the amount of common capital stock is $2,500,875 consisting of 475,000 shares at $5.265 per share and the Company's gross paid in and contributed surplus is $34,349,125.

## B. Holding Company

The Company is a direct wholly owned subsidiary of Presidential Life Corporation ("PLC"), a Delaware corporation.

The parent has four other direct subsidiaries; Presidential Securities Corporation, a New York corporation which was formed to engage in the securities business as a broker-dealer, agent, or principal; Presidential Asset Management Company, Inc., a New York corporation that provides investment strategies and management services; P.L. Assigned Services Inc., a New York corporation whose purpose is to accept assigned risks and structured settlements; and The First Central National Life Insurance Company of Omaha, a life insurance company incorporated in the state of Delaware that was acquired by the parent in December 1999.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2000 follows:




The Company had three service agreements in effect as of December 31, 2000. The Company provides management, accounting, postage and telephone services to its parent, P.L. Assigned Services, Inc. and The First Central National Life Insurance Company of Omaha.

The Company participates in a tax allocation agreement with its parent and all affiliates except The First Central National Life Insurance Company of Omaha.

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 19 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held, on a business day, in April or May of each year as the board of directors shall designate. As of December 31, 2000, the board of directors consisted of 12 members (see explanation following the table below). Meetings of the board are held quarterly.

The 12 board members and their principal business affiliation, as of December 31, 2000, were as follows:

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| Donald Barnes<br>Nyack, NY | President<br>Presidential Life Insurance Company | 1997 |
| Richard Giesser*<br>Waban, MA | Former Chairman<br>Massachusetts Port Authority | 1989 |
| Melvin L. Gold*<br>West Orange, NJ | Former Actuarial Consultant | 1990 |
| Jerome Johnson*<br>Upper Nyack, NY | Retired Attorney | 1973 |
| W. Thomas Knight*<br>Barrington, RI | Attorney/Consultant<br>Self employed | 1993 |
| Herbert Kurz<br>Piermont, NY | Chairman of the Board<br>Chief Executive Officer<br>Presidential Life Insurance Company | 1965 |
| George McGovern*<br>Stevensville, MT | Self employed<br>Professor of Politics and Government | 1984 |
| Paul F. Pape*<br>Vero Beach, FL | Self employed<br>Private Investor | 1990 |
| Stanley Rubin<br>Suffern, NY | Executive Vice President and Chief Investment Officer<br>Presidential Life Insurance Company | 1999 |
| Jerold Scher<br>Suffern, NY | Senior Vice President and Chief Actuary<br>Presidential Life Insurance Company | 1992 |

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| Irving Schwartz, MD*<br>New York, NY | Physician<br>Mt. Sinai Medical Center | 1986 |
| Marilyn Shenn<br>Nyack, NY | Senior Vice President<br>Presidential Life Insurance Company | 2000 |

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

In November 2000, Kenneth B. Clark resigned from the board and was replaced by Alexis Herman at the February 2001 board meeting.

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were generally well attended and that all but one director attended a majority of meetings. Director George McGovern, appointed in 1984, attended four of the 16 board meetings during the examination period. In addition, he did not attend any meetings in 2001.

The examiner recommends that all directors attend the board meetings and that the Company take steps to remove any director who is unable or unwilling to perform the duties required of a director.

The following is a listing of the principal officers of the Company as of December 31, 2000:

| Name | Title |
|---|---|
| Donald Barnes | President |
| Herbert Kurz | Chief Executive Officer |
| Stanley Rubin | Executive Vice President and Chief Investment Officer |
| Marilyn Shenn | Senior Vice President |
| Jerold Scher | Senior Vice President and Chief Actuary |
| Kathleen Dash* | Vice President, Secretary |
| Charles J. Snyder | Vice President, Treasurer |

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

At the February 2001 board meeting Mark Abrams was promoted to Senior Vice President.

The Company does not require the members of the board or its principal officers to complete a conflict of interest questionnaire.

The examiner recommends that the Company have its officers and directors complete appropriate conflict of interest questionnaires in the future.

The investment committee is composed of four members who have the responsibility to monitor the investment activity of the Company. Two of the members of the investment committee also make the investments for the Company. As a result, the investment committee may not be objective in performing an evaluation of investment activities, which they are also responsible for performing. Due to the lack of segregation of duties between the actual investment function and the monitoring function, compliance with approved investment guidelines may not be detected on a timely basis.

The examiner recommends that the investment monitoring function, whereby the Company monitors investment activity and verifies that investments conform with the Company's investment guidelines, currently performed by the investment committee, be performed independent of those making the investments for the Company.

The Company entered into a custodian agreement with Irvington Trust on July 16, 1987. This custodian agreement does not contain an indemnification clause as suggested in Department Circular Letter No. 13 (1976) which states, in part:

> "SUGGESTED PARAGRAPHS TO BE INCLUDED IN CUSTODY AGREEMENT
> That the bank as custodian is obligated to indemnify the insurance company for any loss of securities of the insurance company in the bank's custody occasioned by the dishonesty of the bank's officers or employees, burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction;
> That in the event that there is a loss of the securities in the custody of the bank that same shall be promptly replaced or the value thereof and the value of any loss of rights or privileges resulting from said loss of securities and that the bank shall make available to the insurance company any and all securities or values amount so replaced. . . "

The examiner recommends that the Company revise the custodian agreement with Irvington Trust to include the indemnification clause suggested by Department Circular Letter No. 13 (1976).

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 48 states, and the District of Columbia. The Company is not licensed to transact business in New Hampshire or Vermont. In 2000, 43.21% of life premiums were received from New York (31.85%) and Florida (11.36%). In addition, 54.05% of annuity premiums were received from New York. Policies are written on a non-participating basis.

The Company writes ordinary life insurance and individual and group annuities. The Company is currently emphasizing the sale of individual single premium and flexible premium annuity products as well as individual life insurance.

The Company's agency operations are conducted on a general agency basis, marketing primarily individual annuities and ordinary life contracts through agents and brokers. The Company is represented by a field force of approximately 910 independent agents, of which 285 are licensed agents in the State of New York. Beginning in 1996, the Company added regional sales directors in various states, primarily along the East Coast, in an effort to expand its business outside of New York. The Company has strategically placed regional marketing directors in New York, New England, Florida, Texas, North Carolina, Illinois, and California. The Company is actively recruiting agents in these areas.

E. Reinsurance

As of December 31, 2000, the Company had reinsurance treaties in effect with 12 companies, of which nine were authorized or accredited. The Company's universal life and ordinary life insurance policies are ceded on a coinsurance, mod-coinsurance and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is $100,000. The total face amount of life insurance ceded as of December 31, 2000, was $595,042,000, which represents 41.6% of the total face amount of life insurance in force. Reserve credit was taken for reinsurance ceded to unauthorized companies, totaling $358,961. The Company has set up a liability for reinsurance in unauthorized companies in the amount of $7,034. The difference of $351,927 is supported by letters of credit.

The total face amount of life insurance assumed as of December 31, 2000, was $463,995,581, which represents Servicemen's Group Life Insurance ("SEGLI").

The Company entered into a Specific Excess of Loss Reinsurance Contract effective January 1, 2000 with American National Insurance Company of Galveston, Texas ("American National"), an unaccredited reinsurer in New York. The Company took a reserve credit on Schedule S of its 2000 annual statement in the amount of $145,883, however they did not have a letter of credit, a trust agreement, or a liability for the reserve credit taken. The agreement with American National was terminated on June 30, 2001.

As a result of the reinsurance reporting error noted above, the Company's liabilities were understated by $145,883.

Section 127.3(a) of Department Regulation No. 102 states, in part:

> "No reinsurance agreement . . . may be used to take reserve credit by reducing a liability or establishing an asset in any financial statement filed with the superintendent, unless the agreement . . . or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement."

The reinsurance agreement with American National became effective January 1, 2000 but was not signed by a representative of American National until February 15, 2001.

The Company violated Section 127.3(a) of Department Regulation No. 102 for taking reserve credits by reducing its liabilities and failing to have the reinsurance agreement signed before December 31, 2000.

## 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, 1996 | December 31, 2000 | Increase (Decrease) |
|---|---|---|---|
| Admitted assets | $2,266,414,644 | $2,795,554,000 | $529,139,356 |
| Liabilities | $2,015,546,040 | $2,516,390,863 | $500,844,823 |
| Common capital stock | $ 2,500,875 | $ 2,500,875 | $ 0 |
| Gross paid in and contributed surplus | 34,349,125 | 34,349,125 | 0 |
| Variable annuity contingency reserve | 149,442 | 89,341 | (60,101) |
| Unassigned funds (surplus) | 213,869,162 | 242,223,796 | 28,354,634 |
| Total capital and surplus | $ 250,868,604 | $ 279,163,137 | $ 28,294,533 |
| Total liabilities, capital and surplus | $2,266,414,644 | $2,795,554,000 | $529,139,356 |

The Company's invested assets, as of December 31, 2000, exclusive of Separate Accounts, were mainly comprised of bonds (72.9%), other invested assets (8.8%), cash and short term investments (8.7%) and stocks (8.0%).

The majority (91.0%) of the Company's bond portfolio, as of December 31, 2000, was comprised of investment grade obligations.

The ordinary lapse ratio for each of the examination years was 15.2% in 1997, 15.9% in 1998, 16.5% in 1999 and 12.1% in 2000. The lapse ratios were higher in the years when interest rates were higher. In 2000, as interest rates began to decline, the lapse ratio for the Company also declined.

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:

| | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Ordinary: | | | | |
| Life insurance | $ 2,647,336 | $ 1,612,453 | $ 1,120,651 | $ 2,126,365 |
| Individual annuities | 37,649,925 | 39,180,495 | 40,962,255 | 31,668,664 |
| Supplementary contracts | 1,190,092 | 1,249,186 | 1,558,208 | 1,563,965 |
| Total ordinary | $41,487,353 | $42,042,134 | $43,641,114 | $35,358,994 |
| Group: | | | | |
| Life | $ 10,019 | $ 9,606 | $ 14,492 | $ 39,015 |
| Annuities | 2,017,128 | 1,408,391 | 2,302,960 | 2,208,419 |
| Total group | $ 2,027,147 | $ 1,417,997 | $ 2,317,452 | $ 2,247,434 |
| Accident and health: | | | | |
| Group | $ 0 | $ 0 | $ 697 | $ 63,132 |
| Other | (14,429) | (19,768) | (25,412) | 2,509 |
| Total accident and health | $ (14,429) | $ (19,768) | $ (24,715) | $ 65,641 |
| Total | $43,500,071 | $43,440,363 | $45,933,851 | $37,672,069 |

Increases in reserves and commissions as a result of the new annuity business, combined with lower than expected investment return, reduced overall gains in 2000.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital, surplus and other funds as of December 31, 2000, as contained in the Company's 2000 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review.

### A. ASSETS, LIABILITIES, CAPITAL, SURPLUS AND OTHER FUNDS AS OF DECEMBER 31, 2000

Admitted Assets

| | |
|---|---|
| Bonds | $2,012,867,275 |
| Stocks: | |
| Preferred stocks | 199,699,891 |
| Common stocks | 22,144,530 |
| Mortgage loans | |
| First liens | 14,893,411 |
| Real estate | |
| Investment real estate | 379,599 |
| Policy loans | 17,915,277 |
| Cash and short term investments | 240,920,233 |
| Other invested assets | 243,692,660 |
| Receivable for securities | 7,308,908 |
| Reinsurance ceded: | |
| Amounts recoverable from reinsurers | 103,087 |
| Commissions and expense allowances due | 432,051 |
| Electronic data processing equipment | 335,492 |
| Guaranty funds receivable or on deposit | 47,275 |
| Life insurance premiums and annuity considerations | |
| Deferred and uncollected on in force business | 550,549 |
| Accident and health premiums due and unpaid | 523,982 |
| Investment income due and accrued | 30,102,381 |
| Reinsurance balances | 8,042 |
| Accounts receivable | 86,063 |
| From Separate Accounts statement | 3,543,294 |
| Total admitted assets | $2,795,554,000 |

Liabilities, Capital, Surplus and Other Funds

| | |
|---|---|
| Aggregate reserve for life policies and contracts | $2,148,662,016 |
| Aggregate reserve for accident and health policies | 1,094,738 |
| Supplementary contracts without life contingencies | 27,558,144 |
| Policy and contract claims | |
| Life | 3,200,395 |
| Premiums and annuity considerations received in advance | 52,473 |
| Other amounts payable on reinsurance assumed | 49 |
| Interest maintenance reserve | 20,909,192 |
| Commissions to agents due or accrued | 94,344 |
| General expenses due or accrued | 887,698 |
| Taxes, licenses and fees due or accrued | 74,411 |
| Federal income taxes due or accrued | (4,010,669) |
| Unearned investment income | 86,745 |
| Amounts withheld or retained by company as agent or trustee | 468,451 |
| Amounts held for agents' account | (817) |
| Remittances and items not allocated | 8,828,250 |
| Miscellaneous liabilities: | |
| Asset valuation reserve | 71,411,851 |
| Reinsurance in unauthorized companies | 7,034 |
| Interest on policy and contract claims | 198,883 |
| Liability for dollar repurchase agreements | 233,210,148 |
| Variable annuity mortality reserve | 82,210 |
| Reserve for unpresented checks | 32,023 |
| From Separate Accounts Statement | 3,543,294 |
| Total liabilities | $2,516,390,863 |
| Common capital stock | $ 2,500,875 |
| Gross paid in and contributed surplus | 34,349,125 |
| Variable annuity contingency reserve | 89,341 |
| Unassigned funds (surplus) | 242,223,796 |
| Total capital, surplus and other funds | $ 279,163,137 |
| Total liabilities, capital, surplus and other funds | $2,795,554,000 |

## B. CONDENSED SUMMARY OF OPERATIONS

| | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Premiums and considerations | $159,623,035 | $167,236,813 | $223,627,463 | $392,618,197 |
| Investment income | 189,586,468 | 186,563,153 | 207,437,953 | 221,387,194 |
| Commissions and reserve adjustments on reinsurance ceded | 1,178,102 | 1,144,152 | 1,575,657 | 2,705,482 |
| Reserve adjustments on reinsurance ceded | 20,098 | (19,927) | 7,668 | (7,978) |
| Miscellaneous income | 969,380 | 1,242,130 | 46,302 | 311,240 |
| Total income | $351,377,083 | $356,166,321 | $432,695,043 | $617,014,135 |
| Benefit payments | $234,232,545 | $222,834,166 | $217,625,121 | $260,601,731 |
| Increase in reserves | 34,556,658 | 50,011,919 | 124,002,335 | 270,079,675 |
| Commissions | 5,535,173 | 5,923,929 | 7,876,593 | 14,861,926 |
| General expenses and taxes | 12,602,521 | 14,221,260 | 16,784,431 | 17,598,018 |
| Increase in loading and cost of collection | 285,973 | 139,390 | 124,578 | (44,028) |
| Net transfers to (from) Separate Accounts | (1,743,976) | (1,283,370) | (1,228,543) | (41,040) |
| Increase in mortality reserve – variable annuity | 5,213 | 4,537 | 4,143 | 3,831 |
| Total deductions | $285,474,107 | $291,851,831 | $365,188,658 | $563,060,113 |
| Net gain (loss) | $ 65,902,976 | $ 64,314,490 | $ 67,506,385 | $ 53,954,022 |
| Federal income taxes | 22,402,905 | 20,874,127 | 21,572,534 | 16,281,953 |
| Net gain (loss) from operations Before net realized capital gains | $ 43,500,071 | $ 43,440,363 | $ 45,933,851 | $ 37,672,069 |
| Net realized capital gains (losses) | 13,581,348 | 8,665,206 | 1,864,394 | 3,418,289 |
| Net income | $ 57,081,419 | $ 52,105,569 | $ 47,798,245 | $ 41,090,358 |

## C. CAPITAL AND SURPLUS ACCOUNT

| | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|
| Capital and surplus, December 31, prior year | $250,868,604 | $296,724,511 | $287,285,722 | $298,029,202 |
| Net income | $ 57,081,419 | $ 52,105,569 | $ 47,798,245 | $ 41,090,358 |
| Change in net unrealized capital gains (losses) | (2,145,629) | (7,714,427) | (12,810,967) | (9,315,315) |
| Change in nonadmitted assets and related items | (51,246) | 91,505 | 71,793 | (160,181) |
| Change in liability for reinsurance in unauthorized companies | (58,113) | (62,267) | 153,497 | (106) |
| Change in reserve valuation basis | (342,677) | (2,175,767) | (1,706,227) | (113,254) |
| Change in asset valuation reserve | 16,172,153 | (2,283,402) | 5,707,139 | (817,567) |
| Dividends to stockholders | (24,800,000) | (49,400,000) | (28,470,000) | (49,550,000) |
| Net change in capital and surplus | $ 45,855,907 | $ (9,438,789) | $ 10,743,480 | $ (18,866,065) |
| Capital and surplus, December 31, current year | $296,724,511 | $287,285,722 | $298,029,202 | $279,163,137 |

## D. SUBSEQUENT EVENTS

The Company reported investments in Enron Corporation and its subsidiaries in its 2000 filed annual statement. The Company liquidated these investments on December 5, 2001. The following table shows the amounts reported in the Company's 2000 annual statement and the realized loss from the sale in 2001.

| Description | Book Value on December 31, 2000 | Realized Loss |
|---|---|---|
| Bonds | | |
| Yosemite Securities Trust I | $10,391,523 | $ 8,403,958 |
| Osprey Trust | 11,085,878 | 9,153,510 |
| Preferred Stocks | | |
| Enron Capital Resources | 1,500,000 | 1,409,403 |
| Enron Capital Corp. | 1,000,000 | 978,401 |
| Total | $23,977,401 | $19,945,272 |

## 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 file and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Section 2112 of the New York Insurance Law states, in part:

> "(a) Every insurer . . . doing business in this state shall file a certificate of appointment in such form as the superintendent may prescribe in order to appoint insurance agents to represent such insurer . . . "
> "(d) Every insurer . . . doing business in this state shall, upon termination of the certificate of appointment of any insurance agent licensed in this state, forthwith file with the superintendent a statement, in such form as the superintendent may prescribe, of the facts relative to such termination and cause thereof. . . . "

The examiner's review of the Company's agency records indicated that out of approximately 800 active agents, 91 were not appointed by the Company. The Company could not produce sufficient documentation to substantiate that the 91 agents were appointed to represent the Company.

The review of the terminated agents revealed that in 85 cases the Superintendent was not informed of the facts relative to the termination of the certificate of appointment.

The Company violated Section 2112(a) of the New York Insurance Law by failing to file the certificate of appointment for 91 agents.

The Company violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent of the facts relative to the termination of the certificate of appointment of 85 agents.

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

> " . . . all insurers . . . shall furnish the Superintendent of Insurance with these procedures . . . by the effective date of this Part. . . . "

Pursuant to Section 51.6(e) of Department Regulation No. 60, the Company was required to file replacement procedures no later than the effective date of the Regulation, November 10, 1998. The Company filed the procedures for approval on March 31, 1999.

The Company violated Section 51.6(e) of Department Regulation No. 60 by not filing its replacement procedures by the effective date of the Regulation.

B. Underwriting and Policy Forms

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

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

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.

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.

Pursuant to Section 308 of the New York Insurance Law, the Company submitted 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 its underwriting guidelines, premium rate charts, applications and policy forms did not disclose any evidence of race-based underwriting.

In summary, the Company's findings were that:

1. Presidential Life is not currently marketing, and never has marketed, life insurance policies using race-based underwriting; and
2. Presidential Life has not assumed from another insurer any life insurance policies which were marketed using race-based underwriting.

An analysis of the Company's response to the Supplement and other factors indicated that the Company's review of its past and present underwriting practices complied with the requirements of the Supplement.

## 7. DISASTER RECOVERY PLAN

The objective of a disaster recovery plan is to provide reasonable assurance that data, systems and operations can be successfully recovered and be available to users in the event of a disaster.

The Company does not have a disaster recovery plan in place. The Company's internal audit reports have recommended that a disaster recovery plan be put in place, however due to the cost of the plan the Company opted not to do so.

The examiner recommends that the Company develop a disaster recovery plan. Such a plan should address hardware and system recovery, data retrieval procedures, emergency contact information, hardware/software vendor information, telecommunications recovery procedures, disaster declaration approval procedures, and physical recovery location. The plan should contain provisions to ensure periodical testing. The disaster recovery plan should be approved and periodically reviewed by management to ensure that it meets the needs of the business. Documentation of the disaster recovery test plan and results (indicating problems found or successful completions) and documentation of management approval of the plan should be maintained.

## 8. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in this report:

| Item | Description | Page No(s). |
|---|---|---|
| A | The examiner recommends that all directors attend the board meetings and that the Company take steps to remove any director who is unable or unwilling to perform the duties required of a director. | 7 |
| B | The examiner recommends that the Company have its officers and directors complete conflict of interest questionnaires. | 8 |
| C | The examiner recommends that the investment monitoring function, whereby the Company monitors investment activity and verifies that investments conform with the Company's investment guidelines, currently performed by the investment committee, be performed independent of those making the investments for the Company. | 8 |
| D | The examiner recommends that the Company revise the custodian agreement with Irvington Trust to include the indemnification clause suggested by Circular Letter No. 13 (1976). | 9 |
| E | Comment that the Company's liabilities were understated by $145,883 due to a reinsurance reporting error. | 10 |
| F | The Company violated Section 127.3(a) of Department Regulation No. 102 for taking reserve credits by reducing its liabilities in its 2000 annual statement and failing to have the reinsurance agreement with American National signed by December 31, 2000. | 10 |
| G | The Company violated Section 2112(a) of the New York Insurance Law when it failed to file certificates of appointment for its agents. | 18 |
| H | The Company violated Section 2112(d) of the New York Insurance Law when it failed to notify the Superintendent of the facts relative to the termination of the certificates of appointment of its agents. | 18 |
| I | The Company violated Section 51.6(e) of Department Regulation No. 60 when it failed to file replacement procedures by the effective date of the Regulation. | 19 |
| J | The examiner recommends that the Company develop a disaster recovery plan. | 20 |

The examiners wish to acknowledge the cooperation of the Officers and employees of the Company during the course of our examination.

The foregoing report on examination is hereby submitted:

| | |
|---|---|
| /s/ | /s/ |
| William M. Tardogno<br>State of New York<br>Representing Eastern Zone | Vincent Rapacciuolo, CFE,<br>State of Mississippi<br>Representing Southeastern Zone |

Respectfully submitted,

/s/

William M. Tardogno
Senior Insurance Examiner

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

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

/s/

William M. Tardogno

Subscribed and sworn to before me

this__________ day of ___________________2002.

*APPOINTMENT NO. 21739*

## *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:*

***WILLIAM TARDOGNO***

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

***PRESIDENTIAL LIFE INSURANCE COMPANY***

*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 _12th_ day of _June_ ,2001*

***GREGORY V. SERIO***
*Superintendent of Insurance*

*Superintendent*