STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

FIRST SECURITY BENEFIT LIFE INSURANCE AND ANNUITY COMPANY OF NEW YORK

CONDITION: DECEMBER 31, 2009

DATE OF REPORT: JUNE 28, 2011

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EXAMINER:	ERIC C. DERCHER

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

Andrew M. Cuomo
Governor

James J. Wrynn
Superintendent

March 14, 2011

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

Sir:

In accordance with instructions contained in Appointment 30511, dated April 8, 2010 and annexed hereto, an examination has been made into the condition and affairs of the First Security Benefit Life Insurance and Annuity Company of New York, hereinafter referred to as ("the Company") or ("FSBL") at its home office located 800 Westchester Ave, Rye Brook, New York 10573, and at the offices of its affiliate, Security Benefit Life Insurance Company, located at One Security Benefit Place, Topeka, Kansas 66636.

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

1. EXECUTIVE SUMMARY

The material findings, comments and violations in this report are summarized below:

- On February 15, 2010, Security Benefit Mutual Holding Company ("SBMHC"), the ultimate parent of the holding company system, entered into a definitive agreement with Guggenheim SBC Holdings, LLC ("Guggenheim SBC") whereby Guggenheim SBC will purchase all of the outstanding capital stock of Security Benefit Corporation, the Company's direct parent, and SBMHC will demutualize and be liquidated. This transaction closed July 30, 2010. (See item 3A of this report)
- The Company violated Section 86.4(a) of Department Regulation No. 95 by using claim forms which failed to contain the required fraud warning statement. (See item 7C of this report)
- The Company violated Section 2112(d) of the New York Insurance Law by failing to file notice with the Superintendent of the termination of the certificate of appointment within thirty days of such termination. (See item 8 of this report)

2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2009 Edition* (the "Handbook"). The examination covers the three-year period from January 1, 2007 to December 31, 2009. The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2009 but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

In the course of the examination, a review was also made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The results of this review are contained in item 7 of this report.

The examination was conducted on a risk focused basis in accordance with the provisions of the Handbook published by the National Association of Insurance Commissioners ("NAIC"). The Handbook guidance provides for the establishment of an examination plan based on the examiner's assessment of risk in the insurer's operations and utilizing that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the current financial condition as well as identify prospective risks that may threaten the future solvency of the insurer. The examiner identified key processes, assessed the risks within those processes and evaluated the internal control systems and procedures used to mitigate those risks. The examination also included assessing the principles used and significant estimates made by management, evaluating the overall financial statement presentation, and determining management's compliance with New York statutes and Department guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

Information about the Company's organizational structure, business approach and control environment were utilized to develop the examination approach. The Company's risks and management activities were evaluated incorporating the NAIC's nine branded risk categories. These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic

- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2007 through 2009, by the accounting firm of Ernst & Young LLP. The Company received an unqualified opinion in all three years. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company has an internal audit department and a separate internal control department which was given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 (“SOX”). Where applicable, SOX workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the corrective actions taken by the Company with respect to the violations contained in the prior report on examination. The results of the examiner’s review are contained in item 9 of this report.

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

3. DESCRIPTION OF COMPANY

A. History

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

On September 8, 1995, the Company merged with Pioneer National Life Insurance Company ("PNL"), a stock life insurance company organized under the laws of the state of Kansas. As of that date, PNL ceased to exist and First Security Benefit Life Insurance and Annuity Company of New York became the surviving company. As a result of this transaction, the Company's paid-in and contributed surplus was increased to $4,600,000. In 2004, SBG contributed paid in surplus to the Company in the amount of $2,000,000. The contribution increased the Company's gross paid-in and contributed surplus to $6,600,000. In August 2006, SBG merged with and into the Company's affiliate Security Benefit Corporation ("SBC"). In August 2006, SBC filed and the Department approved a cash surplus contribution of $2,000,000 to the Company, which increased gross paid in and contributed surplus to $8,600,000. As of December 31, 2009, the Company's common capital stock and gross paid-in and contributed surplus was $2,000,000 and $8,600,000, respectively.

On February 15, 2010, Security Benefit Mutual Holding Company ("SBMHC"), the ultimate parent of the holding company system, entered into a definitive agreement with Guggenheim SBC Holdings, LLC ("Guggenheim SBC") whereby Guggenheim SBC will purchase all of the outstanding capital stock of SBC, the Company's parent, and SBMHC will demutualize and be liquidated. This transaction closed on July 30, 2010.

B. Holding Company

The Company is a wholly owned subsidiary of SBC, a Kansas holding company and management services company. At December 31, 2009, the ultimate parent of the Company was SBMHC, a Kansas corporation. The ultimate parent of the Company became Sammons Enterprises, Inc. on July 30, 2010.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2009 follows:

D. Service Agreements

The Company had 7 service agreements in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Administrative Services Agreement File #34730	1/1/2006	SBL	the Company	Underwriting, Claims, Actuarial	2009: ($ 66,840) 2008: ($ 69,814) 2007: ($132,759)
Administrative Services Agreement File #33228	1/1/2005	SBC	the Company	Accounting, Marketing, Advertising, Functional Support, and Disaster Recovery	2009: ($ 69,345) 2008: ($129,228) 2007: ($122,916)
Distribution Agreement File #30355	7/1/2002	Security Distributors, Inc. ("SDI")	the Company	Distribution of Variable Annuity Contracts	2009: ($ 21,482) 2008: $ 57,431 2007: ($173,541)
Investment Services Agreement File # 34731	1/1/2006	Security Management Company, LLC ("SMC") (now Security Investors, LLC "SI")	the Company	Investment Advisory and Operational Services	2009: ($ 16,011) 2008: ($ 12,788) 2007: ($ 11,429)
Services Agreement File #35652	10/1/2006	the Company	SMC (now SI)	Administrative Services	2009: $ 51,300 2008: $ 44,111 2007: $ 36,569
Services Agreement and Third Party Investor Services Agreement File #s 42074 and 42074A	1/1/2008	the Company	Rydex Distributors, Inc ("Rydex")	Recordkeeping	2009: $274,589 2008: $331,515 2007: N/A
Participation Agreement File 42074B	1/1/2008	Rydex	the Company	Offering of Portfolio Shares	2009: $ 0 2008: $ 0 2007: N/A

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

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

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 9 and not more than 21 directors. The number of directors shall be increased to not less than 13 members within one year following the end of the calendar year in which the Company's admitted assets exceed $1.5 billion. Directors are elected for a period of 1 year at the annual meeting of the stockholders held in April of each year. As of December 31, 2009, the board of directors consisted of 9 members. Meetings of the board are held in March and September.

The 9 board members and their principal business affiliation, as of December 31, 2009, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Kalman Bakk, Jr. Lawrence, KS	Director First Security Benefit Life Insurance and Annuity Company of New York	2009
Stephen A. Crane* New York, NY	Self-Employed Insurance and Reinsurance Consultant	1999
Wayne S. Diviney* Clifton, VA	Chief Executive Officer and Chief Financial Officer The SailTime Group	2007
John F. Frye Overland Park, KS	Vice President, Chief Financial Officer and Treasurer First Security Benefit Life Insurance and Annuity Company of New York	2008
Richard M. Goldman Old Greenwich, CT	Director First Security Benefit Life Insurance and Annuity Company of New York	2007
John F. Guyot Lawrence, KS	Vice President, General Counsel and Secretary First Security Benefit Life Insurance and Annuity Company of New York	2008
Stephen R. Herbert* Pound Ridge, NY	Partner Locke and Herbert	1998
Kris A. Robbins Topeka, KS	Chairperson, President and Chief Executive Officer First Security Benefit Life Insurance and Annuity Company of New York	1998
Katherine P. White* New York, NY	Adjunct Professor of Law Fordham University School of Law	1994

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

In February, 2010, Kris A. Robbins retired from the board and was replaced by Howard R. Fricke.

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, 2009:

Name	Title
Kris A. Robbins	President and Chief Executive Officer
John F. Frye	Vice President, Chief Financial Officer and Treasurer
John F. Guyot	Vice President, General Counsel and Secretary
Terry L. Tincher	Consulting Actuary
Christopher L. Phalen	Chief Investment Officer – Fixed Income
Peggy S. Avey*	Chief Administrative Officer and Assistant Secretary

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

In April, 2010, Howard R. Fricke replaced Kris A. Robbins as President and Chief Executive Officer.

4. TERRITORY AND PLAN OF OPERATIONS

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in two states, namely New York and Kansas. In 2009, all annuity considerations were received from New York, and 82% of life insurance premiums were received from Kansas. Policies are written on a non-participating basis.

A. Statutory and Special Deposits

As of December 31, 2009, the Company had $580,000 of United States Treasury Notes on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company.

B. Direct Operations

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

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

In 2009, the Company's variable annuity business generated 96% of annual new business, while the fixed annuity business represented 4%. The variable annuity products, AdvisorDesigns, SecureDesigns, EliteDesigns and AdvanceDesigns, represent 94% of total new business, whereas the fixed annuity, Premier Choice, represents 4% of total new business while the T. Rowe Price variable annuity represents the remaining 2% of total new business. Although the AdvanceDesigns product was sold in 2009, it currently is not being solicited. The variable products are distributed by SDI, an affiliate, through a distribution agreement. Neither the Company nor SDI has a captive sales force. SDI enters into selling agreements with independent member NASD broker-dealers to solicit applications for the Company's variable annuity products.

C. Reinsurance

As of December 31, 2009, the Company had two reinsurance treaties in effect with SBL, which is an affiliated accredited reinsurer. One treaty reinsures, on a 100% coinsurance basis, the life insurance policies that were inherited from PNL as a result of the merger. The other treaty reinsures, on a 100% coinsurance basis, the insurance risk of certain living benefit riders issued by the Company on its variable annuity policies, namely the Guaranteed Minimum Income Benefit (GMIB) and Guaranteed Minimum Withdrawal Benefit (GMWB) riders. Reinsurance is provided on an automatic basis.

The total face amount of life insurance ceded as of December 31, 2009 was $205,079 which represents 100% of the total face amount of life insurance in force.

The Company did not assume any reinsurance during the examination period.

5. 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, 2006	December 31, 2009	Increase (Decrease)
Admitted assets	$154,564,092	$180,191,943	$25,627,851
Liabilities	$143,332,547	$169,484,375	$26,151,828
Common capital stock	$ 2,000,000	$ 2,000,000	$ 0
Gross paid in and contributed surplus	8,600,000	8,600,000	0
Unassigned funds (surplus)	631,545	107,568	(523,977)
Total capital and surplus	$ 11,231,545	$ 10,707,568	$ (523,977)
Total liabilities, capital and surplus	$154,564,092	$180,191,943	$25,627,851

The majority (91%) of the Company's admitted assets, as of December 31, 2009, was derived from Separate Accounts.

The Company's invested assets as of December 31, 2009, exclusive of separate accounts, were mainly comprised of bonds (71%) and cash and short-term investments (29%).

The Company's entire bond portfolio, as of December 31, 2009, was comprised of investment grade obligations.

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

	Ordinary Annuities		
	2007	2008	2009
Outstanding, end of previous year	1,492	1,803	1,956
Issued during the year	397	230	123
Other net changes during the year	(86)	(77)	(87)
Outstanding, end of current year	1,803	1,956	1,992

While the number of outstanding ordinary annuities grew only modestly during the period of examination, the number issued during each year decreased significantly primarily due to general economic conditions and the resulting decreased sales.

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:

	2007	2008	2009
Ordinary:			
Individual annuities	$(196,579)	$(1,371,150)	$819,344
Total ordinary	$(196,579)	$(1,371,150)	$819,344

The primary reason for the income from operations in 2009 was a decrease in reserves and commission expenses resulting from reduced annuity sales.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2009, as contained in the Company's 2009 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, 2009 filed annual statement.

A. Independent Accountants

The firm of Ernst & Young LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position as of December 31, 2009 and of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

Ernst & Young LLP concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

B. Net Admitted Assets

Bonds	$ 10,633,809
Cash, cash equivalents and short term investments	4,245,720
Contract loans	156,420
Investment income due and accrued	53,977
Current federal and foreign income tax recoverable and interest thereon	
Net deferred tax asset	204,439
Receivables from parent, subsidiaries and affiliates	731,456
Miscellaneous assets	15,477
From Separate Accounts, Segregated Accounts and Protected Cell Accounts	164,150,645
Total admitted assets	$180,191,943

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$ 11,091,638
General expenses due or accrued	55,229
Transfers to Separate Accounts due or accrued	(6,285,046)
Taxes, licenses and fees due or accrued, excluding federal income taxes	396,379
Amounts withheld or retained by company as agent or trustee	(1,407)
Remittances and items not allocated	6,693
Miscellaneous liabilities:	
Asset valuation reserve	16,117
Payable to parent, subsidiaries and affiliates	4,127
Miscellaneous liabilities	50,000
From Separate Accounts statement	164,150,645
Total liabilities	$169,484,375
Common capital stock	$ 2,000,000
Gross paid in and contributed surplus	8,600,000
Change in practice related to deferred tax assets	135,580
Unassigned funds (surplus)	(28,012)
Total capital and surplus	$ 10,707,568
Total liabilities, capital and surplus	$180,191,943

D. Condensed Summary of Operations

	2007	2008	2009
Premiums and considerations	$42,633,033	$27,390,665	$15,554,556
Investment income	580,977	594,101	611,754
Miscellaneous income	3,651,387	3,709,953	3,353,555
Total income	$46,865,397	$31,694,719	$19,519,865
Benefit payments	$14,691,692	$14,851,310	$13,352,251
Increase in reserves	1,962,283	3,165,257	(319,360)
Commissions	2,537,624	1,726,180	1,226,172
General expenses and taxes	992,689	609,831	901,677
Net transfers to (from) Separate Accounts	24,440,493	11,513,965	437,764
Miscellaneous deductions	2,719,086	2,124,174	2,317,094
Total deductions	$47,343,867	$33,990,717	$17,915,598
Net gain (loss)	$ (478,470)	$ (2,295,998)	$ 1,604,267
Federal and foreign income taxes incurred	(281,891)	(924,848)	784,923
Net gain (loss) from operations before net realized capital gains	$ (196,579)	$ (1,371,150)	$ 819,344
Net realized capital gains (losses)	0	12	0
Net income	$ (196,579)	$ (1,371,138)	$ 819,344

The declining trend in premiums and considerations is the direct result of the Company's ratings' downgrades. The Company's financial ratings are determined on a consolidated basis with SBL by all the rating agencies.

The significant net loss in 2008 of $(1.4) million compared to a loss of only $(197,000) the previous year is primarily due to the decline in the equity markets during 2008 that had dual impacts of a reduction in the CARVM adjustment, a decrease of $(2.0) million, shown as a negative liability on the balance sheet, and an increase in the guaranteed benefit reserves from the Company's variable annuities business. Net income rebounded to $819,000 in 2009 from the net loss of $(1.4) million in 2008 for basically similar reasons; the equity markets recovered, increasing the CARVM adjustment by $749,000 and decreasing the guaranteed benefit reserves.

E. Capital and Surplus Account

	2007	2008	2009
Capital and surplus, December 31, prior year	$11,231,545	$11,033,854	$ 9,757,656
Net income	$ (196,579)	$ (1,371,138)	$ 819,344
Change in net deferred income tax	(77,235)	85,423	178,198
Change in non-admitted assets and related items	78,427	13,265	(177,925)
Change in asset valuation reserve	(2,305)	(3,748)	(5,285)
Change in practice related to deferred tax asset	0	0	135,580
Net change in capital and surplus for the year	$ (197,692)	$ (1,276,198)	$ 949,912
Capital and surplus, December 31, current year	$11,033,853	$ 9,757,656	$10,707,568

7. 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.

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.

Section 86.4(a) of Department Regulation No. 95 states, in part:

> “ . . . all claim forms for insurance, and all applications for commercial insurance and accident and health insurance, provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:
>
> "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance

> act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation."

A review of the Company's 44 fixed and variable annuity claim files revealed that the claim forms used did not contain the required fraud warning statement. In some cases the claim form used was that of the parent.

The Company violated Section 86.4(a) of Department Regulation No. 95 by using claim forms which failed to contain the required fraud warning statement.

The examiner recommends that the Company use its claim forms and that such forms contain the fraud warning statement required by Department Regulation No. 95.

8. AGENT TERMINATIONS

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

> "Every insurer . . . doing business in this state shall, upon termination of the certificate of appointment . . . of any insurance agent licensed in this state, or upon termination for cause for activities . . . of the certificate of appointment, of employment, of a contract or other insurance business relationship with any insurance producer, file with the superintendent within thirty days a statement, in such form as the superintendent may prescribe, of the facts relative to such termination for cause . . . "

The examiner compared the Company's listing of agents terminated during the examination period to the list of active agents shown on the Department records and noted that the Company had not advised the superintendent of its termination of eleven agents.

The examiner also requested termination files for a sample of 28 out of 121 agents who were shown on Company records as being terminated during the examination period. The examiner noted that the Company did not file with the superintendent a notice of termination within 30 days for eight (28.6%) of the agents terminated.

The Company violated Section 2112(d) of the New York Insurance Law by failing to file notice with the superintendent of the termination of the certificate of appointment within thirty days of such termination.

The examiner recommends that the Company implement procedures to ensure that timely notice of the termination of its agents is filed with the superintendent.

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

> "Except as otherwise required by law or regulation, an insurer shall maintain . . .
>
> (5) A licensing record for six calendar years after the relationship is terminated for each Insurance Law licensee with which the insurer establishes a relationship. Licensing records shall be maintained so as to show clearly the dates of appointment and termination of each licensee."

The examiner requested termination files for a sample of 28 agents who were shown on Company records as being terminated during the examination period. The Company was unable to provide the termination files for seven of the 28 terminated agents.

The Company violated Section 243.2(b)(5) of Department Regulation No. 152 by failing to maintain licensing records that show clearly the date of termination of each licensee. A similar violation was contained in the prior report on examination.

9. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendation 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)(3) of the New York Insurance Law by failing to abide with the provisions of its approved Investment Services Agreement with Security Benefit Life Insurance Company ("SBL"). The Company acknowledges that SBL did provide investment services in 2004 and 2005, but the Company was not invoiced. The Department approved a new Investment Services Agreement between the Company and Security Management Company, LLC (now Security Investors, LLC) on December 12, 2005 (Department file number 34731). The management of investment services was transitioned to Security Investors, LLC in January of 2006 and hence the agreement with SBL is no longer in effect. The examination revealed no exceptions in the Company's agreement or transactions with Security Investors, LLC.
B	The Company violated Section 91.4(a)(3) of Department Regulation No. 33 by failing to maintain records in a manner that permits ready identification between the items allocated and the basis on which it was allocated, and by failing to maintain its records in a manner that is readily accessible for examination. The Company has taken steps to improve its ability to provide all monthly records in a more timely fashion. All records/information required for examination are now maintained electronically. In addition, in 2007 the Company began maintaining an annual written narrative description of the allocation drivers supporting management fees, which narrative also details any material changes in any of the drivers. This is intended to provide a historical perspective for any material changes or variances that occur in a particular year, which the Company believes will assist in responding to inquiries from the examination staff in the future. During the examination, the examiner experienced no material delays in the provision of requested materials. Also, the examiner was able to identify allocated items and the allocation basis.
C	The examiner recommended that the Company refrain from using claim forms that reference unauthorized insurer, SBL and the generic name Security Benefit. The examiner noted instances where the Company continued to use claim forms that referenced unauthorized insurer, SBL and the generic name Security Benefit.

Item	Description
D	The Company violated Section 51.6(a)(2) of Department Regulation No. 60 by failing to require with or as part of each application a completed "Definition of Replacement" signed by the applicant and agent or broker. The examiner did not note any instances where the Company failed to require with or as part of each application a completed "Definition of Replacement" signed by the applicant and agent or broker.
E	The Company violated Section 51.6(b)(2) of Department Regulation No. 60 by failing to require with or as part of each application, proof of receipt by the applicant of the Important Notice; and/or the completed Disclosure Statement. The examiner's review of a sample of underwriting files revealed that the Company has substantially complied Section 51.6(b)(2) of Department Regulation No. 60.
F	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements, to ascertain that they were accurate and met the requirements of the New York Insurance Law and the Regulation. The examiner did not note any instances where the Company failed to examine Disclosure Statements.
G	The Company violated Section 51.6(b)(7) of Department Regulation No. 60, because where the required forms were not received with the application, or if the forms did not meet the requirements of the Regulation or were not accurate, the Company failed to, within ten days from the date of receipt of the application, either have any deficiencies corrected or reject the application and so notify the applicant of such rejection and the reason therefore. The examiner's review of a sample of underwriting files revealed that the Company has substantially complied with the Section 51.6(b)(7) of Department Regulation No. 60.
H	The Company violated Section 51.6(b)(6) of Department Regulation No. 60 by failing to maintain a copy of any proposal, including the sales materials used in the sale of the proposed annuity contract. The examiner did not note any instances where the Company failed to maintain a copy of any proposal, including the sales materials used in the sale of the proposed annuity contract.

Item	Description
I	The Company violated Section 243.2(b)(5) of Department Regulation No. 152 by failing to maintain licensing records that show clearly the dates of termination of each licensee. A similar violation of Section 243.2(b)(5) of Department Regulation No. 152 appears in this report on examination.

10. SUMMARY AND CONCLUSIONS

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

Item	Description	Page No(s).
A	On February 15, 2010, Security Benefit Mutual Holding Company ("SBMHC"), the ultimate parent of the holding company system, entered into a definitive agreement with Guggenheim SBC Holdings, LLC ("Guggenheim SBC") whereby Guggenheim SBC will purchase all of the outstanding capital stock of Security Benefit Corporation, the Company's direct parent, and SBMHC will demutualize and be liquidated. This transaction closed July 30, 2010.	5
B	The Company violated Section 86.4(a) of Department Regulation No. 95 by using claim forms which failed to contain required fraud warning statement.	20 – 21
C	The examiner recommends that the Company use its claim forms and that such forms contain the fraud warning statement required by Department Regulation No. 95.	21
D	The Company violated Section 2112(d) of the New York Insurance Law by failing to file notice with the Superintendent of the termination of the certificate of appointment within thirty days of such termination.	22
E	The examiner recommends that the Company implement procedures to ensure that timely notice of the termination of its agents is filed with the superintendent.	22
F	The Company violated Section 243.2(b)(5) of Department Regulation No. 152 by failing to maintain licensing records that show clearly the date of termination of each licensee.	22 – 23

Respectfully submitted,

/s/
Eric C. Dercher, CFE
Examiner-in-Charge

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

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

/s/
Eric C. Dercher, CFE

Subscribed and sworn to before me

this__________ day of ____________________

APPOINTMENT NO. 30511

STATE OF NEW YORK

INSURANCE DEPARTMENT

I, JAMES J. WRYNN, Superintendent of Insurance of the State of New York,

pursuant to the provisions of the Insurance Law, do hereby appoint:

ERIC DERCHER

as a proper person to examine into the affairs of the

FIRST SECURITY BENEFIT LIFE INSURANCE AND ANNUITY COMPANY OF NEW YORK

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

COMPANY

with such other information as he shall deem requisite.

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

this 8th day of April, 2010

JAMES J. WRYNN
Superintendent of Insurance

Superintendent