NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

GERBER LIFE INSURANCE COMPANY

CONDITION: DECEMBER 31, 2011

DATE OF REPORT: APRIL 17, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

GERBER LIFE INSURANCE COMPANY

AS OF

DECEMBER 31, 2011

DATE OF REPORT:	APRIL 17, 2013
EXAMINER:	JULIUS ASUBONTENG

TABLE OF CONTENTS

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

May 15, 2013

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 30812, dated April 20, 2012 and annexed hereto, an examination has been made into the condition and affairs of Gerber Life Insurance Company, hereinafter referred to as "the Company," at its home office located at 1311 Mamaroneck Avenue, White Plains, New York 10605.

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

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

1. EXECUTIVE SUMMARY

The material violation and comments and recommendation contained in this report are summarized below.

- The Company violated Section 4228(h) of the New York Insurance Law by failing to have a qualified actuary sign and date the demonstrations. The Company agreed that all future demonstrations will be signed, dated and finalized prior to the date of the statement of self-support. The Company also agreed that such demonstrations will be well organized, containing detailed narrative descriptions of the methodologies and material assumptions used such that another actuary can make a reasonable assessment of the analyses performed. (See item 6F of this report)
- The examination revealed that the Company's notification pertaining to cash surrender values were not set out in a conspicuous manner. The examiner recommends that, going forward, the Company provide, in a conspicuous manner, cash surrender value notifications as required by Section 3211(g) of the New York Insurance Law. (See item 7C 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, 2011 Edition* (the "Handbook"). The examination covers the 4-year period from January 1, 2008 through December 31, 2011. 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, 2011 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 2008 through 2011, by the accounting firm of KPMG LLP. The Company received an unqualified opinion in all the 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 and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 8 of this report.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on December 22, 1967, and was licensed and commenced business on September 30, 1968. Initial resources of $4,970,250, consisting of common capital stock of $1,000,000 and paid in and contributed surplus of $3,970,250, were provided through the sale of 100,000 shares of common stock (with a par value of $10 each) for $49.7025 per share. As of December 31, 2011, the Company reported total common capital stock and paid in and contributed surplus in the amounts of $148,500,000 and $16,216,000, respectively.

In August 1994, Gerber Holding Company ("Gerber Holding") was formed by Sandoz Corporation, the Company's ultimate parent at that time, in order to purchase Gerber Products Company ("Gerber Products").

In March 1996, Sandoz Corporation and Ciba-Geigy Ltd., a large Swiss pharmaceutical company, merged. The merger created Novartis AG Corporation ("Novartis AG"), the second largest pharmaceutical company in the world. Novartis AG then became the new ultimate parent of the Company. Prior to April 2004, the Company was a wholly-owned subsidiary of Gerber Products, which in turn was a direct wholly-owned subsidiary of Gerber Holding, which was in turn a direct wholly-owned subsidiary of Novartis Finance Corporation ("Novartis Finance").

In April 2004, as part of a restructuring of Novartis Corporation's ("Novartis") holding company system, Gerber Holding merged into Novartis Finance. Following the merger, Gerber Products allocated all of the Company's stock to Novartis Finance, which became the direct parent of the Company.

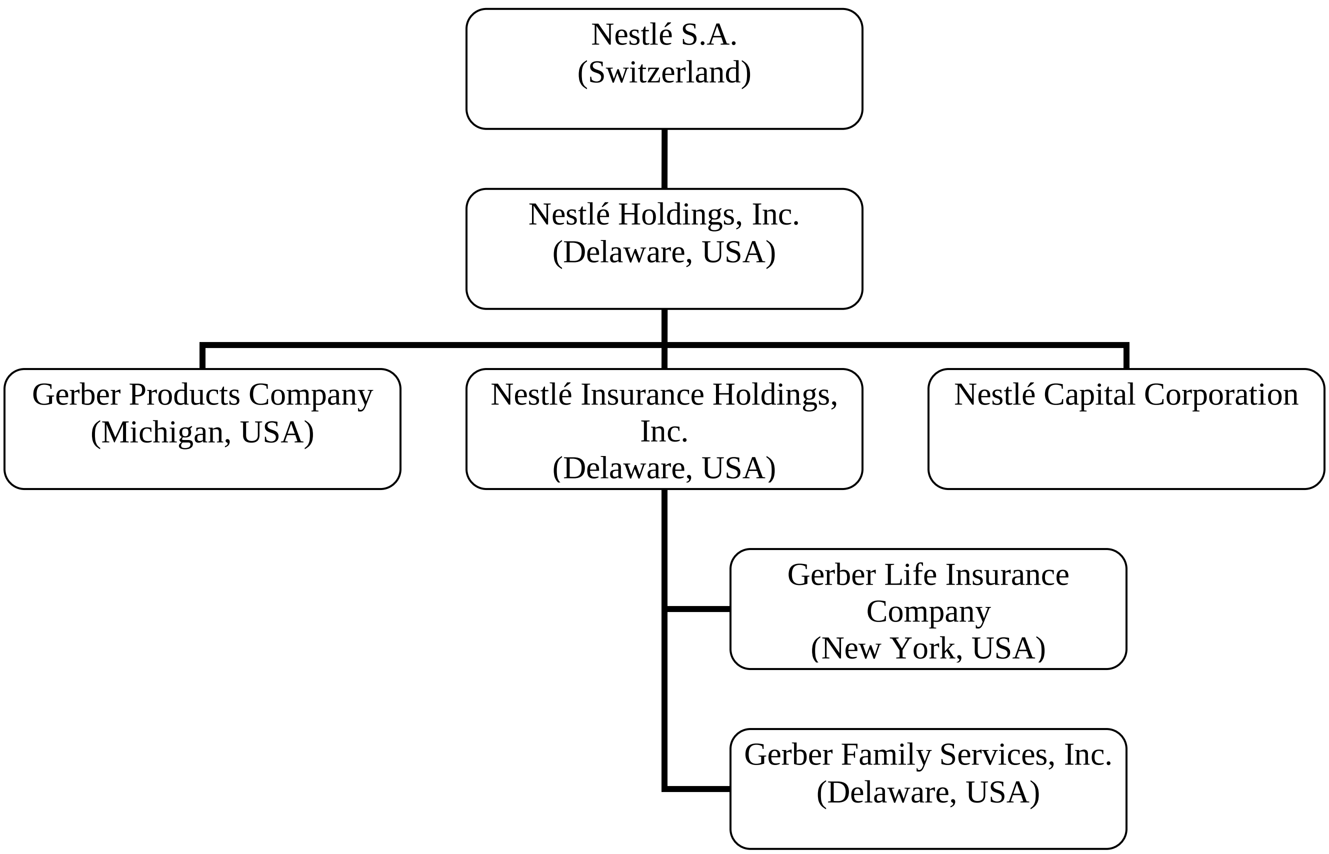
Pursuant to a Purchase Agreement dated April 11, 2007, Nestlé S.A., a Swiss Corporation, agreed to purchase all of the shares of stock of the Company from Novartis Finance. On August 31, 2007, Nestlé Insurance Holdings, Inc. ("Nestlé Insurance"), a wholly owned subsidiary of Nestlé Holdings Inc., which is a wholly owned subsidiary of Nestlé S.A., acquired the shares of capital stock of the Company. The acquisition was approved by the Department on August 21, 2007.

B. Holding Company

The Company is a wholly owned subsidiary of Nestlé Insurance, a Delaware insurance company. Nestlé Insurance is in turn a wholly owned subsidiary of Nestlé Holdings, Inc., a Delaware holding company. The ultimate parent of the Company is Nestlé S.A.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2011 follows:



D. Service Agreements

The Company had four 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
Demand Loan File No. 44038b	09/01/2007 and renewed annually through 5/1/2011	Nestlé Capital Corporation	the Company	Provides an uncommitted demand line of credit loan	2008-$ (601,600) 2009-$ (225,396) 2010-$ (242,415) 2011-$ (253,958)
Service Agreement File No. 37303	07/01/2007	Gerber Products Company	the Company	Human Resources, Information Technology, Ancillary Building Services, Finance	2008-$ (390,504) 2009-$(1,612,931) 2010-$(1,330,191) 2011-$(1,441,179)
Lease Agreement File No. 45090	01/01/2007	Gerber Products Company	the Company	Lease of building space for business purposes	2008-$ (738,396) 2009-$ (956,409) 2010-$(1,992,206) 2011-$(1,947,634)
General Agency Services Agreement File No. 3251	11/01/1975	the Company	Gerber Family Services, Inc.	General agency services	2008-$ 33,247 2009-$ 30,637 2010-$ 34,994 2011-$ 0**

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

**On 3/29/2012, the Company received $33,678 for services provided in 2011 under File No. 3251.

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than seven and not more than 15 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2011, the board of directors consisted of 11 members. Meetings of the board are held quarterly**.**

The 11 board members and their principal business affiliation, as of December 31, 2011, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Barbara H. Fraser* Wilton, CT	Retired Executive/Consultant American Express Company	2008
David P. Frick Vevey, Switzerland	Corporate Governance and Compliance Manager Nestlé S.A.	2007
John E. Gould* Scarsdale, NY	Executive Vice President and General Counsel CH Energy Group, Inc.	2000
Malcolm B. Hunter Grandvaux, Switzerland	Chief Financial Officer Nestlé Nutrition	2010
Stephen C. Nesbitt* Toronto, Canada	Attorney – Self-employed	2009
Steven G. Orluck* New York, NY	Retired Executive MONY Life Insurance Company	2005
Wesley D. Protheroe Westport, CT	President and Chief Executive Officer Gerber Life Insurance Company	2003
Keith O'Reilly Cheshire, CT	Senior Vice President, Treasurer, and Chief Financial Officer Gerber Life Insurance Company	2008
Kurt T. Schmidt Florham Park, NJ	Chairman of the Board, Deputy Executive Vice President, Nestle Nutrition Nestlé S.A.	2004
George P. Thacker Darien, CT	Senior Vice President and Chief Marketing Officer Gerber Life Insurance Company	2008
Jean Marc Walti Vevey, Switzerland	Group Treasurer Nestlé S.A.	2009

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

Thomas E. Conde was elected to the board in April 2012. In November 2012, Wesley D. Protheroe resigned from the Board. In December 2012, Kurt T. Schmidt also resigned from the Board.

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, 2011:

Name	Title
Wesley D. Protheroe	President and Chief Executive Officer
Keith M. O'Reilly	Senior Vice President, Treasurer and Chief Financial Officer
Robert J. Lodewick Jr.*	Vice President, Secretary & General Counsel
George P. Thacker	Senior Vice President and Chief Marketing Officer
Warren H. Silberstein	Senior Vice President and Chief Actuary
Thomas E. Conde	Senior Vice President, Group Benefits
Michael E. Borowski	Vice President, Information Technology and Operations
David J. Fier	Vice President, Product Development
R. Curtis Hebeler	Vice President, Group Benefits
Walter McDonald	Vice President, Call Center
David A. Rosenbluth	Vice President, Marketing

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

In June 2012, Craig O. Thompson was elected Senior Vice President, Finance and Treasury. In June 2012, the titles of President and CEO were segregated; Keith O'Reilly was elected President and Wesley D. Protheroe remained as Chief Executive Officer. In November 2012, Wesley D. Protheroe resigned as Chief Executive Officer, and Keith O'Reilly was elected as 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 all 50 states, the District of Columbia, Puerto Rico and Canada. In 2011, 11.7% of life premiums and 9.4% of accident and health premiums were received from New York. Policies are written on a non-participating basis.

A. Statutory and Special Deposits

As of December 31, 2011, the Company had $1,650,000 (par value) of United States Treasury Bonds on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company. According to confirmations received from the states of Arkansas, Georgia, New Mexico, North Carolina, Oklahoma and South Carolina, and Canada which were reported in Schedule E of the 2011 filed annual statement, an additional $32,851,005 was being held by such states and Canada.

B. Direct Operations

The Company writes individual life insurance (whole and term), group life insurance (term), individual accident and health (Medicare Supplement and accident coverage), and group accident and health insurance products (accident, stop-loss, dental and vision care). On August 1, 2009, the Company partnered with Mutual of Omaha Life Insurance Company ("Mutual of Omaha") to market individual Medicare Supplement products pursuant to an administration services agreement.

In 2010, the Company launched a new vision product in New York and a generic prescription product.

The Company's agency operations are conducted on a general agency and direct response basis. The Company, a leading direct-response marketing insurance company, sells its life products primarily through mass marketing and its group accident and health products through its managing general underwriters.

C. Reinsurance

As of December 31, 2011, the Company had 96 reinsurance treaties in effect with 65 companies, of which 43 were authorized or accredited. The Company's life and accident and health business is reinsured on a coinsurance and yearly renewable term basis. Reinsurance is provided on an automatic basis.

The maximum retention limit for individual life contracts is $50,000 and the retention limit for group life contracts is $60,000. The total face amount of life insurance ceded as of December 31, 2011, was $2,327,364,145, which represents 5.78% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $1,280,551, was supported by trust agreements.

On October 1, 2010, the Company entered into a coinsurance agreement with Unified Life Insurance Company ("Unified") to reinsure, on a 100% basis, the Company's run-off Medicare Supplement business (prior to partnering with Mutual of Omaha), hospital indemnity, medical surgical and specified disease business. Unified is now the administrator of this business. The transaction was approved by the Department on June 24, 2010.

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 during the period under review:

	December 31, 2007	December 31, 2011	Increase
Admitted assets	$1,422,128,346	$2,110,008,005	$687,879,659
Liabilities	$1,220,974,741	$1,894,477,996	$673,503,255
Common capital stock	$ 148,500,000	$ 148,500,000	$ 0
Gross paid in and contributed surplus	16,216,000	16,216,000	0
Unassigned funds (surplus)	36,437,605	50,814,009	14,376,404
Total capital and surplus	$ 201,153,605	$ 215,530,009	$ 14,376,404
Total liabilities, capital and surplus	$1,422,128,346	$2,110,008,005	$687,879,659

The increase in assets was primarily due to re-investment of the increased premiums received by the Company. Also, policy loans increased by $48 million, as more policyholders accessed cash values on their policies. The increase in liabilities of $673.5 million was primarily due to $610 million increase in aggregate reserves for life contracts. Aggregate reserves increased because most of the in force policies are within the first 10 years of issue, and the reserve factors per policy are increasing faster than the percentage policies lapsing or dying. Contract claims for life and health benefits increased by $20 million due to increased claim liability, which was consistent with premium growth. Interest maintenance reserve increased by $15.3 million because the Company took advantage of the low interest environment in 2011, and realized capital gains on its bond portfolio. General expenses due and accrued increased by $9 million due to increased expenses in marketing programs to help drive premium growth.

The Company's invested assets as of December 31, 2011 were comprised of bonds (90.9%), policy loans (4.3%) and the remainder in equities.

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

	Individual Whole Life		Individual Term		Group Life	
Year	Issued	In Force	Issued	In Force	Issued & Increases	In Force
2008	$5,173,103	$26,173,714	$1,061,683	$ 9,601,960	$ 14,408	$117,258
2009	$4,494,748	$27,021,191	$ 799,515	$10,249,274	$ 14,203	$ 99,494
2010	$3,976,014	$27,630,463	$ 638,111	$10,633,446	$ 84,267	$136,498
2011	$4,903,757	$29,236,538	$ 580,110	$10,755,143	$186,919	$225,563

The decrease in issued individual term insurance from 2009 to 2011 is primarily due to the downturn in the economy. The increases in issued group life insurance in 2010, is primarily due to the Company's methodology of determining new issues based on the amount in force. At year end, the policies were considered issued as the coverage was for a single year. The increases in issued group life insurance in 2011, was due to one Managing General Underwriter ("MGU") that increased its sales of group life insurance by more than 50%. The MGU wrote approximately $150 million group life coverage on eight public school districts.

The following has been extracted from the Exhibits of Accident and Health Insurance in the filed annual statements for each of the years under review:

	Ordinary			
	2008	2009	2010	2011
Outstanding, end of previous year	63,657	65,049	70,001	134,481
Issued during the year	15,246	20,585	93,040	57,113
Other net changes during the year	(13,854)	(15,633)	(28,560)	(23,393)
Outstanding, end of current year	65,049	70,001	134,481	168,201

	Group			
	2008	2009	2010	2011
Outstanding, end of previous year	3,257	2,683	2,793	3,042
Issued during the year	1,048	1,096	1,217	3,472
Other net changes during the year	(1,622)	(986)	(968)	(3,042)
Outstanding, end of current year	2,683	2,793	3,042	3,472

The increase in the number of issued ordinary accident and health insurance policies during 2010 and 2011 was primarily due to increased sales as a result of the Company's partnership with Mutual of Omaha. The increase in the number of issued group accident and health insurance policies in 2011 was primarily due to the Company's change in reporting methodology to treat in force as issued. At year end, the policies were considered issued as the coverage was for a single year.

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

	2008	2009	2010	2011
Total Ordinary Life insurance	$ 895,211	$ 3,696,350	$ 1,234,308	$(9,270,176)
Total Group Life	$ 240,365	$ 1,030,880	$ 854,389	$ 362,912
Accident and health:				
Group	$8,503,562	$10,318,005	$11,067,257	$ 9,289,090
Other	202,210	1,125,365	493,292	(24,515)
Total accident and health	$8,705,772	$11,443,370	$11,560,549	$ 9,264,575
Total	$9,841,348	$16,170,600	$13,649,246	$ 357,311

The fluctuation in net ordinary and group life insurance income during the examination period is primarily due to a decrease in advertising expenses in 2009, and increases in advertising expenses in 2010 and claims in 2011.

The increase in other accident and health insurance income in 2009 was primarily due to a decrease in advertising expenses. The decreases in other accident and health insurance income in 2010 and 2011 were due to high first year expenses and higher than expected claim activity on the Mutual of Omaha block of business, as well as higher than expected claim activity on an older block of Medicare Supplement insurance business that is in run-off status.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2011, as contained in the Company's 2011 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, 2011 filed annual statement.

A. Independent Accountants

The firm of KPMG, LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position of the Company as of December 31st 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.

KPMG, 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	$1,760,037,335
Stocks:	
Preferred stocks	5,799,000
Common stocks	41,496,964
Cash, cash equivalents and short term investments	46,241,041
Contract loans	83,470,304
Other invested assets	52,654
Investment income due and accrued	25,814,489
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	4,711,584
Deferred premiums, agents' balances and installments booked but deferred and not yet due	67,371,498
Reinsurance:	
Amounts recoverable from reinsurers	231,460
Other amounts receivable under reinsurance contracts	3,255,000
Current federal and foreign income tax recoverable and interest thereon	5,973,037
Net deferred tax asset	20,537,543
Guaranty funds receivable or on deposit	204,282
Special Market Account Balance	$ 44,811,814
Total admitted assets	$2,110,008,005

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$1,652,363,739
Aggregate reserve for accident and health contracts	1,576,404
Contract claims:	
Life	19,754,824
Accident and health	67,120,109
Premiums and annuity considerations for life and accident and health contracts received in advance	10,300,778
Contract liabilities not included elsewhere:	
Interest maintenance reserve	49,819,605
Commissions to agents due or accrued	4,742,212
General expenses due or accrued	15,933,559
Taxes, licenses and fees due or accrued, excluding federal income taxes	3,161,026
Amounts held for agents' account	121,799
Remittances and items not allocated	281,553
Borrowed money and interest thereon	10,838,696
Miscellaneous liabilities:	
Asset valuation reserve	10,834,381
Reinsurance in unauthorized companies	143,061
Payable to parent, subsidiaries and affiliates	2,788,090
Interest on death claims pending	142,358
Due to special markets accounts	39,827,651
Miscellaneous payables	4,645,551
Current year escheatable items	82,599
Total liabilities	$1,894,477,996
Common capital stock	148,500,000
Gross paid in and contributed surplus	16,216,000
Unassigned funds (surplus)	50,814,009
Surplus	$ 67,030,009
Total capital and surplus	$ 215,530,009
Total liabilities, capital and surplus	$2,110,008,005

D. Condensed Summary of Operations

	2008	2009	2010	2011
Premiums and considerations	$368,127,762	$379,021,737	$393,724,806	$432,200,714
Investment income	74,626,055	82,562,269	90,422,096	98,735,150
Commissions and reserve adjustments on reinsurance ceded	26,142,610	24,044,531	31,334,654	77,809,351
Miscellaneous income	7,228,964	7,410,952	8,582,781	11,565,144
Total income	$476,125,391	$493,039,489	$524,064,337	$620,310,359
Benefit payments	$129,413,563	$141,692,747	$157,036,665	$189,403,127
Increase in reserves	145,551,999	153,177,519	152,594,434	157,338,075
Commissions	55,326,741	54,708,334	65,478,419	117,448,230
General expenses and taxes	130,150,738	117,216,820	125,210,867	150,938,023
Increase in loading on deferred and uncollected premiums	(1,649,986)	(1,212,454)	715,464	4,376,445
Total deductions	$458,793,055	$465,582,966	$501,035,849	$619,503,900
Net gain (loss)	$ 17,332,336	$ 27,456,523	$ 23,028,488	$ 806,459
Federal and foreign income taxes incurred	7,490,988	11,285,923	9,379,242	449,147
Net gain (loss) from operations				
Before net realized capital gains	$ 9,841,348	$ 16,170,600	$ 13,649,246	$ 357,312
Net realized capital gains (losses)	(51,930,318)	1,415,187	1,238,434	4,537,983
Net income	$ (42,088,970)	$ 17,585,787	$ 14,887,680	$ 4,895,294

The increase in commissions and reserve adjustments on reinsurance ceded in 2011 was a result of the new Mutual of Omaha Medicare Supplement insurance business.

The Company reported a higher net income in 2009 as compared to 2008 because of impairments taken in 2008 of $22 million on bonds, $7 million on preferred stock and $19 million on common stock. In 2011, there was more than $17 million increase in realized capital gains.

E. Capital and Surplus Account

	2008	2009	2010	2011
Capital and surplus, December 31, prior year	$201,153,605	$160,418,547	$194,250,901	$213,042,617
Net income	$ (42,088,970)	$ 17,585,787	$ 14,887,680	$ 4,895,294
Change in net unrealized capital gains (losses)	244,973	6,449,356	900,248	(3,296,439)
Change in net deferred income tax	300,337	9,606,425	6,035,669	25,236,924
Change in non-admitted assets and related items	(2,497,240)	(2,379,087)	(1,627,918)	(23,770,665)
Change in liability for reinsurance in unauthorized companies	2,322,281	(2,019,075)	981,392	1,417,949
Change in asset valuation reserve	983,560	4,588,948	(2,385,355)	(1,995,671)
Net change in capital and surplus for the year	$ (40,735,059)	$ 33,832,354	$ 18,791,716	$ 2,487,392
Capital and surplus, December 31, current year	$160,418,547	$194,250,901	$213,042,617	$215,530,009

The increase in the change in non-admitted assets and related items in 2010 was due to an increase in fixed assets and prepaid expenses. The decrease in the change in non-admitted assets and related items in 2011 was due to a change in the presentation of the deferred tax asset. Deferred tax asset had previously been reported at net. In 2011, it was grossed up to indicate both the admitted and non-admitted components.

F. Reserves

Section 4228(h) of the New York Insurance Law states, in part:

> "No company shall offer for sale any life insurance policy form or annuity contract form covered by this section or any debit life insurance policy form which shall not appear to be self-supporting on reasonable assumptions as to interest, mortality, persistency, taxes, agents' and brokers' survival and expenses resulting from the sale of the policy or contract form. For all such forms offered for sale in this state, and for all forms filed for use outside this state by domestic life insurance companies, a statement that the requirements of this subsection have been met, signed by an actuary who is a member in good standing of the American Academy of Actuaries and meets the requirements prescribed by the superintendent by regulation shall be submitted with each such life insurance policy or annuity contract form filed pursuant to paragraph one or six of subsection (b) of section three thousand two hundred one of this chapter. A demonstration supporting each such statement, signed by an actuary meeting such qualifications, shall be retained in the company's home office, while such form is being offered in this state and for a period of six years thereafter and be available for inspection . . . . "

The examiner conducted a review of the pricing adequacy for various products subject to Section 4228(h) of the New York Insurance Law. This review included an examination of the required actuarial statements of self-support and the supporting demonstrations.

The examiner requested statements and corresponding demonstrations for all of the Company's policy forms subject to Section 4228(h) of the New York Insurance Law. Concerns were raised with respect to the unavailability of some of these materials. For various policy forms, with 103,580 policies issued, no signed and dated demonstrations of self-support could be located.

The Company violated Section 4228(h) of the New York Insurance Law by failing to have a qualified actuary sign and date the demonstrations.

In response to the Department's concerns, the Company agreed that all future demonstrations will be signed, dated and finalized prior to the date of the statement of self-support.

The Company also agreed that such demonstrations will be well organized, containing detailed narrative descriptions of the methodologies and material assumptions used such that another actuary can make a reasonable assessment of the analyses performed.

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. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

> Section 3211(g) of the New York Insurance Law states, in part:
>
> “In the case of life insurance policies to which this section is applicable and which contain a cash surrender value, the insurer must provide an annual notification that the policy contains a cash surrender value and that further information, including the amount thereof, is available from the insurer upon written request from the policyowner . . . The notification pertaining to the cash surrender value shall be set out in a conspicuous manner and shall include the address to which the policyowner may make a written inquiry. Any notice or statement which informs a policyowner of the policy's cash surrender value at least annually shall be deemed to comply with the requirements of this subsection . . .”

The examiner's review of a sample of lapse (42) and surrender (45) transaction files and the Company’s information disclosure procedures revealed that the Company’s notification pertaining to cash surrender values were not set out in a conspicuous manner. The information regarding cash values appeared in the fourth paragraph of a mailing that the Company sent to policyholders informing them of its new Customer Service Center.

The examiner recommends that, going forward, the Company provide, in a conspicuous manner, cash surrender value notifications as required by Section 3211(g) of the New York Insurance Law.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

Item	Description
A	The Company violated Section 1505(d)(3) of the New York Insurance Law when it failed to notify the Superintendent, at least 30-days prior thereto, of its intention to enter into an agreement with an affiliate, whereby the affiliate would provide the Company with a revolving line of credit on a regular and systematic basis. The Company filed and received the Department's approval for a "Demand Loan Agreement" between the Company and Nestle, an affiliate, whereby Nestle would provide the Company with a revolving line of credit on a regular and systematic basis.
B	The Company violated Section 3207(b) of the New York Insurance Law by issuing policies on the lives of minors in excess of the limits allowed by Law. The Company amended its underwriting procedures to comply with the requirements of Section 3207(b) of the New York Insurance Law. The examiner's review of a sample of juvenile policies did not reveal any issues that violated this section of the New York Insurance Law.
C	The examiner recommended that the Company revise its claim forms to include the complete fraud warning required by Department Regulation No. 95. The Company revised its claim forms to include the complete fraud warning language required by Department Regulation No. 95.
D	The examiner recommended that the Company perform monthly bank reconciliation of all of its cash accounts. The Company performs monthly bank reconciliation of all of its cash accounts.

Item	Description
E	The examiner recommended that a procedure be established to segregate checks which remain outstanding for more than six months, into a separate liability control account such as unclaimed funds. If such funds remain unclaimed for three years, they should then be remitted to the New York State Comptroller, Office of Unclaimed Funds or other appropriate jurisdiction. The Company has established procedures to segregate checks which remain outstanding for more than six months, into a separate liability control account named Unclaimed Funds. Funds that remain unclaimed for three years would be remitted to the New York State Comptroller, Office of Unclaimed Funds or other appropriate jurisdiction.
F	The examiner recommended that the Company also remit current checks which remain outstanding for more than three years to the New York State Comptroller, Office of Unclaimed Funds. The Company remitted all checks which remained outstanding for more than three years to the New York State Comptroller, Office of Unclaimed Funds.

9. SUMMARY AND CONCLUSIONS

Following is the recommendation contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 4228(h) of the New York Insurance Law by failing to have a qualified actuary sign and date the demonstrations.	20
B	Comment: The Company agreed that all future demonstrations will be signed, dated and finalized prior to the date of the statement of self-support.	20
C	Comment: The Company also agreed that such demonstrations will be well organized, containing detailed narrative descriptions of the methodologies and material assumptions used such that another actuary can make a reasonable assessment of the analyses performed.	20
D	The examiner recommends that the Company provide, in a conspicuous manner, cash surrender value notifications as required by Section 3211(g) of the New York Insurance Law.	22

Respectfully submitted,

/s/
Julius Asubonteng
Senior Insurance Examiner

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

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

/s/
Julius Asubonteng

Subscribed and sworn to before me

this__________ day of ____________________

APPOINTMENT NO. 30812

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

*I, **BENJAMIN M. LAWSKY**, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:*

JULIUS ASUBONTENG

as a proper person to examine the affairs of the

GERBER LIFE INSURANCE COMPANY

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

COMPANY

with such other information as he shall deem requisite.

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

this 20th day of April, 2012

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:

MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU