NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

FIRST GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY

CONDITION: DECEMBER 31, 2008

DATE OF REPORT: DECEMBER 28, 2009

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EXAMINER:	LUIS MARQUEZ

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NEW YORK STATE
DEPARTMENT of
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

July 24, 2012

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

Sir:

In accordance with instructions contained in Appointment No. 30256, dated July 20, 2009 and annexed hereto, an examination has been made into the condition and affairs of the First Great-West Life & Annuity Insurance Company, hereinafter referred to as "the Company," at its home office located at 50 Main Street, White Plains, New York 10606.

Wherever "Department" appears in this report, it refers to the New York State Department of Financial Services. On October 3, 2011, the Insurance Department merged with the Banking Department to create the New York State Department of Financial Services.

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

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below:

- The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements completed by its agent and submitted with applications during the examination period, and ascertain that they were accurate and met the requirements of the Insurance Law and this Regulation.
- The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to correct the deficiencies or reject the application when the replacement forms did not meet the requirements of this Regulation.

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2005. This examination covers the period from January 1, 2006 through December 31, 2008. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2008 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, 2008 to determine whether the Company's 2008 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

Company history
Management and control
Corporate records
Fidelity bond and other insurance
Territory and plan of operation
Market conduct activities
Growth of Company
Business in force by states
Mortality and loss experience
Reinsurance
Accounts and records
Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to the violations, recommendations and comment contained in the prior report on examination. The results of the examiner's review are contained in item 7 of this report.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on June 7, 1971 under the name of Canada Life Insurance Company of New York ("CLINY"), was licensed on December 14, 1971 and commenced business on January 1, 1972. Initial resources of $3,000,000, consisting of common capital stock of $1,000,000 and paid in and contributed surplus of $2,000,000, were provided through the sale of 100,000 shares of common stock (with a par value of $10 each) for $30 per share by Canada Life Assurance Company ("CLACO"), a Canadian mutual insurance company.

In 1999, Canada Life Financial Corporation ("CLFC") acquired control of CLACO and its subsidiaries. CLFC was established to convert CLACO from a mutual life insurance company to a stock life insurance company.

On July 10, 2003, Great-West Lifeco Inc. ("Lifeco"), a Canadian holding company, completed its acquisition of CLFC. Immediately thereafter, Lifeco transferred all of the common shares of CLFC to its Canadian subsidiary, The Great-West Life Assurance Company ("GWL"). On December 31, 2003, all of the outstanding common shares of CLINY were transferred to Great-West Life & Annuity Insurance Company ("GWL&A"), a stock life insurer domiciled in the State of Colorado.

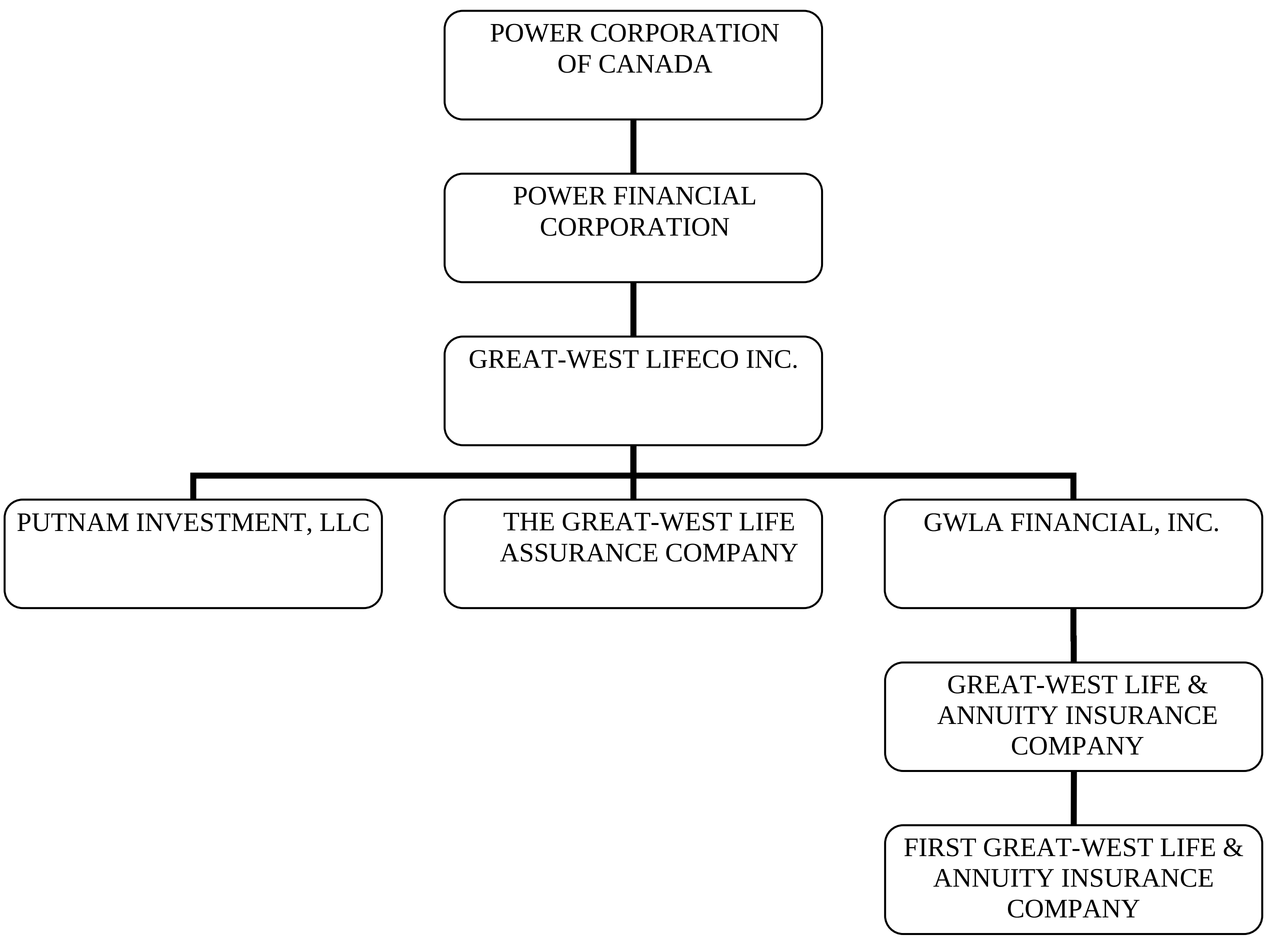
Effective December 31, 2005, CLINY merged with the First Great-West Life & Annuity Insurance Company ("FGWLA"). Prior to the merger both insurers were wholly-owned U.S. subsidiaries of GWL&A. Upon completion of the merger CLINY, the surviving company ("the Company"), adopted the First Great-West Life & Annuity Insurance Company name.

As of December 31, 2008, the Company had capital stock in the amount of $2,500,000, which consisted of 2500 shares of common stock with a par value of $1,000 each, and paid in and contributed surplus of $32,450,000.

B. Holding Company

The Company is a wholly owned subsidiary of GWL&A, a stock life insurer domiciled in the State of Colorado. GWL&A is a wholly owned subsidiary of the GWLA Financial Inc., a Delaware holding company, which in turn is an indirect wholly owned subsidiary of Lifeco, a Canadian holding company. Lifeco, is a member of the Power Financial Corporation group of companies, a diversified management and holding company based in Montreal, Canada, which currently holds 68.7% of Lifeco. The ultimate controlling company is Power Corporation of Canada.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2008 follows:



The Company had 1 service agreement in effect with affiliates during the examination period.

Type of Agreement and Dept. File No.	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 File No. 30772	August 1, 2003 (Amended October 5, 2005)	GWL&A (and certain affiliates)	The Company	Underwriting, policy owner services, claims, marketing, accounting, corporate support, functional support, and investment services	2006	$(6,785,391)
					2007	$(8,471,630)
					2008	$(4,267,710)

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

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than nine and not more than 21 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in June of each year. As of December 31, 2008, the board of directors consisted of 10 members. Meetings of the board are held quarterly.

The 10 board members and their principal business affiliation, as of December 31, 2008, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Marcia D. Alazraki* New York, NY	Attorney Manatt, Phelps & Philips, LLP	1997
James Balog* Vera Beach, FL	Retired	1997
John L. Bernbach* New York, NY	President and Founder Not Traditional Media Inc.	2007
Orest T. Dackow* Greenwood Village, CO	Retired Corporate Director	2001
André R. Desmarais Montréal, Québec	President and Co-Chief Executive Officer Power Corporation of Canada	2004

Name and Residence	Principal Business Affiliation	Year First Elected
Paul G. Desmarais, Jr. Montréal, Québec	Chairman and Co-Chief Executive Officer Power Corporation of Canada	1997
Stuart Z. Katz* New York, NY	Attorney Fried, Frank, Harris, Shriver & Jacobson	1997
Raymond L. McFeetors Winnipeg, Manitoba	President and Chief Executive Officer Great West Life & Annuity Insurance Company	2007
Robert J. Orr Westmount, Québec	President and Chief Executive Officer Power Financial Corporation	2008
Brian E. Walsh* Rye, NY	Managing Partner Saguenay Capital, LLC	1997

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

In May 2009, Orest T. Dackow retired from the Board and Mitchell T. G. Graye, President and Chief Executive Officer of the Company, and T. Timothy Ryan, Jr. were appointed to 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, 2008:

Name	Title
Mitchell T. G. Graye	President and Chief Executive Officer
James L. McCallen	Senior Vice President and Chief Financial Officer
Glen R. Derback	Senior Vice President and Treasurer
Seguard M. Corbett	Executive Vice President and Chief Information Officer
Charles P. Nelson	Executive Vice President - Retirement Services
Beverly Byrne*	Chief Compliance Officer, and Chief Legal Counsel, Financial Services

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

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 New York only. In 2008, 88.2% of life premiums, 70.6% of accident and health premiums and 99.9% of annuity considerations, were received from New York. Policies are written on a non-participating basis.

The Company's principal lines of business sold during the examination period were ordinary life insurance, individual and group annuities and group accident and health insurance. The Company's life business is individual whole life and term life insurance. The annuity business is comprised of deferred individual and group fixed and variable products. The Company's individual qualified and non-qualified variable annuities are sold through Charles Schwab & Co., Inc. and its group products are offered to employer groups.

In April 2008, the Company sold its healthcare insurance business to a subsidiary of CIGNA Corporation ("CIGNA"). The business that was sold included group stop loss, life, disability, medical, dental, vision, prescription drug coverage and accidental death and dismemberment insurance business through a combination of 100% indemnity reinsurance agreements, renewal rights and related administrative agreements. Under the indemnity reinsurance agreement effective March 31, 2008, the Company cedes a 100% quota share of its issued and assumed liabilities under health, life and disability and stop-loss insurance policies with the exception of certain named liabilities. The indemnity reinsurance agreement applies to all of the Company's existing policies and to new policies issued by Connecticut General Life Insurance Company ("CGLIC") on behalf of the Company during a limited transitional period of up to eighteen months. Under the Administrative Service Agreement, CGLIC administers both the existing healthcare business and new policies issued on behalf of the Company during the transition period, with the Company retaining the ultimate authority to direct the administration of its healthcare business. Currently, the Company does not sell group accident and health insurance. There is a closed block of business of fewer than 10 dental insurance policies and fewer than 10 long term disability insurance policies in force. There is also a small block of medical conversion policies. Excess loss policies are sold to employers who sponsor self-funded accident and health plans.

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

E. Reinsurance

As of December 31, 2008, the Company had reinsurance treaties in effect with 22 companies, of which 21 were authorized or accredited. The Company's life and accident and health business is reinsured on a coinsurance, and/or yearly renewable term basis. Reinsurance is provided on an automatic and/or facultative basis.

The maximum retention limit for individual life contracts is $250,000. The total face amount of life insurance ceded as of December 31, 2008, was $3,064,240,692, which represents 56.63% of the total face amount of life insurance in force. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling $343,701, was supported by letters of credit.

The total face amount of life insurance assumed as of December 31, 2008, was $1,479,500.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

	December 31, 2005*	December 31, 2008	Increase (Decrease)
Admitted assets	$583,029,253	$656,304,116	$73,274,863
Liabilities	$545,538,122	$602,893,659	$57,355,537
Common capital stock	$ 3,500,000	$ 2,500,000	$ (1,000,000)
Gross paid in and contributed surplus	31,450,000	32,450,000	1,000,000
Unassigned funds (surplus)	2,541,131	18,460,457	15,919,326
Total capital and surplus	$ 37,491,131	$ 53,410,457	$15,919,326
Total liabilities, capital and surplus	$583,029,253	$656,304,116	$73,274,863

* In June 2006, the Company filed an amended Annual Statement to correct a reporting error in the calculation of its Deferred Tax Asset as of December 31, 2005. The amounts shown are as corrected.

The increase in admitted assets of $73.3 million was primarily due to an increase in separate accounts of $53.3 million, which is partially the result of increased 401k sales activity, increased invested assets of $18.7 million due to growth in the 401k general account and an increase in the deferred tax asset of $1.4 million.

The increase in liabilities of $57.4 million is primarily due to a $53.3 million increase in separate accounts due to increased 401K sales activity and an increase in life reserves of $31.0 million. Offsetting these increases are a decrease of $13.4 million in repurchase agreement activity, a decrease in liabilities of $6.7 million due to the sale of the Healthcare Division to CIGNA, a decrease of $2.1 million in AVR/IMR, a decrease of $2.9 million in deposit-type contracts due to the runoff of Canada Life business and a decrease in current tax liability of $1.4 million.

In 2005, the Company reported common capital stock of $3,500,000 and gross paid in and contributed surplus of $31,450,000. The correct amounts that should have been reported were $2,500,000 and $32,450,000, respectively. Upon merging in 2005, the surviving company was to be capitalized with common stock of $2,500,000. However, when the two companies' books of account were merged, common stock totaled $3,500,000. The additional $1,000,000 over the agreed upon capitalization of $2,500,000 should have been shifted to gross paid in and contributed surplus. This oversight was corrected in the following reporting period.

The increase in capital and surplus of $15.9 million is primarily due to an increase in net income of $18.4 million and a decrease in unrealized gain/loss of $3.2 million.

The Company's invested assets as of December 31, 2008, exclusive of separate accounts, were mainly comprised of bonds (75%), mortgage loans (16%) and cash and short-term investments (6%). The majority (96.3%) of the Company's bond portfolio, as of December 31, 2008, was comprised of investment grade obligations.

The ordinary lapse ratio for each of the examination years was 15.8% in 2006, 12.9% in 2007 and 16.9% in 2008. The high lapse ratios are due to the simplified issue life policies offered through banks. With premiums as low as $4.50 per month, needs are met for many families with annual incomes of less than $50,000. However, during difficult economic times the insurance premium payments are often eliminated first. Consequently, this block of business experienced a much higher lapse rate than the traditional insurance market.

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:

	2006	2007	2008
Ordinary:			
Life insurance	$4,948,349	$2,131,337	$5,024,851
Individual annuities	2,074,370	(320,497)	(2,782,731)
Supplementary contracts	108,567	106,983	73,540
Total ordinary	$7,131,286	$1,917,823	$2,315,660
Group:			
Life	$ (59,944)	$ 957,104	$ (82,373)
Annuities	1,876,727	354,313	4,572,337
Total group	$1,816,783	$1,311,417	$4,489,964
Accident and health:			
Group	$ (611,733)	$1,967,547	$1,827,842
Other	(11,000)	(6,056)	(12,406)
Total accident and health	$ (622,733)	$1,961,491	$1,815,436
Total	$8,325,336	$5,190,731	$8,621,060

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2008, as contained in the Company's 2008 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, 2008 filed annual statement.

Independent Accountants

The firm of Deloitte & Touche, LLP was retained by the Company to audit the 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.

Deloitte & Touche, 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.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2008

Admitted Assets

Bonds	$385,530,027
Stocks:	
Common stocks	82,386
Mortgage loans on real estate:	
First liens	84,272,128
Cash, cash equivalents and short term investments	31,021,002
Contract loans	12,872,964
Other invested assets	2,120,974
Receivable for securities	1,142,557
Investment income due and accrued	4,321,037
Premiums and considerations:	
Uncollected premiums and agents’ balances in the course of collection	434,584
Deferred premiums, agents’ balances and installments booked but deferred and not yet due	2,438,520
Reinsurance:	
Amounts recoverable from reinsurers	66,980
Other amounts receivable under reinsurance contracts	142
Current federal and foreign income tax recoverable and interest thereon	1,742,338
Net deferred tax asset	3,719,105
Receivables from parent, subsidiaries and affiliates	2,795,342
Other assets	927,015
Transferred from separate accounts	11,864
From Separate Accounts, Segregated Accounts and Protected Cell Accounts	122,805,151
Total admitted assets	$656,304,116

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$460,788,410
Aggregate reserve for accident and health contracts	224,813
Liability for deposit-type contracts	5,981,590
Contract claims:	
Life	2,926,467
Accident and health	387,282
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts:	
Dividends apportioned for payment	1,650,000
Premiums and annuity considerations for life and accident and health contracts received in advance	16,651
Contract liabilities not included elsewhere:	
Other amounts payable on reinsurance	159,726
Interest maintenance reserve	3,027,556
Commissions to agents due or accrued	50,595
General expenses due or accrued	656,051
Taxes, licenses and fees due or accrued, excluding federal income taxes	406,697
Amounts withheld or retained by company as agent or trustee	26,873
Amounts held for agents' account	134,680
Remittances and items not allocated	986,738
Miscellaneous liabilities:	
Asset valuation reserve	861,724
Reinsurance in unauthorized companies	4,701
Payable to parent, subsidiaries and affiliates	1,585,393
Payable for securities	45,291
Accrued interest on outstanding claims	167,270
From Separate Accounts statement	122,805,151
Total liabilities	$602,893,659
Common capital stock	$ 2,500,000
Gross paid in and contributed surplus	32,450,000
Unassigned funds (surplus)	18,460,457
Surplus	$ 50,910,457
Total capital and surplus	$ 53,410,457
Total liabilities, capital and surplus	$656,304,116

B. CONDENSED SUMMARY OF OPERATIONS

	2006	2007	2008
Premiums and considerations	$49,549,791	$ 93,056,734	$127,911,920
Investment income	32,036,681	30,667,794	33,556,504
Commissions and reserve adjustments on reinsurance ceded	737,438	726,638	4,978,893
Miscellaneous income	2,532,129	2,776,792	5,999,245
Total income	$84,856,039	$127,227,958	$172,446,652
Benefit payments	$52,725,270	$ 57,015,215	$129,313,006
Increase in reserves	407,640	32,498,691	(3,270,879)
Commissions	6,034,217	5,930,847	5,208,922
General expenses and taxes	4,157,700	6,236,209	6,293,300
Increase in loading on deferred and uncollected premium	1,449,329	110,814	(461,391)
Net transfers to (from) Separate Accounts	7,765,110	14,483,951	17,843,110
Total deductions	$72,539,266	$116,275,727	$154,926,068
Net gain (loss)	$12,316,773	$ 10,952,231	$ 17,520,584
Dividends	1,622,603	2,050,367	1,296,054
Federal and foreign income taxes incurred	2,368,834	3,711,128	7,603,470
Net gain (loss) from operations before net realized capital gains	$ 8,325,336	$ 5,190,736	$ 8,621,060
Net realized capital gains (losses)	(30,356)	12,885	(3,679,115)
Net income	$ 8,294,980	$ 5,203,621	$ 4,941,945

The significant increase in premiums and considerations in 2007 and 2008 is due to increase in 401K plan sales in the general and separate accounts and an increase in individual annuity separate account premium.

Benefit payments increased by $4.3 million in 2007 due to large surrenders of 401K plans and group annuities of $10.0 million. This was offset by a decrease of $5.3 million in disability and accident and health benefits due to improved morbidity and loss of membership in group health. Benefit payments increased by $72.3 million due to a large surrender of $74.0 million by one policyholder in the third quarter of 2008.

C. CAPITAL AND SURPLUS ACCOUNT

	2006	2007	2008
Capital and surplus, December 31, prior year	$37,491,131	$45,561,765	$47,783,463
Net income	$ 8,294,980	$ 5,203,621	$ 4,941,945
Change in net unrealized capital gains (losses)	(94,936)	139,176	(3,256,618)
Change in net deferred income tax	(944,946)	2,968,779	2,160,758
Change in non-admitted assets and related items	1,332,345	(788,370)	(3,777,039)
Change in liability for reinsurance in unauthorized companies	0	0	(4,701)
Change in asset valuation reserve	(516,809)	(801,508)	2,664,839
Change in surplus as a result of reinsurance	0	0	2,732,678
Dividends to stockholders	0	(4,500,000)	0
Prior year audit adjustment deferred taxes	0	0	165,135
Net change in capital and surplus for the year	$ 8,070,634	$ 2,221,698	$ 5,626,994
Capital and surplus, December 31, current year	$45,561,765	$47,783,463	$53,410,457

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

1. Section 1313(f) of the New York Insurance Law states:

> "Advertisements and other public announcements directed primarily at calling the attention of policyholders or prospective policyholders to an insurer and containing a statement of the separate financial condition of the holding company system shall also contain a statement of the separate financial condition of the insurer which shall comply with this section."

The examiner's review of a sample of advertisements revealed that two of the 15 (13%) advertisements contained statements of the separate financial condition of the holding company system but did not contain a statement of the separate financial condition of the Company.

The Company violated Section 1313(f) of the New York Insurance Law by using advertisements containing statements of the separate financial condition of the holding company system but failing to include statements of the separate financial condition of the Company.

2. Section 219.4(m) of Department Regulation No. 34-A states:

> "In the event an advertisement uses *nonmedical*, *no medical examination required*, or similar terms where issue is not guaranteed, such terms shall be accompanied, in each instance, by a disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy or payment of benefits may depend upon the answers given in the application and the truthfulness thereof."

The examiner’s review of a sample of advertisements revealed that two of the 15 (13%), advertisements contained statements that no medical exams are required for the policy to be issued, but failed to include a statement that the issuance of the policy or payment of benefits may depend upon the answers given in the application and the truthfulness thereof.

The Company violated Section 219.4(m) of Department Regulation No. 34-A by stating in its advertising material that no medical exams are required, but failing to disclose in its advertisements that issuance of the policy or payment of benefits may depend upon the answers given in the application and the truthfulness thereof.

3. Section 219.5(a) of Department Regulation No. 34-A states, in part:

> “Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state, with a notation indicating the manner and extent of distribution . . . ”

The examiner’s review of a sample of advertising files revealed that in 13 of the 15 (87%) advertisements reviewed, the Company was unable to quantify the extent of distribution. Of these 13 advertisements, five were marketed on the internet and eight were supplied for the purpose of worksite solicitation.

The Company violated Section 219.5(a) of Department Regulation 34-A by failing to maintain the extent of distribution of its advertisements.

The Company subsequently revised its advertising file to include a notation indicating the manner and extent of distribution of its advertisements.

4. Section 51.6 of Department Regulation No. 60 states, in part:

> “(b) Where a replacement has occurred or is likely to occur, the insurer replacing the life insurance policy or annuity contract shall . . .
>
> (3) Examine any proposal used, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the "Disclosure Statement," and ascertain that they are accurate and meet the requirements of the Insurance Law and this Part;

> (4) Within ten days of receipt of the application furnish to the insurer whose coverage is being replaced a copy of any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract, and the completed "Disclosure Statement" . . .
>
> (6) Where the required forms are received with the application and found to be in compliance with this Part, maintain copies of: any proposal, including the sales material used in the sale of the proposed life insurance policy or annuity contract . . . for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later;
>
> (7) Where the required forms are not received with the application, or if the forms do not meet the requirements of this Part or are not accurate, 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 therefor. In such cases, the insurer shall maintain any material used in the proposed sale, in accordance with the guidelines of Section 51.6(b)(6) herein . . . ”

The examiner’s review of a sample of 30 out of a population of 315 external variable annuity replacement files revealed:

In four of the 30 (15%) replacement files reviewed, the new contract replaced more than one existing contract. In all four instances a composite Disclosure Statement was not prepared as required by the Department’s Regulation No. 60 Annuity Disclosure Statement and Completion Instructions for Appendix 10B.

In four of the 30 (15%) replacement files reviewed the contracts being replaced were subject to surrender charges, however the percentages or amounts of the surrender charges were not disclosed in the Agent’s Statement section of the Disclosure Statements.

In eight of the 30 (30%) replacement files reviewed, the Disclosure Statements did not indicate whether or not sales materials were used during the replacement process.

In 17 of the 30 (57%) replacement files reviewed, the examiner was unable to ascertain whether the applicant was presented with all of the available information needed to make an informed decision regarding the value of the replaced product policy. The agent stated in the Agent’s Statement section of the Disclosure Statement that there was no advantage to keeping the old policy, although the performance comparisons on page two of the Disclosure Statement showed that the old policy had better potential investment returns than the proposed policy.

The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements completed by its agent and submitted with applications during the examination period, and ascertain that they were accurate and met the requirements of the Insurance Law and this Regulation.

The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to correct the deficiencies or reject the application when the replacement forms did not meet the requirements of this Regulation.

The examiner recommends that the Company immediately enhance its audit procedures to ensure compliance with Department Regulation No. 60. Further, within one year of implementing such enhancements the Company's internal auditors should test the entire replacement process to evaluate whether the changes made are working effectively and, if determined that there are continued deficiencies, make further enhancements.

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 3214(c) of the New York Insurance Law states:

> "If no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of

> interest currently paid by the insurer on proceeds left under the interest settlement option, from the date of the death of an insured or annuitant in connection with a death claim on such a policy of life insurance or contract of annuity and from the date of maturity of an endowment contract to the date of payment and shall be added to and be a part of the total sum paid".

The examiner reviewed a sample of 30 paid individual life death claims out of a population of 377 claims processed by the Company during the examination period. The examiner's review indicated that the Company failed to pay interest on the only claim whose beneficiary was a foreigner. The Company explained that in 2006 the former Canada Life Insurance Company of New York ("CLINY") Claims Department was moved from Regina, Saskawatawan and merged with the First Great-West Life ("FGWLA") Claims Department in Denver, Colorado to create one centralized department to handle individual life claims for all companies. At that time, it was the policy of the Regina Claims Department not to pay interest to foreign beneficiaries on policies issued to foreigners because there was no contractual obligation or state mandated statute. In an effort to streamline procedures between the two companies, the FGWLA Claims Department adopted this procedure. However, when the procedure was adopted, it was misinterpreted that the Company should not pay interest on proceeds to all foreign beneficiaries regardless of the situs of the contract.

As a result of this examination, the Company agreed to pay the overdue interest in the amount of $4,758.90.

The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on a claim from the date of death to the date of payment.

The Company has identified all foreign beneficiaries that were similarly adversely affected during 2006, 2007 and 2008, and has implemented a plan to pay any overdue interest.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

Item	Description
A	In June 2006 the Company filed an amended Annual Statement to correct a reporting error in the calculation of its Deferred Tax Assets ("DTAs") as of December 31, 2005. As a result the Company's unassigned surplus decreased from $8,312,979 to $2,541,131. The Company hired additional tax personnel with more experience and appropriate tax and accounting backgrounds. The tax department created the tax basis balance sheets during 2008 for the years 2006 to 2007. The Company also instituted the corporate tax software from CORPTAX.
B	The examiner recommended that the Company take steps to ensure that the information in the Annual Statement is reported correctly. The Company implemented a revised process for the review of the June 2006 financials with a subsequent review to ensure that any deficiencies are addressed.
C	The Company violated Section 2611(a) of the New York Insurance Law when it failed to obtain written informed consent prior to performing HIV related tests. Since Company does not currently underwrite any new business, a written consent form pursuant to Section 2611(a) is not used or required. All new life insurance business is issued through the "simplified issue" process and the questions on the applications relating to HIV and AIDS are in compliance with New York Insurance Law. Incidences of this violation were not found during the current examination.
D	The Company violated Section 3214(c) of the New York Insurance Law when it failed to pay interest on group death benefits at the same rate as proceeds left under the interest settlement option.

Item	Description
	The Company submitted a remediation plan to the Department on September 12, 2007 which advised that it would identify all affected group life policyholders that had submitted claims during the examination period and make additional interest payments on their life claims. These claims were recalculated at a rate of 4% and any extra amounts owed were paid as required. This action was completed in October 2007.
E	The examiner recommended that the Company implement a plan of remediation to identify adversely affected policyholders and pay the appropriate interest. The Company submitted a remediation plan to the Department on September 12, 2007 which advised that it would identify all affected group life policyholders that had submitted claims during the examination period and make additional interest payments on their life claims. These claims were recalculated at a rate of 4% and any extra amounts owed were paid as required. This action was completed in October 2007.
F	The Company violated Section 3227 of the New York Insurance Law when it failed to pay interest on surrender benefits payable where payments were not mailed or delivered by the insurer within ten working days of said receipt, and such interest due amounted to at least twenty-five dollars. The Company updated its surrender procedures to ensure that surrenders are processed within the required ten day period. The Company identified all policies that required remediation and issued checks where interest amounted to at least twenty-five dollars.

8. SUMMARY AND CONCLUSIONS

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

Item	Description	Page No(s).
A	The Company violated Section 1313(f) of the New York Insurance Law by using advertisements containing statements of the separate financial condition of the holding company system but failing to include statements of the separate financial condition of the Company.	18
B	The Company violated Section 219.4(m) of Department Regulation No. 34-A by failing to disclose in its advertisement that issuance of the policy or payment of benefits may depend upon the answers given in the application and the truthfulness thereof.	18 – 19
C	The Company violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain the extent of distribution of its advertisements.	19
D	The Company subsequently revised its advertising file to include a notation indicating the manner and extent of distribution of its advertisements.	19
E	The Company violated Section 51.6(b)(3) of Department Regulation No. 60 by failing to examine the Disclosure Statements completed by its agent and submitted with applications during the examination period, and ascertain that they were accurate and met the requirements of the Insurance Law and this Regulation.	19 – 21
F	The Company violated Section 51.6(b)(7) of Department Regulation No. 60 by failing to correct the deficiencies or reject the application when the replacement forms did not meet the requirements of this Regulation.	19 – 21
G	The examiner recommends that the Company immediately enhance its audit procedures to ensure compliance with Department Regulation No. 60. Further, within 1 year of implementing such enhancements the Company's internal auditors should test the entire replacement process to evaluate whether the changes made are working effectively and, if determined that there are continued deficiencies, make further enhancements.	21

Item	Description	Page No(s).
H	The Company violated Section 3214(c) of the New York Insurance Law by failing to pay interest on a death claim from the date of death to the date of payment.	21 – 22
I	The Company has identified all foreign beneficiaries that were similarly adversely affected during 2006, 2007 and 2008, and has implemented a plan to pay any overdue interest.	22

Respectfully submitted,

_____________/s/____________
Luis Marquez
Senior Insurance Examiner

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

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

_____________/s/____________
Luis Marquez

Subscribed and sworn to before me

this__________ day of ____________________2010.

APPOINTMENT NO. 30256

STATE OF NEW YORK

INSURANCE DEPARTMENT

I, JAMES J. WRYNN, Acting Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

LUIS MARQUEZ

as a proper person to examine into the affairs of the

FIRST GREAT WEST LIFE & ANNUITY 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 20th day of July, 2009

JAMES J. WRYNN
Acting Superintendent of Insurance

Acting Superintendent