NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

FIRST BERKSHIRE HATHAWAY LIFE INSURANCE COMPANY

CONDITION: DECEMBER 31, 2013

DATE OF REPORT: MAY 27, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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AS OF

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EXAMINER:	WAHEED ZAFER

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

June 3, 2015

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

Sir:

In accordance with instructions contained in Appointment No. 31097, dated October 30, 2014 and annexed hereto, an examination has been made into the condition and affairs of First Berkshire Hathaway Life Insurance Company, hereinafter referred to as "the Company," at its home office located at Marine Air Terminal, LaGuardia Airport, Flushing, New York 11371.

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 findings violations and recommendations contained in this report appear below.

- The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of election with the Superintendent at least ten days before the day of such election.

- The Company violated Section 4211(b) of the New York Insurance Law by electing successors to the board without filing written notice of their election with the Department.

- The examiner recommends that the Company remain on course with the revised business plan, with updated business plans being automatically submitted to the Department**,** for review and for determination of capital adequacy, to the extent there are any material changes.

- The examiner recommends that the Company develop a disaster recovery plan and such plan should address hardware and system recovery, data retrieval procedures, emergency contact information, hardware/software vendor information, telecommunications recovery procedures, disaster declaration approval procedures and physical recovery location.

- The examiner recommends that the Company develop a business continuity plan and such plan should identify the recovery of critical business processes.

- The Company violated Section 243.3(c) of Department Regulation No. 152 when it failed to establish and maintain a records retention plan that included a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records.

- The examiner recommends that the Company establish a formal written records retention plan and have such plan reviewed and approved by its board of directors.

2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2014 Edition* (the “Handbook”). The examination covers the three-year period from January 1, 2011 through December 31, 2013. 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, 2013 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 2011 through 2013, by the accounting firm of Deloitte & Touche LLP. The Company received an unqualified opinion in all years under examination. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. National Indemnity Company ("NICO") has an internal audit department and a separate internal control department which was given the task of assessing the internal control structure including the Company. The examiner relied on work performed by the internal audit department of NICO. The internal audit function was performed by Ernst & Young.

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 10 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 September 22, 1998, was licensed on March 21, 2003 and commenced business on that day. Initial resources of $8,000,000, consisting of common capital stock of $2,000,000 and paid in and contributed surplus of $6,000,000, were provided through the sale of 2,000 shares of common stock (with a par value of $1,000 each) for $4,000 per share.

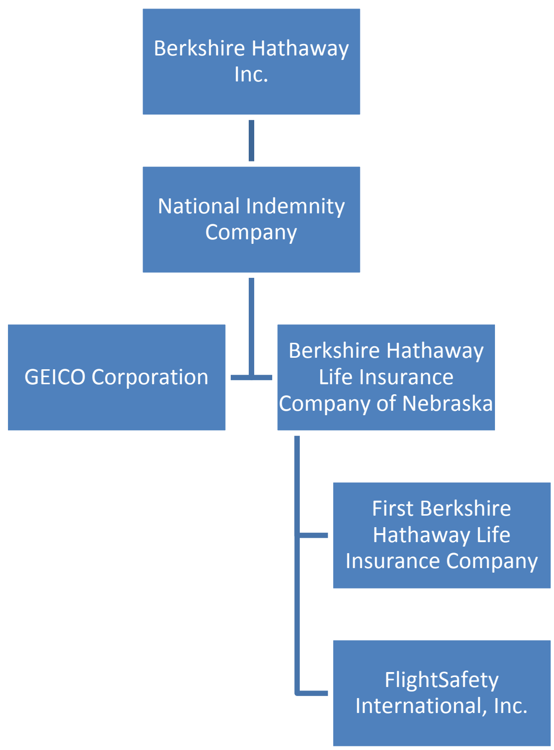
On December 30, 2013, the Company received a $100 million capital contribution from its parent company, Berkshire Hathaway Life Insurance Company of Nebraska ("BHLN"). Subsequent to the examination period, on September 30, 2014, the Company received another $10 million capital from BHLN. Both of these contributions were approved by the Department. As of December 31, 2013, the Company's capital and paid in and contributed surplus were $2,000,000 and $23,535,287 respectively.

B. Holding Company

The Company is a wholly owned subsidiary of BHLN, a life insurer licensed in Nebraska and an accredited reinsurer in New York. BHLN is, in turn, a wholly owned subsidiary of NICO, a commercial auto and general liability company. NICO is a wholly owned subsidiary of Berkshire Hathaway Inc., a Delaware Corporation. The ultimate parent of the Company is Berkshire Hathaway, Inc. Flight Safety International Inc. is a non-insurance affiliate of the Company, located in LaGuardia Airport, New York, that provides certain property, equipment and facilities to the Company for use in its day-to-day operations under a Department approved service agreement, effective December 1, 2006.

C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2013 follows:



D. Service Agreements

The Company had 2 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*
Rent sublease Department File No. 0036093	11/28/2006	Flight Safety International Inc.	The Company	Office space.	2011 $ (610) 2012 $ (610) 2013 $ (610)
Intercompany services agreement Department File No.0025287A	12/01/2002	NICO	The Company	Administrative expenses	2011 $ (61,606) 2012 $ (58,282) 2013 $(376,886)

* 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 ("the board") shall be comprised of not less than seven and not more than 13 directors. Directors are elected for a period of one year at the annual meeting of the shareholders held in May of each year. As of December 31, 2013, the board consisted of eight members. Meetings of the board are held quarterly.

The eight board members and their principal business affiliation, as of December 31, 2013, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
John D. Arendt Norwalk, CT	Vice President First Berkshire Hathaway Life Insurance Company	1999
Norman H. Denenberg* Omaha, NE	Attorney Self Employed	2002
Erika B. Duffy Fairfield, CT	Attorney National Liability & Fire Insurance Company	2009
Arvind Krishnamurthy Cambridge, MA	Assistant Vice President First Berkshire Hathaway Life Insurance Company	1998
Robert M. Leblanc* Newton, CT	Managing Director Onex Investment Corporation	1998
Brian G. Snover Stamford, CT	Vice President and Secretary First Berkshire Hathaway Life Insurance Company	2013
Kevin G. Snover* West Babylon, NY	Attorney Self Employed	1998
Sandra J. Wilson* Avon, CT	Comptroller A&A Surplus, Inc.	2007

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

In October, 2014, Erika B. Duffy resigned from the board and was replaced by Bruce J. Byrnes.

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.

Section 4211(a) of the New York Insurance Law states:

> "No election of directors of a domestic stock life insurance company shall be valid unless a copy of the notice of election shall have been filed in the office of the superintendent at least ten days before the day of such election in addition to the service thereof, as required by section six hundred five of the business corporation law".

The examiner noted that directors were elected on May 12, 2011, May 10, 2012, and May 9, 2013, respectively. The examiner reviewed the Department's records for filings made in accordance with Section 4211(a) of the New York Insurance Law and noted that no filings were received by the Department for these elections.

The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of election with the Superintendent at least ten days before the day of such election.

Section 4211(b) of the New York Insurance Law states:

> "Whenever any directors of such a company shall have resigned and successors shall have been chosen pursuant to the provisions of the by-laws, such successors shall not take office nor exercise their duties until ten days after written notice of their election shall have been filed in the office of the superintendent"

The examiner's review of the Department's records revealed that the Department did not receive notice of the election of Brian Snover as the successor for Forrest Krutter, effective November 18, 2013.

The Company violated Section 4211(b) of the New York Insurance Law by electing successors to the board without filing written notice of their election with the Department.

The following is a listing of the principal officers of the Company as of December 31, 2013:

Name	Title
Donald F. Wurster	President
Ajit Jain	Executive Vice President
John D. Arendt	Vice President
Brian G. Snover	Vice President and Secretary
Dale D. Geistkemper	Treasurer and Controller
Janelle K. Kay*	Assistant Secretary

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

4. TERRITORY AND PLAN OF OPERATIONS

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

The Company is licensed to transact business in three states, namely New York, Nebraska and Missouri. Presently, the Company exclusively markets structured settlement annuities. During the examination period, the Company's structured settlements were primarily sold to BHG Structured Settlements, Inc., a Missouri corporation. However, the optional payees of these contracts were mostly New York residents or plaintiffs in a New York lawsuit.

All immediate annuity contracts issued by the Company were sold prior to the Company terminating its direct marketing efforts in June 2012; all were issued to residents of New York.

As of December 31, 2013, the Company had 375 structured settlements and six immediate annuities in force. The Company intends to continue bringing in contracts through its holding company group. The Company has no agency operations.

A. Statutory and Special Deposits

As of December 31, 2013, the Company had $1,200,000 (par value) of Government National Mortgage Association Bonds 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

Deposit-type contracts issued by the Company are non-life contingent annuity obligations, primarily issued in conjunction with structured settlements for third-party claims, and are individual fixed annuities that provide benefits at a fixed interest rate over a defined period.

As mentioned before, the Company sells the majority of its annuities directly to its affiliate, BHGSS. Brokers who specialize in structured settlement transactions approach BHGSS with opportunities. The same brokers occasionally approach the Company directly and represent defendants resident in New York who desire to enter into structured settlements but do not desire to assign their future payment obligations. Finally, the same brokers on rare occasions approach the Company and represent a plaintiff who has physically or constructively received settlement monies but still desires to receive future periodic payments.

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, 2010	December 31, 2013	Increase (Decrease)
Admitted assets	$13,006,293	$286,582,938	$273,576,645
Liabilities	$ 1,672,707	$261,047,651	$259,374,944
Common capital stock	$ 2,000,000	$ 2,000,000	$ 0
Gross paid in and contributed surplus	7,000,000	107,000,000	100,000,000
Unassigned funds (surplus)	2,333,586	(83,464,713)	(85,798,299)
Total capital and surplus	$11,333,586	$ 25,535,287	$ 14,201,701
Total liabilities, capital and surplus	$13,006,293	$286,582,938	$273,576,645

The Company's admitted assets increased $273,576,645 from 2010 to 2013 primarily due to a $100,000,000 capital contribution from BHLN on December 30, 2013, in addition to an increase in premiums written of approximately $173,000,000 during the examination period.

The Company's liabilities increased $259,374,944 during the examination period primarily due to a net increase in reserves of $194,083,876 and an increase of $64,625,566 in deposit-type contract liabilities. Included in the $194,083,876 increase in life-contingent annuity reserves is the establishment of an $85,000,000 reserve which is in excess of statutory-prescribed reserve calculations and was judgmentally determined by the Company's Appointed Actuary based upon a review of the Company's asset adequacy test.

The Company's unassigned funds (surplus) decreased $85,798,299 during the examination period primarily due to a decrease in the Company's net income of approximately $86,000,000, the majority of which was almost exclusively due to the negative impact of the aforementioned $85,000,000 additional reserve.

The Company's invested assets as of December 31, 2013 were mainly comprised of cash and short-term investments (94%) and other invested assets (6%).

The Company's entire bond portfolio, as of December 31, 2013, 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:

	Group Annuities		
	2011	2012	2013
Outstanding, end of previous year	1	4	51
Issued during the year	3	47	135
Other net changes during the year	0	0	0
Outstanding, end of current year	4	51	186

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

	Deposit Funds		
	2011	2012	2013
Outstanding, end of previous year	7	7	49
Issued during the year	0	43	146
Other net changes during the year	0	(1)	0
Outstanding, end of current year	7	49	195

The increase in the group annuities and deposit-type contracts in 2012 and 2013 is due to the increase in the Company's structured settlement business.

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:

	2011	2012	2013
Ordinary:			
Individual annuities	$ (390,400)	$ (16,888)	$ (48,523)
Total ordinary	$ (390,400)	$ (16,888)	$ (48,523)
Group:			
Annuities	$(1,007,255)	1,640,079	$(84,997,713)
Total group	$(1,007,255)	$1,640,079	$(84,997,713)
All other lines	$ (40,989)	$ 651,282	$ (2,240,245)
Total	$(1,438,644)	$2,274,473	$(87,286,481)

The net loss in 2011 was due to an increase of $1,950,000 in additional actuarial reserves. During 2012, the net gain was the result of there being no change to the actuarial reserve. The loss in 2013 was the result of an $82,800,000 increase in additional reserves following the 2013 asset adequacy review.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2013, as contained in the Company's 2013 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, 2013 filed annual statement.

A. Independent Accountants

The accounting firm of Deloitte & Touche, LLP was retained by the Company to audit the Company's combined statutory basis statements of financial position 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.

B. Net Admitted Assets

Bonds	$ 11,217,656
Stocks:	
Common stocks	4,750,256
Cash, cash equivalents and short term investments	267,554,771
Investment income due and accrued	65,813
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	119,040
Current federal and foreign income tax recoverable and interest thereon	2,795,358
Net deferred tax asset	80,044
Total admitted assets	$286,582,938

C. Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$195,201,195
Liability for deposit-type contracts	64,625,566
Interest maintenance reserve	6,218
General expenses due or accrued	50,124
Taxes, licenses and fees due or accrued, excluding federal income taxes	800
Miscellaneous liabilities:	
Asset valuation reserve	936,859
Payable to parent, subsidiaries and affiliates	186,718
Other liabilities	40,171
Total liabilities	$261,047,651
Common capital stock	$ 2,000,000
Gross paid in and contributed surplus	107,000,000
Unassigned funds (surplus)	(83,464,713)
Total capital and surplus	$ 23,535,287
Total liabilities, capital and surplus	$286,582,938

D. Condensed Summary of Operations

	2011	2012	2013
Premiums and considerations	$ 1,558,886	$29,980,856	$ 80,051,228
Investment income	759,141	845,097	697,671
Miscellaneous income	0	0	(25)
Total income	$ 2,318,027	$30,825,953	$ 80,748,874
Benefit payments	$ 86,418	$ 251,745	$ 3,244,000
Interest and adjustments on contracts or deposit-type contract funds	40,989	(773,679)	2,387,774
Increase in reserves	3,214,550	27,559,022	163,310,303
General expenses and taxes	49,437	105,506	386,448
Total deductions	$ 3,391,394	$27,142,594	$169,328,525
Net gain (loss)	$(1,073,367)	$ 3,683,359	$ (88,579,651)
Federal and foreign income taxes incurred	365,277	1,408,887	(1,293,169)
Net gain (loss) from operations before net realized capital gains	$(1,438,644)	$ 2,274,472	$ (87,286,482)
Net income	$(1,438,644)	$ 2,274,472	$ (87,286,482)

During 2011, premiums increased due to the establishment of the structured settlement business. The increase in premiums during the 2012 and 2013 was the result of 44 and 132, respectively, life-contingent structured settlement contracts issued by the Company during those years. The increase in benefit payments in 2013 was the result of a large expansion in the portfolio of annuity contracts in 2011, when the Company began writing annuities again.

In 2012 reserves increased by $24,000,000 due to the increased number of contracts and the formulaic reserves on those contracts. During 2013, reserves increased again due to new contract issues and the related formulary reserves.

The net loss of $87,286,482 for the Company in 2013 was mostly attributable to the increase in the additional asset adequacy reserve.

E. Capital and Surplus Account

	2011	2012	2013
Capital and surplus, December 31, prior year	$11,333,586	$10,099,545	$ 12,469,956
Net income	$ (1,438,644)	$ 2,274,472	$(87,286,482)
Change in net unrealized capital gains (losses)	0	236,449	590,746
Change in net deferred income tax	741,014	119,785	29,712,688
Change in non-admitted assets and related items	(533,244)	31,160	(29,357,577)
Change in asset valuation reserve	(3,166)	(304,098)	(594,044)
Cumulative effect of changes in accounting principles	0	12,643	0
Surplus adjustments:			
Paid in	0	0	100,000,000
Net change in capital and surplus for the year	$ (1,234,040)	$ 2,370,411	$ 13,065,331
Capital and surplus, December 31, current year	$10,099,545	$12,469,956	$ 25,535,287

In 2013, net deferred taxes increased by $29,000,000 due to an increase in additional statutory reserve which led to greater disparity in statutory and tax basis reserves. The change of $29,000,000 in non-admitted assets is the result of the increase in net deferred tax assets being non-admitted due to the statutory deferred tax admissibility requirements.

On December 30, 2013, the Company's parent, BHLN. contributed $100,000,000 in cash to the Company.

F. Reserves

The Department conducted a review of reserves as of December 31, 2013. During the review of the related asset adequacy analysis, which was done pursuant to Regulation 126, the Department recommended that assets and liabilities be better aligned to eliminate the need for a significant additional actuarial reserve held in the amount of $85,000,000. In response, the Company purchased long-term assets in the amount of approximately $120 million from its parent "BHLN". The Company also entered into a reinsurance agreement with BHLN to cede

80% of its structured settlement liabilities to take advantage of the much larger and more diversified asset portfolio of the parent. The Company submitted a revised business plan, as directed by the Department, to provide a clear line of sight to current product, pricing, reserving, and investment practices.

The examiner recommends that the Company remain on course with the revised business plan, with updated business plans being automatically submitted to the Department, for review and for determination of capital adequacy, to the extent there are any material changes.

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.

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

8. DISASTER RECOVERY AND BUSINESS CONTINUITY PLANS

The objective of a disaster recovery plan is to provide reasonable assurance that data, systems and operations can be successfully recovered and be available to users in the event of a disaster. The objective of a business continuity plan is to reasonably ensure that the recovery of critical business processes could take place in the event of a disaster.

Upon the examiner's request for the Company's Disaster Recovery Plan and the Business Continuity Plan, the Company stated that it does not have a formal written disaster recovery plan. The Company further stated that it does conduct disaster recovery tests every two years, with the most recent having been conducted in 2013. Although, the Company provided the disaster recovery details of the test performed in 2013, the Company did not provide the results of the test performed. A number of business processes, including electronic data processing operations and services, accounting functions, and functional support services are provided under a service agreement by Flight Safety International and its indirect parent, NICO respectively.

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

The examiner also recommends that the Company develop a business continuity plan. Such a plan should identify the recovery of critical business processes. The plan should also identify supporting systems applications, vendors that would assist with locating alternate processing and office site locations, forms and documentation arrangements, network and application restoration procedures, and procedures to be followed by Company personnel during the disaster and recovery period. The plan should contain provisions to ensure periodical testing. The business continuity plan should be approved and periodically reviewed by management to ensure that it meets the needs of the business. Documentation of the business continuity test plan and results and documentation of management approval of the plan should be maintained.

9. RECORD RETENTION PLAN

Section 243.3 of Department Regulation No. 152 states, in part:

> "(a)(1) Records and indices of records required to be maintained under this Part may be maintained in any durable medium . . .
> (c)An insurer shall establish and maintain a records retention plan. The plan shall include a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records. Such plan shall be provided to the superintendent upon request. The insurer shall certify the accuracy of any records that are provided in accordance with its record retention plan."

The examiner requested a copy of the Company's record retention plan. In its response the Company provided a copy of its Record Retention Plan.

The Application section of the Record Retention Plan states:

> **"**This Records Retention Policy ("Policy") applies to the Underwriting Department and Claim Department of the National Indemnity Company Primary Group ("NICO Primary Group"). As used herein, the NICO Primary Group means those companies with administrative offices at 3024 Harney Street, Omaha, Nebraska, issuing policies of insurance underwritten at 3024 Harney Street, Omaha, Nebraska. This Policy applies only to Records of the NICO Primary Group Underwriting Department and Claim Department relating to those insurance policies assigned policy numbers beginning with 70 through 79, inclusive, and claims associated therewith."

The review of the entire document provided as the Company's Record Retention Plan revealed that the plan did not include records relating to the Company.

The plan failed to include an index of the records that are required to be maintained under the Regulation, as well as a description of the types of records being maintained, the method of retention (i.e. media - microfiche, imaging software, hard copy, etc.) and the safeguards established to prevent alteration of the records.

The Company violated Section 243.3(c) of Department Regulation No. 152 when it failed to establish and maintain a record retention plan that included a description of the types of records being retained, the method of retention, and the safeguards established to prevent alteration of the records.

The examiner recommends that the Company establish a formal written record retention plan, created specifically for the Company, and have such plan reviewed and approved by its board of directors

10. 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(c) of the New York Insurance Law by failing to obtain the Superintendent's prior approval for the $1,000,000 surplus contribution. The Company obtained the Superintendent's prior approval for subsequent surplus contributions. (See item 3A of this report)
B	The examiner recommends that the Company obtain prior approval from the superintendent before entering into any transactions with a member of its holding company system, which exceeds 5% of its admitted assets at last year-end, as required by Section 1505(c) of the New York Insurance Law. The Company obtained the Superintendent's prior approval before entering into any transactions with a member of its holding company system, which exceeded 5% of its admitted assets at last year-end.
C	The Company violated Section 1313(d) of the New York Insurance Law by stating in the Corporate Guarantee form letter and on their website that the Company's policies are guaranteed wholly or partly by BHLN. The examiner did not note any references to guarantees from BHLN on its policies.
D	The examiner recommends that the Company remove the BHLN Corporate Guarantee form letter from its annuity contract package it distributes to its annuitants in New York. The examiner did not note any references to guarantees from BHLN on its policies.
E	The examiner recommends that the Company remove any language from its website advertisements/public announcements that states implicitly or explicitly that the Company's annuity contracts are guaranteed by BHLN or any other entity. The Company's website was discontinued in 2012. The Company no longer advertises its products to the public.

11. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of election with the Superintendent at least ten days before the day of such election.	9
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Respectfully submitted,

/s/
Waheed Zafer, CFE
Examiner In Charge

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

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

/s/
Waheed Zafer, CFE

Subscribed and sworn to before me

this__________ day of ___________________

Respectfully submitted,

______________/s/_____________
Ijeoma Ndika
Examiner In Charge

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

Ijeoma Ndika, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

______________/s/_____________
Ijeoma Ndika
ner Examiner In Charge

Subscribed and sworn to before me

this__________ day of ____________________