



**FINANCIAL CONDITION REPORT ON EXAMINATION**

**OF THE**

**FIRST SECURITY BENEFIT LIFE INSURANCE AND ANNUITY**

**COMPANY OF NEW YORK**

**AS OF DECEMBER 31, 2020**

**EXAMINER:**

**EMILIE BRADY, CFE**

**DATE OF REPORT:**

**JUNE 27, 2022**

## TABLE OF CONTENTS

| <u>ITEM</u> |                                     | <u>PAGE NO.</u> |
|-------------|-------------------------------------|-----------------|
| 1.          | Scope of examination                | 2               |
| 2.          | Description of Company              | 4               |
|             | A. History                          | 4               |
|             | B. Holding company                  | 4               |
|             | C. Organizational chart             | 5               |
|             | D. Service agreements               | 6               |
|             | E. Management                       | 6               |
| 3.          | Territory and plan of operations    | 9               |
|             | A. Statutory and special deposits   | 9               |
|             | B. Direct operations                | 9               |
|             | C. Reinsurance                      | 9               |
| 4.          | Financial statements                | 11              |
|             | A. Independent accountants          | 11              |
|             | B. Net admitted assets              | 11              |
|             | C. Liabilities, capital and surplus | 12              |
|             | D. Condensed summary of operations  | 13              |
|             | E. Capital and surplus account      | 14              |

---

KATHY HOCHUL  
Governor



---

ADRIENNE A. HARRIS  
Superintendent

June 28, 2022

Honorable Adrienne A. Harris  
Superintendent of Financial Services  
New York, New York 10004

Dear Adrienne A. Harris:

In accordance with instructions contained in Appointment No. 32246, dated May 6, 2021, and annexed hereto, an examination has been made into the condition and affairs of First Security Benefit Life Insurance and Annuity Company of New York, hereinafter referred to as "the Company". The Company's home office is located at 121 State Street, Albany, NY 12207. Due to the COVID-19 pandemic, the examination was conducted remotely.

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. SCOPE OF EXAMINATION

The examination of the Company was a full-scope examination as defined in the National Association of Insurance Commissioners' ("NAIC") *Financial Condition Examiners Handbook, 2021 Edition* (the "Handbook"). The examination covers the three-year period from January 1, 2018, through December 31, 2020. 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, 2020, but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

The examination was conducted on a risk-focused basis in accordance with the provisions of the Handbook published by the 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.

The examination was called by the Kansas Insurance Department in accordance with the Handbook guidelines, through the NAIC's Financial Examination Electronic Tracking System. The examination was conducted in conjunction with the examination of the Company's affiliate, Security Benefit Life Insurance Company ("SBLIC"). Kansas served as the lead state with participation from New York. Since the lead and participating states are accredited by the NAIC, the states deemed it appropriate to rely on each other's work.

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 2018 through 2020, by the accounting firm of Ernst & Young LLP (“E&Y”). The Company received unqualified opinions for all years under examination. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company utilizes the audit department of its parent, SBL Holdings, Inc. (“SBLH”), that includes internal controls over financial reporting which is given the task of assessing the internal control structure and compliance with the Model Audit Rule (“MAR”). Where applicable, MAR workpapers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the prior report on examination which did not contain any violations, recommendations, or comments.

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.

## 2. DESCRIPTION OF COMPANY

### A. History

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

On September 8, 1995, the Company merged with Pioneer National Life Insurance Company (“PNL”), a stock life insurance company organized under the laws of the State of Kansas. As of that date, PNL ceased to exist and First Security Benefit Life Insurance and Annuity Company of New York became the surviving company. In August 2006, SBG merged with and into Security Benefit Corporation (“SBC”).

In February 2010, Security Benefit Mutual Holding Company (“SBMHC”), the previous ultimate parent of the Company, entered into a definitive agreement with Guggenheim SBC Holdings, LLC (the “Purchaser”) whereby the Purchaser would purchase all of the outstanding capital stock of SBC, the Company’s parent, and SBMHC would demutualize and be liquidated. All regulatory approvals were received and the transaction closed on July 30, 2010.

On January 31, 2017, SBC contributed all of the outstanding stock of the Company to SBLH and became the Company’s immediate parent.

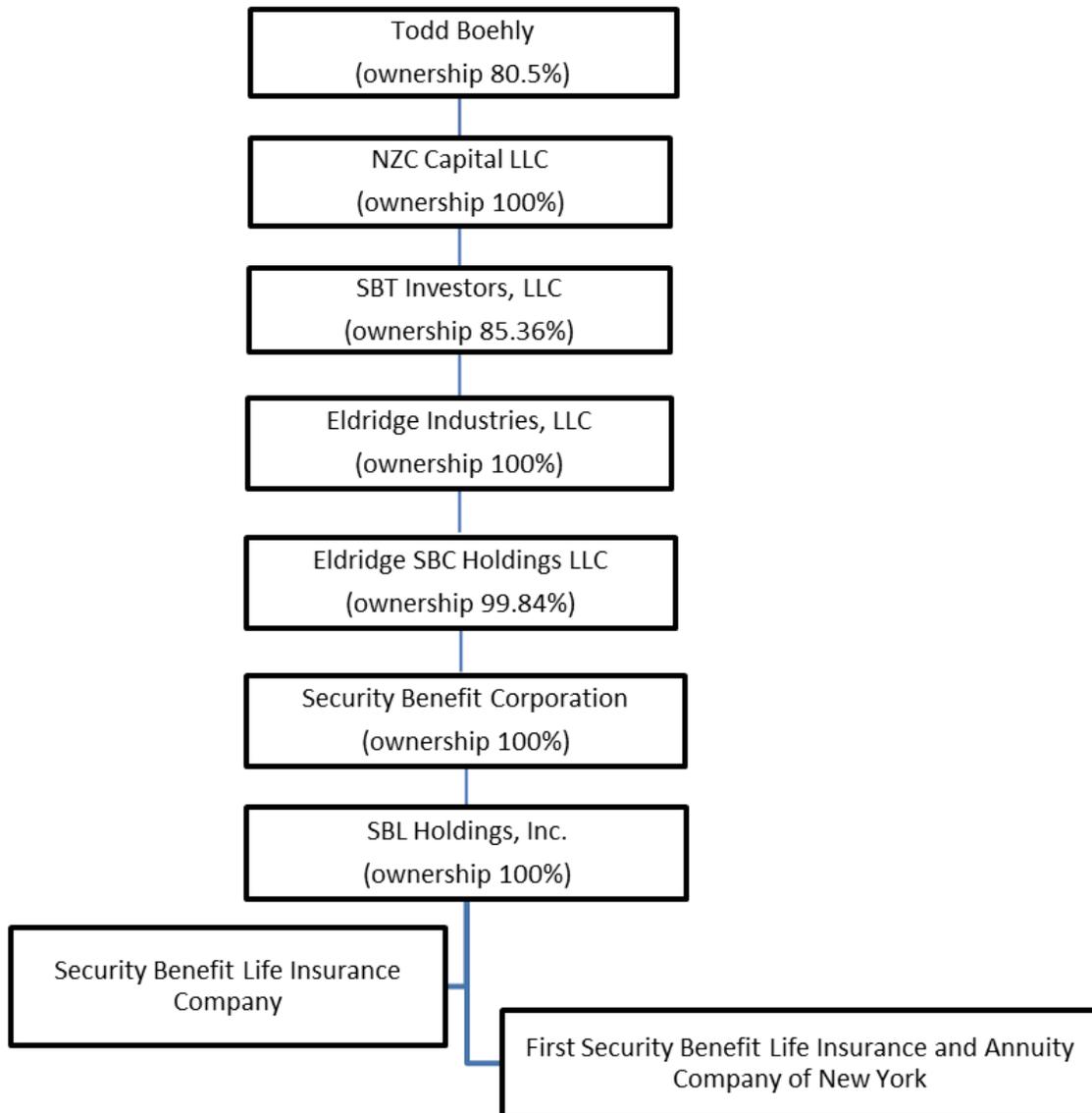
As of December 31, 2020, the Company’s common capital stock and gross paid in and contributed surplus was \$2,000,000 and \$33,600,00, respectively.

### B. Holding Company

The Company is wholly owned by SBLH, a holding company domiciled in the state of Kansas. Effective January 2020, SBLH converted from a limited liability company to a corporation and is a majority-owned subsidiary of Eldridge Industries, LLC. Effective January 31, 2017, the Company became controlled by Mr. Todd L. Boehly.

### C. Organizational Chart

A simplified organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2020, as follows:



#### D. Service Agreements

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

| Type of Agreement and Department File Number                   | Effective Date                          | Provider(s) of Service(s)  | Recipient(s) of Service(s) | Specific Service(s) Covered   | Income/ (Expense)* For Each Year of the Examination          |
|--|---|----------------------------|----------------------------|---|--|
| Administrative Services Agreement<br>File no. 34730 and 34730A | 01/01/2006<br><br>Amended<br>12/16/2019 | SBLIC                      | The Company                | Underwriting, claims, actuarial   | 2020 \$ (367,440)<br>2019 \$ (732,838)<br>2018 \$(1,372,917) |
| Administrative Services Agreement<br>File no. 33228 and 33228A | 01/01/2005<br><br>Amended<br>12/16/2019 | SBC                        | The Company                | Accounting, marketing, advertising, functional support, and disaster recovery | 2020 \$(379,905)<br>2019 \$ 0<br>2018 \$ (31,118)            |
| Distribution Agreement<br>File no. 30355 and 30355A            | 07/01/2002<br><br>Amended<br>12/16/2019 | Security Distributors, LLC | The Company                | Distribution of variable annuity contracts                                    | 2020 \$ 0<br>2019 \$ 0<br>2018 \$66                          |

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

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

#### E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 9 and not more than 21 directors. The number of directors shall be increased to not less than 13 members within one year following the end of the calendar year in which the Company's admitted assets exceed \$1.5 billion. At least one-third of the directors, but not less than four shall not be officers or employees of the Corporation or its affiliates. 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, 2020, the board of directors consisted of ten members. Meetings of the board are held in in the first quarter and third quarter.

The 10 board members and their principal business affiliation as of December 31, 2020, were as follows:

| <u>Name and Residence</u>                    | <u>Principal Business Affiliation</u>  | <u>Year First Elected</u> |
|--|--|---------------------------|
| Stephen A. Crane*<br>New York, New York      | Self-employed<br>Insurance and reinsurance consultant  | 1999                      |
| Wayne S. Diviney*<br>Clifton, Virginia       | Chief Financial Officer and Managing Member<br>The Sail Time Group, LLC  | 2007                      |
| John F. Guyot<br>Lawrence, Kansas            | Senior Vice President, General Counsel, and<br>Secretary<br>First Security Benefit Life Insurance and Annuity<br>Company of New York                             | 2008                      |
| Stephen R. Herbert*<br>Pound Ridge, New York | Partner<br>Locke & Herbert LLP   | 1998                      |
| Michael P. Kiley<br>Osprey, Florida          | Chairman and Chief Executive Officer<br>First Security Benefit Life Insurance and Annuity<br>Company of New York   | 2010                      |
| Roger S. Offermann<br>Topeka, Kansas         | Senior Vice President and Chief Actuary<br>First Security Benefit Life Insurance and Annuity<br>Company of New York  | 2012                      |
| Barry G. Ward<br>Lawrence, Kansas            | Senior Vice President, Chief Financial Officer,<br>Chief Risk Officer, and Treasurer<br>First Security Benefit Life Insurance and Annuity<br>Company of New York | 2013                      |
| Katherine P. White*<br>New York, New York    | Adjunct Professor of Law<br>Fordham University of Law  | 1994                      |
| Joseph W. Wittrock<br>Topeka, Kansas         | Senior Vice President and Chief Investment Officer<br>First Security Benefit Life Insurance and Annuity<br>Company of New York                                   | 2017                      |
| Douglas G. Wolff<br>Lawrence, Kansas         | President<br>First Security Benefit Life Insurance and Annuity<br>Company of New York  | 2010                      |

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

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, 2020:

| <u>Name</u>        | <u>Title</u>  |
|--------------------|---|
| Douglas G. Wolff   | President   |
| Michael P. Kiley   | Chief Executive Officer and Chair   |
| John F. Guyot      | Senior Vice President, General Counsel and Secretary                                |
| Barry G. Ward      | Senior Vice President, Chief Financial Officer,<br>Chief Risk Officer and Treasurer |
| Joseph W. Wittrock | Senior Vice President and Chief Investment Officer                                  |
| Roger S. Offermann | Senior Vice President and Chief Actuary   |
| Peggy S. Avey*     | Chief Administrative Officer, Assistant Secretary and<br>Second Vice President      |

\* Designated consumer services officer per Section 216.4(c) of 11 NYCRR 216 (Insurance Regulation 64)

### 3. TERRITORY AND PLAN OF OPERATIONS

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

The Company is licensed to transact business in two states, namely New York and Kansas. In 2020, all non-participating individual flexible premium deferred variable annuity sales were received from New York. Policies are written on a non-participating basis.

#### A. Statutory and Special Deposits

As of December 31, 2020, the Company had \$420,389 (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.

#### B. Direct Operations

The Company's main business segment is non-participating individual flexible premium deferred annuities. Each of the Company's annuity products are offered solely in the state of New York in both qualified and non-qualified markets. Qualified markets consist of retirement plans qualified under Sections 403(b), 408(b) and 408A of the Internal Revenue Code ("IRC"), and non-qualified markets consist of individual retirement plans that are not qualified under the foregoing or similar IRC Sections. Tax-qualified products constituted 42% of annuity sales, while the non-qualified sales made up 58% for the year ending December 31, 2020.

The Company's sales of its annuity products were marketed through independent broker-dealers and agencies distribution system. Security Distributors, LLC, an affiliate of the Company, has a service agreement to distribute the EliteDesigns Variable Annuity product.

The Company's agency operations are conducted by independent agencies with direct marketing.

#### C. Reinsurance

As of December 31, 2020, the Company had reinsurance treaties in effect with three unauthorized reinsurers. Reinsurance is provided on an automatic and facultative basis. The maximum retention limit for life and accident and health business is \$0. Reserve credit taken for

reinsurance ceded to unauthorized companies, totaling \$241,168,784, was supported by funds withheld.

The total face amount of life insurance ceded as of December 31, 2020, was \$87,707, which represents 100% of the total face amount of life insurance in force.

#### 4. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2020, as contained in the Company's 2020 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, 2020 filed annual statement.

##### A. Independent Accountants

The firm of E&Y was retained by the Company to audit the Company's combined statutory basis statements of financial position of the Company as of December 31<sup>st</sup> 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.

E&Y 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   | \$341,164,932        |
| Stocks:   |                      |
| Preferred stocks  | 3,873,324            |
| Cash, cash equivalents and short-term investments                       | 17,897,010           |
| Contract loans  | 313,444              |
| Other invested assets   | 1,852,824            |
| Receivable for securities   | 37,839               |
| Investment income due and accrued                                       | 1,989,380            |
| Reinsurance:  |                      |
| Other amounts receivable under reinsurance contracts                    | 64,691               |
| Net deferred tax asset  | 694,614              |
| Receivables from parent, subsidiaries and affiliates                    | 78                   |
| Miscellaneous assets  | 159,356              |
| From separate accounts, segregated accounts and protected cell accounts | <u>\$168,747,967</u> |
| Total admitted assets   | <u>\$536,795,459</u> |

C. Liabilities, Capital and Surplus

|   |                          |
|---|--------------------------|
| Aggregate reserve for life policies and contracts                       | \$ 83,282,638            |
| Contract claims:  |                          |
| Life  | 52,651                   |
| Contract liabilities not included elsewhere:                            |                          |
| Interest maintenance reserve  | 560,799                  |
| Commissions to agents due or accrued                                    | 3,518                    |
| General expenses due or accrued   | 508,096                  |
| Transfers to separate accounts due or accrued                           | (1,814,599)              |
| Taxes, licenses and fees due or accrued, excluding federal income taxes | 238,009                  |
| Current federal and foreign income taxes                                | 502,047                  |
| Amounts withheld or retained by company as agent or trustee             | 2,432                    |
| Miscellaneous liabilities:  |                          |
| Asset valuation reserve   | 2,246,655                |
| Funds held under reinsurance treaties with unauthorized reinsurers      | 245,595,054              |
| Payable to parent, subsidiaries and affiliates                          | 285,057                  |
| Payable for Securities  | 837,261                  |
| From Separate Accounts statement  | <u>168,747,967</u>       |
| <br>Total liabilities   | <br><u>\$501,047,585</u> |
| <br>Common capital stock  | <br>2,000,000            |
| Gross paid in and contributed surplus                                   | 33,600,000               |
| Unassigned funds (surplus)  | <u>147,874</u>           |
| Surplus   | \$ <u>33,747,874</u>     |
| Total capital and surplus   | \$ <u>35,747,874</u>     |
| <br>Total liabilities, capital and surplus                              | <br><u>\$536,795,459</u> |

D. Condensed Summary of Operations

|  | <u>2018</u>              | <u>2019</u>              | <u>2020</u>              |
|--|--------------------------|--------------------------|--------------------------|
| Premiums and considerations  | \$ 18,251,910            | \$ 9,165,572             | \$ 7,616,029             |
| Investment income  | 8,740,058                | 5,367,973                | 4,207,880                |
| Commissions and reserve adjustments on<br>reinsurance ceded              | 892,282                  | 861,143                  | 846,971                  |
| Miscellaneous income   | <u>2,155,564</u>         | <u>2,207,848</u>         | <u>2,084,643</u>         |
| <br>Total income   | <br>\$ <u>30,039,814</u> | <br>\$ <u>17,602,536</u> | <br>\$ <u>14,755,523</u> |
| Benefit payments   | \$ 165,188,373           | \$ 96,870,124            | \$25,917,742             |
| Increase in reserves   | (142,126,879)            | (76,305,528)             | (9,395,060)              |
| Commissions  | 1,792,871                | 1,448,373                | 1,365,534                |
| General expenses and taxes   | 2,680,916                | 1,495,216                | 1,177,507                |
| Net transfers to (from) Separate Accounts                                | 832,143                  | (7,352,840)              | (7,397,336)              |
| Miscellaneous deductions   | <u>147,636</u>           | <u>63,163</u>            | <u>20,587</u>            |
| <br>Total deductions   | <br>\$ <u>28,515,060</u> | <br>\$ <u>16,218,508</u> | <br>\$ <u>11,688,974</u> |
| <br>Net gain   | <br>\$ 1,524,754         | <br>\$ 1,384,028         | <br>\$ 3,066,549         |
| Federal and foreign income taxes incurred                                | <u>(1,370,729)</u>       | <u>239,429</u>           | <u>400,105</u>           |
| <br>Net gain (loss) from operations<br>before net realized capital gains | <br>\$ 2,895,483         | <br>\$ 1,144,599         | <br>\$ 2,666,444         |
| Net realized capital gains (losses)                                      | <u>158,832</u>           | <u>(16,063)</u>          | <u>(226,296)</u>         |
| <br>Net income   | <br>\$ <u>3,054,315</u>  | <br>\$ <u>1,128,536</u>  | <br>\$ <u>2,440,148</u>  |

E. Capital and Surplus Account

|   | <u>2018</u>          | <u>2019</u>          | <u>2020</u>          |
|---|----------------------|----------------------|----------------------|
| Capital and surplus, December 31, prior year    | \$ <u>30,232,802</u> | \$ <u>32,073,570</u> | \$ <u>33,539,011</u> |
| Net income                                      | \$ 3,054,315         | \$ 1,128,536         | \$ 2,440,148         |
| Change in net unrealized capital gains (losses) | 37,433               | (2,541)              | 4,220                |
| Change in net deferred income tax               | (1,892,934)          | 10,980               | 52,460               |
| Change in non-admitted assets and related items | 255,523              | 4,448                | 15,972               |
| Change in reserve valuation basis               | 0                    | 0                    | (204,467)            |
| Change in asset valuation reserve               | <u>386,431</u>       | <u>324,018</u>       | <u>(99,470)</u>      |
| Net change in capital and surplus for the year  | \$ <u>1,840,769</u>  | \$ <u>1,465,441</u>  | \$ <u>2,208,863</u>  |
| Capital and surplus, December 31, current year  | <u>\$32,073,570</u>  | <u>\$33,539,011</u>  | <u>\$35,747,874</u>  |

Respectfully submitted,

*Emilie Brady*

Emilie Brady, CFE

Noble Consulting Services, Inc.

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

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

*Emilie Brady*  
Emilie Brady

Subscribed and sworn to before me  
this 28<sup>th</sup> day of June, 2022  
Audrey Hall

AUDREY HALL  
Notary Public, State of New York  
No. 01HA6274900  
Qualified in Kings County  
Commission Expires January 28, 2025



**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, **LINDA A. LACEWELL**, 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:

**EMILIE BRADY**  
**(NOBLE CONSULTING SERVICES, INC.)**

as a proper person to examine the affairs of the

**FIRST SECURITY BENEFIT LIFE AND ANNUITY COMPANY OF NEW YORK**

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 6th day of May, 2021

**LINDA A. LACEWELL**  
Superintendent of Financial Services

By: *Mark McLeod*

\_\_\_\_\_  
**MARK MCLEOD**  
DEPUTY CHIEF - LIFE BUREAU

