



**FINANCIAL CONDITION REPORT ON EXAMINATION**

**OF THE**

**JEFFERSON NATIONAL LIFE INSURANCE COMPANY**

**OF**

**NEW YORK**

**AS OF DECEMBER 31, 2021**

**EXAMINER:**

**NADINE TREON, CFE, CPA**

**DATE OF REPORT:**

**MAY 31, 2023**

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

June 15, 2023

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. 32430, dated July 21, 2022, and annexed hereto, an examination has been made into the condition and affairs of Jefferson National Life Insurance Company of New York, hereinafter referred to as “the Company”. The Company’s home office is located at One Battery Park Plaza, 30<sup>th</sup> Floor, New York, NY 10004 and its administrative office is located at 10350 Ormsby Park Place, Louisville, KY 40223. 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. EXECUTIVE SUMMARY

The material violations, recommendation, and comment contained in this report are summarized below.

- The Company violated Section 1201(a)(5)(B)(vi) of the New York Insurance Law when it failed to have at least one member of its ultimate parent corporation board of directors as a resident of New York State. (See item 3E of this report.)
- The Company violated Section 1202(b)(1) of the New York Insurance Law when it failed to ensure that Company's own board did not have at least one-third of the directors and not less than one-third of the members of each committee that are not officers or employees of the Company. (See item 3E of this report.)
- The examiner recommends that the Company's board, whether it be the ultimate parent corporation's board or the Company's own board, include the required number of independent directors as required by Section 1202(b)(1) as well as the required New York resident board member as required by Section 1201(a)(5)(B)(vi) of the New York Insurance Law. (See item 3E of this report.)
- The Company's Jurat page must include the Company's directors in compliance with the aforementioned sections of the New York Insurance Law. (See item 3E of this report.)

## 2. SCOPE OF EXAMINATION

The examination of the Company was a full-scope examination as defined in the National Association of Insurance Commissioners (“NAIC’s”) *Financial Condition Examiners Handbook, 2022 Edition* (the “Handbook”). The examination covers the five-year period from January 1, 2017, through December 31, 2021. 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, 2021, 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 conducted and coordinated as part of the Nationwide Group examination. Ohio Department of Insurance served as the lead state with participation from the states of Arizona, Iowa, Michigan, New Jersey, New York, Texas, and Vermont, with a total of 40 companies being examined. Since the lead and participating states are all accredited by the NAIC, all 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 2017 through 2021, by the accounting firm of KPMG LLP (“KPMG”). The Company received an unqualified opinion in all years. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company’s indirect parent, Nationwide Mutual Insurance Company (“Nationwide”), has an internal audit department which was given the task of assessing the internal control structure and ensuring compliance with the Model Audit Rule (“MAR”) for the Company and its affiliates. 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 financial condition 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.

### 3. DESCRIPTION OF COMPANY

#### A. History

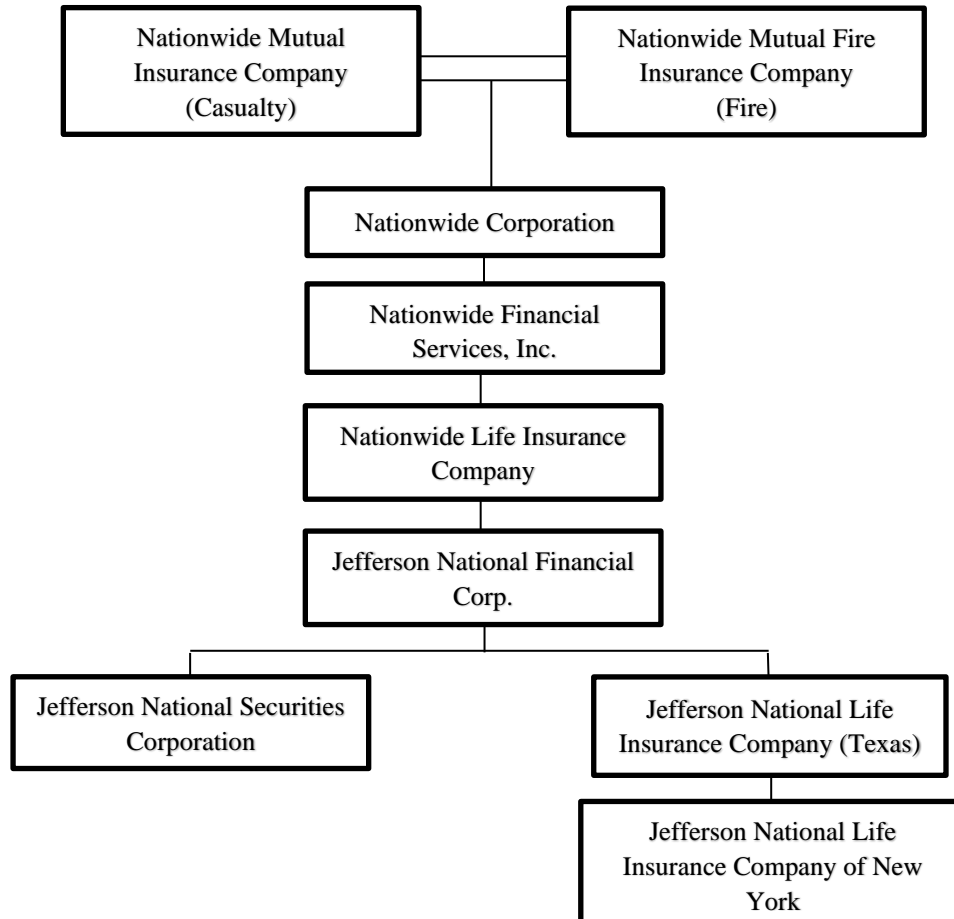
The Company was incorporated as a stock life insurance company under the laws of the State of New York on June 12, 2014, was licensed on April 1, 2015 and commenced business on April 17, 2015. Initial resources of \$7,648,883, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$5,648,883, were provided through the sale of 2,000,000 shares of common stock (with a par value of \$1 each) for \$3.82 per share.

#### B. Holding Company

The Company is a wholly owned subsidiary of Jefferson National Life Insurance Company, a Texas life insurance company. As of December 31, 2021, the ultimate parents of the Company are Nationwide Mutual Insurance Company (Casualty) and Nationwide Mutual Fire Insurance Company (Fire), both of which are Ohio holding companies.

### C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2021, follows:





#### D. Service Agreements

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

Type of Agreement	Effective Date	Provider of Services	Recipient of Services	Specific Service(s) Covered	Expense* For Each Year of the Examination
Distribution Agreement File No. 49434	04/01/2015	Jefferson National Securities Corporation (“JNSC”)	The Company	JNSC acts as distributor for the Company’s variable contracts	2017 \$(52,122) 2018 \$(19,388) 2019 \$(35,376) 2020 \$(33,317) 2021 \$(90,196)
Administrative Services Agreement** File No. 49434	04/01/2015	Jefferson National Financial Corp.	The Company	General and administrative services	2017 \$(363,805) 2018 \$(612,579)
Group Selling Agreement*** File No. 49434	04/17/2015	JNSC	The Company	JNSC acts as selling broker dealer in case of variable contracts issued by the Company	2017 \$0 2018 \$0 2019 \$0 2020 \$0 2021 \$0
Administrative Services Agreement** File No. 57826	07/01/2019	Nationwide Mutual Insurance Company (“NMIC”)	The Company	Administrative and operational services	2019 \$(416,652) 2020 \$(668,778) 2021 \$(805,977)
Investment Management Agreement File No. 58531	01/08/2020	Nationwide Asset Management, LLC	The Company	Discretionary investment management services	2020 \$(2,636) 2021 \$(5,249)

\* Amount of Expense Incurred by the Company

\*\* Agreement was in effect from April 1, 2015, until June 30, 2019 when it was superseded by the Administrative Services Agreement between the Company and NMIC effective July 1, 2019. The 2019 amount in the table above represents the full year of expenses that the Company paid under these agreements.

\*\*\* The Group Selling Agreement does not have a specific expense charge associated with it as it represents the “contractual basis” for how JNSC can sell Company products under the Distribution Agreement. This agreement has not been utilized since July 1, 2020.

### E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 7 and not more than 21 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in August of each year. As of December 31, 2021, the board of directors consisted of seven members. Meetings of the board are held at such times as may be determined by the directors. The seven board members and their principal business affiliation, as of December 31, 2021, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
John L. Carter New Albany, OH	President and Chief Operating Officer Nationwide Financial Services Inc.	2019
Steven A. Ginnan Upper Arlington, OH	Senior Vice President, Chief Financial Officer Nationwide Mutual Insurance Company	2018
Craig A. Hawley Simpsonsville, KY	President Jefferson National Life Insurance Company of New York	2017
Eric S. Henderson Delaware, OH	Senior Vice President, Nationwide Annuity Nationwide Mutual Insurance Company	2019
John S. Lopes New York, NY	Senior Vice President, Programs & Alternative Risk Nationwide Mutual Insurance Company	2017
John A. Reese Columbus, OH	Associate Vice President and Treasurer Jefferson National Life Insurance Company of New York	2020
Kaitlin M. Weber Columbus, OH	Vice President, Chief Financial Officer - Individual Products Solutions Annuities Nationwide Mutual Insurance Company	2021

In January 2022, Craig A. Hawley resigned (retired) from the board and was replaced by April L. Vandervort.

In December 2022, April L. Vandervort resigned from the board and was replaced by Stormi Fuller-Napier.

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 1201(a)(5) of the New York Insurance Law states, in part:

“A corporation may be organized and licensed to do an insurance business in this state by taking the following successive steps, subject to applicable requirements of this chapter: . . .

(5)(B) The corporation's proposed charter shall contain: . . .

(vi) the times and manner of electing directors and officers, the manner of filling vacancies, and provision that each director shall be at least eighteen years of age and that at all times a majority shall be citizens and residents of the United States, and that not less than one shall be a resident of this state; . . .”

Section 1202(b)(1) of the New York Insurance Law states, in part:

“Subject to item (v) of subparagraph (B) of paragraph five of subsection (a) of section one thousand two hundred one of this article, not less than one-third of the directors of a domestic stock life insurance company and not less than one-third of the members of each committee of the board of directors of any domestic life insurance company shall be persons who are not officers or employees of such company or of any entity controlling, controlled by, or under common control with such company and who are not beneficial owners of a controlling interest in the voting stock of such company or any such entity. . . .”

The examiner's review of the Company's corporate governance revealed that the Company's board of directors was not made up of at least one-third independent directors. In its response to the examiner's request for information, the Company indicated that the required one-third of independent directors were on the ultimate parent corporation's board. In addition, the Company indicated that the required director who is a resident of New York State is on the Company's own board. The Company takes the view that it can use members of both its own and its ultimate parent corporation's boards in order to meet the legal requirements of Article 12 of the Insurance Law. This is incorrect. Under Section 1202(b)(3) of the New York Insurance Law if a domestic insurer wishes to use the board of its parent corporation, that board must satisfy all of the requirements of the Insurance Law.

Accordingly, the Company violated Section 1201(a)(5)(B)(vi) of the New York Insurance Law when it failed to have at least one member of its ultimate parent corporation board of directors as a resident of New York State.

The Company violated Section 1202(b)(1) of the New York Insurance Law when it failed to ensure that Company's own board did not have at least one-third of the directors and not less than one-third of the members of each committee that are not officers or employees of the Company.

The examiner recommends that the Company's board, whether it be the ultimate parent corporation's board or the Company's own board, include the required number of independent directors as required by Section 1202(b)(1) as well as the required New York resident board member as required by Section 1201(a)(5)(B)(vi) of the New York Insurance Law.

The Company's Jurat page must include the Company's directors in compliance with the aforementioned sections of the New York Insurance Law.

The following is a listing of the principal officers of the Company as of December 31, 2021:

<u>Name</u>	<u>Title</u>
Craig A. Hawley	President
John A. Reese	Associate Vice President and Treasurer
Steven A. Ginnan	Senior Vice President, Chief Financial Officer
April L. Vandervort	Vice President, Individual Product Solutions Operations
James J. Rabenstine	Chief Compliance Officer, Anti-Money Laundering Officer
Denise L. Skingle	Senior Vice President and Secretary
Susan Hatfield*	Associate Vice President, Customer Relations

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

In January 2022, Eric S. Henderson replaced Craig A. Hawley as President.

#### 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. To date, the Company has not engaged in any life insurance business.

The Company is licensed to transact business only in New York. In 2021, 100% annuity considerations were received from New York.

##### A. Statutory and Special Deposits

As of December 31, 2021, the Company had \$200,000 (par value) of United States Treasury Bonds on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company.

##### B. Direct Operations

As of December 31, 2021, the Company wrote only one product, a flat-fee variable annuity product, called Monument Advisor. The Company's net operating results are primarily a function of revenues from policy fees and revenue-sharing fees from mutual funds offered as investment options under Monument Advisor.

Monument Advisor is sold through fee-only and fee-based advisor distribution channels, which are comprised of registered investment advisors and other advisors at regional and independent broker-dealers. The Company also has internal sales representatives who manage relationships with advisors and sales to consumers.

##### C. Reinsurance

As of December 31, 2021, the Company had no reinsurance treaties in effect.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2021, as contained in the Company's 2021 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, 2021 filed annual statement.

### A. Independent Accountants

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

KPMG 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	\$ 3,360,255
Cash, cash equivalents and short-term investments	3,465,820
Investment income due and accrued	4,885
Receivables from parent, subsidiaries and affiliates	472,692
Accrued fees and other assets	180,800
From separate accounts, segregated accounts and protected cell accounts	<u>274,832,187</u>
Total admitted assets	<u>\$282,316,639</u>

C. Liabilities, Capital and Surplus

Liability for deposit-type contracts	\$ 460,031
Contract liabilities not included elsewhere:	
Interest maintenance reserve	37,034
Current federal and foreign income taxes	1,632
Remittances and items not allocated	112,868
Miscellaneous liabilities:	
Asset valuation reserve	1,892
Payable to parent, subsidiaries and affiliates	179,539
Reserve for escheat funds	13,139
From Separate Accounts statement	<u>274,832,187</u>
 Total liabilities	 <u>\$275,638,322</u>
 Common capital stock	 \$ 2,000,000
Gross paid in and contributed surplus	5,648,883
Unassigned funds (surplus)	<u>(970,566)</u>
Surplus	<u>\$ 4,678,317</u>
Total capital and surplus	<u>\$ 6,678,317</u>
 Total liabilities, capital and surplus	 <u>\$282,316,639</u>

D. Condensed Summary of Operations

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Premiums and considerations	\$38,556,399	\$26,739,824	\$36,425,338	\$47,731,019	\$65,556,279
Investment income	134,669	136,892	131,668	108,430	76,296
Miscellaneous income	<u>214,080</u>	<u>156,790</u>	<u>198,315</u>	<u>266,576</u>	<u>396,206</u>
Total income	<u>\$38,905,148</u>	<u>\$27,033,506</u>	<u>\$36,755,321</u>	<u>\$48,106,025</u>	<u>\$66,028,781</u>
Benefit payments	\$ 3,178,718	\$ 6,386,377	\$ 8,306,339	\$12,809,803	\$15,285,213
Commissions	0	3,685	3,835	3,344	2,875
General expenses and taxes	529,940	421,547	217,561	337,931	406,961
Net transfers to (from) Separate Accounts	<u>35,377,648</u>	<u>20,351,348</u>	<u>28,121,543</u>	<u>34,936,777</u>	<u>50,266,073</u>
Total deductions	<u>\$39,086,306</u>	<u>\$27,162,957</u>	<u>\$36,649,278</u>	<u>\$48,087,855</u>	<u>\$65,961,122</u>
Net gain (loss)	\$ (181,158)	\$ (129,451)	\$ 106,043	\$ 18,170	\$ 67,659
Federal and foreign income taxes incurred	<u>149,603</u>	<u>115,468</u>	<u>411</u>	<u>16,888</u>	<u>11,397</u>
Net gain (loss) from operations before net realized capital gains	\$ (330,761)	\$ (244,919)	\$ 105,632	\$ 1,282	\$ 56,262
Net realized capital gains (losses)	<u>0</u>	<u>(16,791)</u>	<u>0</u>	<u>(3,285)</u>	<u>0</u>
Net income	<u>\$ (330,761)</u>	<u>\$ (261,710)</u>	<u>\$ 105,632</u>	<u>\$ (2,003)</u>	<u>\$ 56,262</u>



E. Capital and Surplus Account

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Capital and surplus, December 31, prior year	<u>\$7,098,414</u>	<u>\$6,778,581</u>	<u>\$6,562,176</u>	<u>\$6,712,107</u>	<u>\$6,705,468</u>
Net income (loss)	\$ (330,761)	\$ (261,710)	\$ 105,632	\$ (2,003)	\$ 56,262
Change in net deferred income tax	10,211	108,846	86,468	(275,046)	(147,182)
Change in non-admitted assets and related items	4,515	(64,790)	(44,510)	261,402	0
Change in asset valuation reserve	(3,798)	1,249	2,341	9,008	2,051
Correction of error - tax payments	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>61,718</u>
Net change in capital and surplus for the year	<u>\$ (319,833)</u>	<u>\$ (216,405)</u>	<u>\$ 149,931</u>	<u>\$ (6,639)</u>	<u>\$ (27,151)</u>
Capital and surplus, December 31, current year	<u>\$6,778,581</u>	<u>\$6,562,176</u>	<u>\$6,712,107</u>	<u>\$6,705,468</u>	<u>\$6,678,317</u>

## 6. SUBSEQUENT EVENTS

On January 1, 2023, Nationwide Mutual Fire Insurance Company (Fire) merged into Nationwide Mutual Insurance Company (Casualty). As such, Nationwide Mutual Insurance Company (Casualty) is the ultimate parent corporation as of January 1, 2023.

On November 1, 2022, the Company's Distribution Agreement and Group Selling Agreement with JNSC were terminated. On November 1, 2022, JNSC merged into Nationwide Investment Services Corporation.

## 7. SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1201(a)(5)(B)(vi) of the New York Insurance Law when it failed to have at least one member of its ultimate parent corporation board of directors as a resident of New York State.	9
B	The Company violated Section 1202(b)(1) of the New York Insurance Law when it failed to ensure that Company's own board did not have at least one-third of the directors and not less than one-third of the members of each committee that are not officers or employees of the Company.	10
C	The examiner recommends that the Company's board, whether it be the ultimate parent corporation's board or the Company's own board, include the required number of independent directors as required by Section 1202(b)(1) as well as the required New York resident board member as required by Section 1201(a)(5)(B)(vi) of the New York Insurance Law.	10
D	The Company's Jurat page must include the Company's directors in compliance with the aforementioned sections of the New York Insurance Law.	10

Respectfully submitted,

Nadine Treon

Nadine Treon, CFE, CPA  
Noble Consulting Services, Inc.

STATE OF NORTH CAROLINA    )  
  ) SS:  
COUNTY OF DURHAM         )

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

Nadine Treon

Nadine Treon

Subscribed and sworn to before me

this 30<sup>th</sup> day of May, 2023

Jaqueline Hernandez Mosqueda



Respectfully submitted,

    
/s/  
Christine D. Mavour, CIE, FLMI  
Associate Insurance Examiner

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

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

    
/s/  
Christine D. Mavour

Subscribed and sworn to before me  
this\_\_\_\_\_ day of \_\_\_\_\_

***APPOINTMENT NO. 32430***

***NEW YORK STATE***

***DEPARTMENT OF FINANCIAL SERVICES***

*I, **ADRIENNE A. HARRIS**, 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:*

***NADINE TREON  
(NOBLE CONSULTING SERVICES, INC.)***

*as a proper person to examine the affairs of the*

***JEFFERSON NATIONAL LIFE INSURANCE COMPANY OF NEW YORK***

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

***COMPANY***

*with such other information as she 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 21st day of July, 2022*

***ADRIENNE A. HARRIS***  
*Superintendent of Financial Services*

*By:*

*Mark McLeod*

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

