

# New York Life's Fraudulent Claim that its Whole Life Policies Provide Guaranteed Annual Growth, and What the Regulators Didn't Do About It

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## Executive Summary

New York Life's claim that its whole life policies provide "guaranteed annual growth" is an intentional perversion of the truth in order to induce another to part with something of value. And that, by definition, is fraud. A whole life policy does not provide "guaranteed annual growth" unless the guaranteed investment returns exceed the guaranteed insurance expenses, and for typical whole life policies there are many policy years in which such returns do not exceed such expenses. The ad, in its avoidance of policy costs, follows the age-old pervasive deceptive practices that have characterized the life insurance industry for generations. The ad is also replete with multiple additional problematic aspects, including material omissions and statements contradicting New York Life's actual policy contracts. New York Life's ad is terribly deceptive and irrefutably indefensible.

That New York Life's ad ran in several leading national magazines for nearly two years - its fraud apparently going undetected by both insurance regulators, who no doubt saw it, and by these publications' own quality control and business section editors, some of the publications are in fact known as leading financial publications - should be a clear and strong warning about these organizations' professional competence, genuine knowledge about life insurance, and commitments to enforcing either legal or ethical standards. I recognize that the prior sentence will, at least initially or at first blush, hardly endear me to these possible allies in my efforts to reform the life insurance industry. But such stark truths, I am sorry, must be unequivocally stated and recognized if the public is to grasp the extent of the problems in the life insurance marketplace – a marketplace whose three leading products, life insurance, annuities, and long term care insurance, are all riddled with profound problems of sales misconduct arising from inadequate disclosure.

## **New York Life's Deceptive Advertisements**

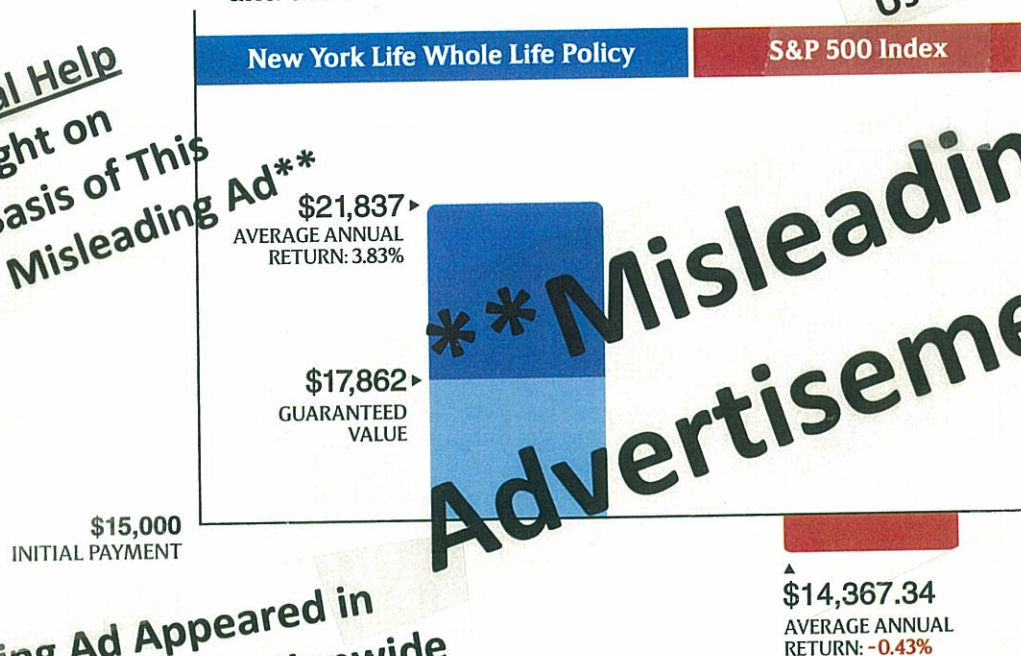
A recent New York Life advertisement in *Kiplinger's Personal Finance* (shown on the next page) compares the insurer's whole life insurance policies with investments. The ad's headline proclaims "Guaranteed growth and a lifetime of protection. No ifs, ands, or recessions." Rhetorically asking "How many of your investments increase in value year after year even during an economic downturn?" the ad answers, "The guaranteed cash value of whole life insurance from New York Life does, as it has every year..." Specifically, the ad shows a \$50,000 whole life policy issued in 2000 to a 35 year old male which guaranteed more than a \$2,800 gain by the policy's 10<sup>th</sup>

# Guaranteed growth and a lifetime of protection. No ifs, ands, or recessions.

**\*\* Beware of Agent's Continued Use of this Ad \*\***

Value After 10 Years  
New York Life \$50,000 Whole Life Policy and the S&P 500 Index (9.30.00 – 9.30.10)

**\*\* Seek Legal Help If You Bought on The Basis of This Misleading Ad \*\***



**\*\* Misleading Advertisement \*\***

**\*\* Misleading Ad Appeared in Leading Publications Nationwide**

**\*\* Be Very Wary Of \*\***

How many of your investments increase in value year after year even during an economic downturn? The guaranteed cash value of whole life insurance from New York Life does, as it has every year for the past 155 years. And in each of those years, New York Life has paid dividends to our policyholders in addition to the returns we guarantee. It's a secure way to help meet your financial goals while providing the protection of life insurance and significant tax-deferred savings. And it's the most selfless gift you can give your family. For more information, talk to your New York Life agent. Or, visit [www.guaranteematter.com](http://www.guaranteematter.com)



THE COMPANY YOU KEEP®

The chart shows the difference in accumulation after ten years' time of the cash value of the whole life product versus the index's rate of return. The whole life policy was purchased in 2000 for a 35-year-old, non-smoking male; \$648 annual premium plus \$14,352 lump sum payment for paid-up additional insurance. Return is net of annual premium obligation. Results may vary depending on age, class, and gender. The 3.83% average annual rate of return and \$21,837 cash value shown reflect the increase in the policy's total cash value. "Guaranteed growth" refers to the sum of the guaranteed cash value of both the base policy and the paid-up additional insurance minus the initial payment (\$2,862). Dividends are not guaranteed. Cash value is accessible through loans, which accrue interest, and surrenders. Both reduce the total cash value and death benefit, and unpaid loan interest could result in the policy lapsing. Cash value of a whole life insurance policy begins accumulating at the end of the first policy year. Guarantees are dependent upon the claims-paying ability of the issuer. This chart also shows the hypothetical historical performance of a \$15,000 investment, which tracks the returns of the S&P 500 index. S&P 500® is a trademark of the McGraw-Hill Companies, Inc. The S&P 500 is an unmanaged index and is widely regarded as the standard for measuring large-cap U.S. stock market performance. Returns reflect reinvestment of all income and capital gain distribution, and an investment cannot be made directly into an index. Past performance is not indicative of future results. In Oregon, the Whole Life policy form number is 208.50.27. The form number for the OPP Rider is 208-330, which is a general form number and not specific to the state of Oregon. (Exp. 1/11) © 2010 New York Life Insurance Company, 51 Madison Avenue, New York, NY 10010