



STATE OF NEW YORK INSURANCE DEPARTMENT  
REPORT ON EXAMINATION  
OF  
THE INDEPENDENT ORDER OF FORESTERS

CONDITION:

DECEMBER 31, 2005

DATE OF REPORT:

JULY 7, 2006

STATE OF NEW YORK INSURANCE DEPARTMENT

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EXAMINER:

MARK A. MCLEOD

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

George E. Pataki  
Governor

Howard Mills  
Superintendent

July 7, 2006

Honorable Howard Mills  
Superintendent of Insurance  
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22440, dated December 6, 2005 and annexed hereto, an examination has been made into the condition and affairs of The United States Branch of The Independent Order of Foresters, hereinafter referred to as "the Society," at its home office located at 789 Don Mills Road, Don Mills, Ontario, Canada.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

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

## 1. EXECUTIVE SUMMARY

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Society's financial condition as presented in its financial statements contained in the December 31, 2005 filed annual statement. (See item 5 of this report)

The Society violated Section 1411(a) of the New York Insurance Law by failing to have the board of directors or a committee of the board of directors, authorize or approve the investments made by the Society during the examination period. (See item 3B of this report)

The Society violated Section 3209(d)(7) of the New York Insurance Law by failing to disclose, in the preliminary information provided in writing to prospective purchasers of term certificates, that following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid. (See item 6A of this report)

The Society violated Section 3209(d)(6) of the New York Insurance Law by failing to disclose the life insurance cost indexes and the equivalent level annual dividends at the end of the tenth and twentieth policy years or at the end of the premium-paying period, if earlier, in the preliminary information provided in writing to prospective purchasers of term certificates. (See item 6A of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2002. This examination covers the period from January 1, 2003 through December 31, 2005. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2005 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, 2005 to determine whether the Society's 2005 filed annual statement fairly presents its financial condition. The examiner reviewed the Society'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:

- Society history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Officers' and employees' welfare and pension plans
- Territory and plan of operation
- Market conduct activities
- Growth of Society
- Business in force by states
- Mortality and loss experience
- Reinsurance
- Accounts and records
- Financial statements

The examiner reviewed the corrective actions taken by the Society with respect to the violations and recommendation 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 SOCIETY

#### A. History

The Society's origin traces back to a reincorporation under the name of the Right Worthy High Court of The Independent Order of Foresters, in Ontario in 1881.

The Society was reincorporated in 1889 as a federal corporation by an act of the Canadian Parliament and has continued to be a federal corporation under Canadian law. In 1890, the Society received a license from the State of New York to conduct business in the United States as an alien fraternal benefit society. In 1913, the Society's name was changed to The Independent Order of Foresters. Since 1926, the following societies have been merged into the Society:

<u>Year</u>	<u>Name of Society</u>
1926	The Ancient Order of the United Workmen of Ontario
1926	The United States branch of the Canadian Home Circles
1931	Royal Templars of Temperance
1931	Modern Brotherhood of America
1952	Catholic Mutual Benefit Organization
1971	The Royal Clan Order of Scottish Clans
1971	The Canadian Business of Modern Woodmen of America
1992	Canadian Foresters Life Insurance Society

#### B. Management

The Society's by-laws provide that the board of directors shall be comprised of the International Fraternal President, the President and Chief Executive Officer, ex officio and 13 officers elected by the International Assembly, one of whom is designated the International Fraternal Vice president. If a board member dies, resigns, or becomes unable to continue in office, the other board members may elect a voting member of the Society to fill the vacancy. The new board member will remain in office until the next regular meeting of the International Assembly. As of December 31, 2005, the board of directors consisted of 14 members. Meetings of the board are held at least quarterly.

The 14 board members and their principal business affiliation, as of December 31, 2005, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Bernard E. Bloom* Southampton, Hants United Kingdom	Sole Proprietor Insurance Consulting	2000
James R. Daugherty* Phoenix, AZ	Professor Glendale Community College	2005
William B. Foster Bettendorf, IA	Insurance Executive	1997
Richard M. Freeborough* Oakville, ON	Retired Chartered Accountant	2005
Patrick W. Kenny* West Hartford, CT	President and Chief Executive Officer International Insurance Society	1997
Louise L. McCormick* Bloomfield, CT	Retired Executive	2005
George S. Mohacsi Etobicoke, ON	President and Chief Executive Officer The United States Branch of The Independent Order of Foresters	2005
Barbara J. McDougall* Toronto, Ontario	Senior Adviser Aird and Berlis	1998
Christopher H. McElvaine* Kingston, ON	Retired Actuary	2005
Kashmir N. Manchuk* Hamilton, ON	Chartered Accountant	2005
John P. Meyerholz* Short Hills, NJ	Retired Attorney	2005
E. Irene Miles* Gilbert, AZ	International Fraternal Vice President	2001

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
David E. Morrison* Winnipeg, Manitoba	Retired Actuary	2005
W. Ross Walker* Toronto, Ontario	Retired Chairman and CEO KPMG	1997

\* Not affiliated with the Society

Dean Francey was elected to the board in June 2005, increasing the number of directors to 15. Mr. Francey passed away in September 2005 and was replaced by Glenn K. Reid in February 2006.

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 Society as of December 31, 2005:

<u>Name</u>	<u>Title</u>
George S. Mohacsi	President and Chief Executive Officer
Lynn J. Haight	Chief Operating Officer and Chief Financial Officer
Suanne M. Nielsen	Senior Vice President, Human Resources and Communications
Paul M. Winokur	Senior Vice President and Chief Actuary
Christopher H. Pinkerton	Senior Vice President, Marketing
Nicholas J. Di Renzo	Senior Vice President, North American Sales
J. Stephen McDonald	Vice President, Controller and Executive Treasurer
Katharine E. Rounthwaite	Vice President, General Counsel and Executive Secretary

In March, 2006, Sharon T. Giffen was elected Senior Vice President, Actuarial and Gail D. Morris was elected Senior Vice President, Service Delivery.

As of December 31, 2005, Robert G. Clint was the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64. Mr. Clint resigned in June, 2006 and was replaced by Katharine E. Rounthwaite on a temporary basis until a permanent replacement is found.

Section 1411(a) of the New York Insurance Law states:

“No domestic insurer shall make any loan or investment, except as provided in subsection (h) hereof, unless authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investment or loan. The committee's minutes shall be recorded and a report submitted to the board of directors at its next meeting.”

The Society did not have the board of directors or any committee of the board of directors approve or authorize the investments of the Society during the examination period.

The Society violated Section 1411(a) of the New York Insurance Law by failing to have the board of directors or a committee of the board of directors, authorize or approve the investments made by the Society during the examination period.

### C. Territory and Plan of Operation

The Society 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 Society is licensed to transact business in the District of Columbia and all states except Vermont. In 2005, 43% of annuity considerations, 20% of life premiums, 24% of deposit type funds and 23% of accident and health premiums were received from California; 0.2% of annuity considerations, 4.6% of life premiums, 2.8% of deposit type funds and 2.4% of accident and health premiums were received from New York. Certificates are written on a participating basis.

The Society's agency operations had been conducted on branch office basis using financial representatives, focusing on the middle-income market. Over the past several years the Society has been rebuilding its field force with a highly trained field staff. Canadian and United States marketing efforts were also combined, concentrating sales, marketing and community investment resources into fewer and larger regional markets to maximize effectiveness. In addition, the Society introduced a change in their agent compensation plan. These efforts resulted in agent recruitment, retention and productivity that were below expectations. The Society determined that continuing this strategy would yield only incremental improvement in their major problem areas which include: low sales, shrinking and aging membership, high expense overruns, and consumption of surplus. The Society is now developing a new strategy

which moves from a distribution approach to a product development and marketing focus. Products will become the prime area of focus enabling the Society to attract independent distribution channels.

#### D. Reinsurance

As of December 31, 2005, the Society had reinsurance treaties in effect with four companies, one of which was accredited. The Society's life and accident and health businesses are reinsured on a yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis. The maximum retention limit for individual life contracts is \$500,000. The total face amount of life insurance ceded as of December 31, 2005 was \$533,721,069, which represents 4.41% of the total face amount of life insurance in force.

One of the three reinsurance treaties in effect with reinsurers whom were not accredited is with Optimum Re and two are with RGA Life Reinsurance Company of Canada ("RGA"). The Society did not report the amounts related to the Optimum Re and RGA treaties on Schedule S, Part 4 of the annual statement for all years under examination or for 2006. The Society did not take reserve credits for reinsurance ceded to these companies.

The examiner recommends that the Society report the amounts related to the Optimum Re and RGA treaties on Schedule S, Part 4 of the annual statement, as reinsurance ceded to unauthorized companies.

#### 4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Society 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 trustee assets of a licensed alien insurer entered through this state are required to be continuously kept in this state. The following table indicates the Society's financial growth (decline) as shown in the trustee statements during the period under review:

	December 31, <u>2002</u>	December 31, <u>2005</u>	Increase (Decrease)
Trusteed assets	\$2,176,292,012	\$2,339,244,259	\$162,952,247
Deposit with the State of New York	<u>1,017,352</u>	<u>1,002,545</u>	<u>(14,807)</u>
Total trustee assets	<u>\$2,177,309,363</u>	<u>\$2,340,246,804</u>	<u>\$162,937,441</u>
Liabilities	\$2,261,684,615	\$2,400,522,530	\$138,837,915
Deductions from liabilities	<u>199,239,115</u>	<u>188,195,907</u>	<u>(11,043,208)</u>
Net liabilities	\$2,062,445,500	\$2,212,326,623	\$149,881,123
Trusteed surplus	<u>114,863,863</u>	<u>127,920,181</u>	<u>13,056,318</u>
Total liabilities and trustee surplus	<u>\$2,177,309,363</u>	<u>\$2,340,246,804</u>	<u>\$162,937,441</u>

The following table indicates the Society's financial growth as shown in its filed annual statements, during the period under review:

	December 31, <u>2002</u>	December 31, <u>2005</u>	Increase (Decrease)
Admitted assets	<u>\$2,664,942,460</u>	<u>\$2,822,433,401</u>	<u>\$157,490,941</u>
Liabilities	<u>\$2,261,684,615</u>	<u>\$2,400,522,530</u>	<u>\$138,837,915</u>
Reserve for Future Fraternal Benefits	11,000,000	11,000,000	0
Special Reserve re: Arkansas	300,000	300,000	0
Unassigned funds (surplus)	<u>391,957,845</u>	<u>410,610,871</u>	<u>18,653,026</u>
Total surplus	<u>\$ 403,257,845</u>	<u>\$ 421,910,871</u>	<u>\$ 18,653,026</u>
Total liabilities surplus	<u>\$2,664,942,460</u>	<u>\$2,822,433,401</u>	<u>\$157,490,941</u>

The Society's invested assets as of December 31, 2005, were mainly comprised of bonds (80.5%), stocks (8.6%) and policy loans (5%).

The Society's entire bond portfolio as of December 31, 2005 was comprised of investment grade obligations.

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 Society's filed annual statements:

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Ordinary:			
Life insurance	\$(27,008,225)	\$(43,165,635)	\$(50,034,152)
Individual annuities	(14,133,597)	(2,723,560)	898,784
Supplementary contracts	<u>(62,297)</u>	<u>422,442</u>	<u>(584,749)</u>
Total ordinary	\$( <u>41,204,119</u> )	\$( <u>45,466,753</u> )	\$( <u>49,720,117</u> )
Accident and health:			
Other	\$ <u>103,271</u>	\$ <u>281,151</u>	\$ <u>495,258</u>
Total accident and health	\$ <u>103,271</u>	\$ <u>281,151</u>	\$ <u>495,258</u>
All other lines	\$ <u>4,097,265</u>	\$ <u>4,324,585</u>	\$ <u>(152,547)</u>
Total insurance	\$( <u>37,003,583</u> )	\$( <u>40,861,017</u> )	\$( <u>49,377,406</u> )
Fraternal	\$ <u>1,721,070</u>	\$ <u>2,606,361</u>	\$ <u>1,674,145</u>
Total	\$( <u>35,282,513</u> )	\$( <u>38,254,656</u> )	\$( <u>47,703,261</u> )

Poor sales combined with a high acquisition and maintenance expense base are the main reasons for the Society's losses in 2003, 2004 and 2005. The Society's pricing model uses industry average prices; however, the Society's unit costs are higher than industry averages because the Society has not been able to generate enough sales volume to take advantage of economies of scale.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, surplus and other funds as of December 31, 2005, as contained in the Society's 2005 trustee surplus statement and filed annual statement, a condensed summary of operations and a reconciliation of the 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 Society's financial condition as presented in its financial statements contained in the December 31, 2005 filed annual statement.

### A1. TRUSTEED SURPLUS STATEMENT

#### TRUSTEED ASSETS, LIABILITIES, AND TRUSTEED SURPLUS AS OF DECEMBER 31, 2005

#### Admitted Assets Value

Bonds	\$2,152,622,980
New York State deposit	1,002,545
Cash	13,138,150
Common stocks	91,932,127
Mortgage loans on real estate	52,405,006
Short term investments	2,019,624
Investment income due and accrued	<u>27,126,372</u>
Total admitted assets	<u>\$2,340,246,804</u>

Liabilities, Surplus and Other Funds

Aggregate reserve for life policies and contracts	\$2,069,292,464
Aggregate reserve for accident and health contracts	885,704
Liability for deposit-type contracts	53,749,417
Contract claims:	
Life	17,097,694
Accident and health	10,842
Policyholders' dividends and coupons due and unpaid	13,496
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts	24,878,070
Premiums and annuity considerations for life and accident and health contracts received in advance	1,369,027
Contract liabilities not included elsewhere:	
Interest maintenance reserve	92,337,163
Commissions to agents due or accrued	413
General expenses due or accrued	2,180,315
Amounts withheld or retained by Society as agent or trustee	336,657
Remittances and items not allocated	1,855,820
Liability for benefits for employees and agents if not included above	17,109,349
Miscellaneous liabilities:	
Asset valuation reserve	56,042,568
Payable for securities	375,590
Reserve for fraternal benefits approved	60,419,141
Benevolent fund	1,833,717
Miscellaneous liabilities	489,447
Interest on certificate claims	<u>245,636</u>
 Total liabilities	 <u>\$2,400,522,530</u>
 Deductions from liabilities:	
Special state deposits	\$ 901,536
Accrued interest on special deposits	755
Life insurance premiums & annuity considerations deferred & uncollected	17,592,259
Accident & health premiums due and unpaid	620
Policy loans not exceeding reserves carried on such policies	139,372,547
Asset valuation reserve on assets not held in Trust	<u>30,328,190</u>
Total deductions from liabilities	<u>\$ 188,195,907</u>
 Total adjusted liabilities	 <u>\$2,212,326,623</u>
Trusteed surplus	127,920,181
Total liabilities and trusteed surplus	<u>\$2,340,246,804</u>

A2. FILED ANNUAL STATEMENTASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS  
AS OF DECEMBER 31, 2005Admitted Assets

Bonds	\$2,271,251,524
Stocks:	
Common stocks	241,920,238
Mortgage loans on real estate:	
First liens	52,405,006
Cash, cash equivalents and short term investments	64,479,414
Contract loans	139,372,547
Receivable for securities	2,400,000
Student loans	3,283,743
Investment income due and accrued	29,325,564
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	512
Deferred premiums, agents' balances and installments booked but deferred and not yet due	17,592,259
Reinsurance:	
Amounts recoverable from reinsurers	31,487
Receivables from parent, subsidiaries and affiliates	<u>371,107</u>
Total admitted assets	<u>\$2,822,433,401</u>

Liabilities, Surplus and Other Funds

Aggregate reserve for life policies and contracts	\$2,069,292,464
Aggregate reserve for accident and health contracts	885,704
Liability for deposit-type contracts	53,749,417
Contract claims:	
Life	17,097,694
Accident and health	10,842
Policyholders' dividends and coupons due and unpaid	13,496
Provision for policyholders' dividends and coupons payable in following calendar year – estimated amounts	24,878,070
Premiums and annuity considerations for life and accident and health contracts received in advance	1,369,027
Contract liabilities not included elsewhere:	
Interest maintenance reserve	92,337,163
Commissions to agents due or accrued	413
General expenses due or accrued	2,180,315
Amounts withheld or retained by Society as agent or trustee	336,657
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Liability for benefits for employees and agents if not included above	17,109,349
Miscellaneous liabilities:	
Asset valuation reserve	56,042,568
Payable for securities	375,590
Reserve for fraternal benefits approved	60,419,141
Benevolent fund	1,833,717
Miscellaneous liabilities	489,447
Interest on certificate claims	<u>245,636</u>
 Total liabilities	 <u>\$2,400,522,530</u>
 Reserve for Future Fraternal Benefits	 11,000,000
Special Reserve re: Arkansas	300,000
 Unassigned funds (surplus)	 <u>410,610,871</u>
Total surplus and other funds	<u>\$ 421,910,871</u>
 Total liabilities, surplus and other funds	 <u>\$2,822,433,401</u>

The Independent Order of Foresters, (“Foresters”), is operated through two operating segments; the Canadian operating segment and the United States operating segment. During the prior examination, the Society was advised and agreed to open a separate bank account for the United States Branch’s portion of Forester’s world surplus, surplus which is shared between the

operating segments of Foresters. The Society has not done this. Schedule E of the United States Branch's 2005 annual statement includes an adjustment of \$2,547,354 to the State Street Bank & Trust Company N.A. cash account balance. The adjustment is explained by the Society as a net adjustment to transfer world surplus items into and out of the United States Branch's cash account and represents the United States Branch's portion of the world surplus. This adjustment increased the balance of the State Street account on Schedule E from \$4,523,667 to \$7,071,021 but was not confirmed by State Street Bank & Trust Company N.A. because it is not, in fact, contained in the State Street Bank & Trust Company N.A. account. The Society was asked to provide the name, address and contact person of the bank where this \$2,547,354 was held in order to confirm the amount. The Society has not provided any means of confirming the \$2,547,354 net adjustment or explained why this item was not listed separately on Schedule E or held in a separate bank account.

The examiner recommends that the Society either, no longer report the adjustment which the examiner was unable to confirm as an admitted asset in their annual statement or open an independent bank account for any portion of the world surplus that they report as an admitted asset in their annual statement.

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Premiums and considerations	\$151,666,748	\$140,654,630	\$168,760,260
Investment income	149,317,896	148,738,300	146,815,749
Commissions and reserve adjustments on reinsurance ceded	3,539	2,224	1,588
Miscellaneous income	<u>676,298</u>	<u>(363,607)</u>	<u>687,893</u>
 Total income	 <u>\$301,664,481</u>	 <u>\$289,031,547</u>	 <u>\$316,265,490</u>
Benefit payments	\$156,784,967	\$161,698,626	\$179,671,757
Increase in reserves	39,800,188	15,857,243	43,135,307
Commissions	24,621,094	22,576,932	23,187,111
General expenses and taxes	92,579,879	103,878,160	92,662,702
Miscellaneous deductions	<u>746,649</u>	<u>534,935</u>	<u>475,326</u>
 Total deductions	 <u>\$314,532,777</u>	 <u>\$304,545,896</u>	 <u>\$339,132,203</u>
Net gain (loss)	\$ (12,868,296)	\$ (15,514,349)	\$ (22,866,713)
Refunds to members	<u>22,414,217</u>	<u>22,740,307</u>	<u>24,836,548</u>
 Net gain (loss) from operations before net realized capital gains	 \$ (35,282,513)	 \$ (38,254,656)	 \$ (47,703,261)
Net realized capital gains (losses)	<u>(18,977,039)</u>	<u>25,804,182</u>	<u>28,952,722</u>
 Net income	 <u>\$ (54,259,552)</u>	 <u>\$ (12,450,474)</u>	 <u>\$ (18,750,539)</u>

The operating losses from the ordinary life line of business during the examination period were the principal reason for the net operating losses in the years 2003 to 2005. Net realized capital gains and losses on sale of stocks, mortgages and real estate caused a further fluctuation in the net loss as a result of market fluctuations.

The net realized capital losses in 2003 were mainly a result of turnover in the stock portfolio during 2003 when the Society moved to new portfolio managers in order to improve returns.

C. SURPLUS ACCOUNT

	<u>2003</u>	<u>2004</u>	<u>2005</u>
Surplus, December 31, prior year	<u>\$403,257,845</u>	<u>\$420,235,504</u>	<u>\$454,759,360</u>
Net income	\$ (54,259,552)	\$ (12,450,474)	\$ (18,750,539)
Change in net unrealized capital gains (losses)	77,268,293	12,791,062	(5,828,080)
Change in non-admitted assets and related items	(685,742)	10,981,647	(9,178,534)
Change in liability for reinsurance in unauthorized companies	1,341,747	0	0
Change in asset valuation reserve	(6,511,728)	22,847,886	898,025
Aggregate write ins for gains and losses in surplus:			
Sundry	(207,323)	329,043	0
Net Currency Translation Adjustments	<u>31,964</u>	<u>24,693</u>	<u>10,639</u>
Net change in surplus for the year	<u>\$ 16,977,659</u>	<u>\$ 34,523,857</u>	<u>\$ (32,848,489)</u>
Surplus, December 31, current year	<u>\$420,235,504</u>	<u>\$454,759,361</u>	<u>\$421,910,871</u>

## 6. MARKET CONDUCT ACTIVITIES

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

### A. Advertising and Sales Activities

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

1) Section 3209 of the New York Insurance Law states, in part:

“ . . .(b) No policy of life insurance shall be delivered or issued for delivery in this state after the applicable effective date, as set forth in subsection (n) of this section, unless the prospective purchaser has been provided with the following:

(1) a copy of the most recent buyer's guide and the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken. . . .

(d) The preliminary information shall be in writing and include, to the extent applicable, the following . . .

(6) for the life insurance policies described in paragraph one of subsection (n) of this section, life insurance cost indexes and the equivalent level annual dividend for the basic policy for ten and twenty years, but in no case beyond the premium-paying period;

(7) in addition, the applicant shall be advised that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid . . .”

The Society issued 187 term certificates in New York during the examination period. The examiner reviewed the format and content of the preliminary information presented to the applicants for a sample of 32 term certificates issued during the examination period. The preliminary information provided to the prospective purchaser for all 32 term certificates failed to disclose that following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the

applicant may return the policy for an unconditional refund of the premiums paid. The preliminary information states that the policy may be cancelled within 10 days of first receiving the policy, but does not mention an unconditional refund of premium paid.

In addition, in the preliminary information for 27 of the 32 (84%) cases, the life insurance surrender cost index at the end of the tenth and twentieth policy years or at the end of the premium-paying period, if earlier, was left blank, and for 23 of the 32 (71%) cases, the life insurance net payment cost index at the end of the tenth and twentieth policy years or at the end of the premium-paying period, if earlier, was left blank. The agent should have entered 'zero' or 'not applicable' if that was indicative of the situation.

The Society violated Section 3209(d)(7) of the New York Insurance Law by failing to disclose, in the preliminary information provided in writing to prospective purchasers of term certificates, that following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.

The Society violated Section 3209(d)(6) of the New York Insurance Law by failing to disclose the life insurance cost indexes and the equivalent level annual dividends at the end of the tenth and twentieth policy years or at the end of the premium-paying period, if earlier, in the preliminary information provided in writing to prospective purchasers of term certificates.

2) The Society experienced only four external life replacements and 20 internal life replacements in New York during the examination period. The examiner reviewed all of these life replacements. Two of the external replacements contained an error on the Disclosure Statement. In addition, the Society failed to furnish to the insurer whose coverage is being replaced a copy of the proposal used, including the sales materials used in the sale of the proposed life insurance policy and the completed Disclosure Statement, within 10 days of receipt of the application in these two cases.

The examiner recommends that the Society put appropriate procedures in place in order to ensure compliance with Department Regulation No. 60 in the future.

- 3) Section 2112(a) of the New York Insurance Law states, in part:

“Every . . . fraternal benefit society . . . doing business in this state shall file a certificate of appointment in such form as the superintendent may prescribe in order to appoint insurance agents to represent such . . . fraternal benefit society . . .”

Section 2114(a)(1) of the New York Insurance Law states:

“No insurer or fraternal benefit society doing business in this state shall pay any commission or other compensation to any person, firm or corporation, for any services in obtaining in this state any new contract of life insurance or any new annuity contract, except to a licensed life insurance agent of such insurer or of such society or to an insurance broker licensed under subparagraph (A) of paragraph one of subsection (b) of section two thousand one hundred four of this article, and except to a person described in paragraph two or three of subsection (a) of section two thousand one hundred one of this article.”

During the examination period the Society employed the services of four agents whom were not appointed by the Society. These agents represented the Society while procuring business for the Society and were paid commissions for such business.

The Society violated Section 2112(a) and Section 2114(a)(1) of the New York Insurance Law by failing to file a certificate of appointment in such form as the Superintendent may prescribe in order to appoint insurance agents to represent such insurer and paying commissions to such agents.

- 4) Section 2112(d) of the New York Insurance Law states, in part:

“Every insurer, fraternal benefit society . . . doing business in this state shall, upon termination of the certificate of appointment . . . of any insurance agent licensed in this state . . . file with the superintendent within thirty days a statement, in such form as the superintendent may prescribe, of the facts relative to such termination for cause. . . .”

The review of terminated agents revealed that the Society terminated one agent for cause during the examination period. The Society did not notify the Superintendent of the facts relative to the termination for cause of this agent.

The Society violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent of the facts relative to the termination of the certificate of appointment of one agent.

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.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in the prior report on examination and the subsequent actions taken by the Society in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Society violated Section 51.6(b)(4) of Department Regulation No. 60 by failing to furnish sales material, proposals and completed Disclosure Statements to the insurer whose coverage was being replaced, as required by the Regulation.</p> <p>A similar recommendation appears in this report on examination.</p>
B	<p>The Society violated Section 3201(b)(1) of the New York Insurance Law by using policy forms that were not filed with, and approved by, the Superintendent.</p> <p>The Society filed the aforementioned forms with the Superintendent.</p>
C	<p>The examiner recommends that the Society cease using all of the aforementioned forms until they are filed with, and approved by, the Superintendent.</p> <p>The Society filed the aforementioned forms with the Superintendent.</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Society violated Section 1411(a) of the New York Insurance Law by failing to have the board of directors or a committee of the board of directors, authorize or approve the investments made by the Society during the examination period.	7
B	The examiner recommends that the Society report the amounts related to the Optimum Re and RGA treaties on Schedule S, Part 4 of the annual statement, as reinsurance ceded to unauthorized companies.	8
C	The examiner recommends that the Society either, no longer report the adjustment which the examiner was unable to confirm as an admitted asset in their annual statement or open an independent bank account for any portion of the world surplus that they report as an admitted asset in their annual statement.	15
D	The Society violated Section 3209(d)(7) of the New York Insurance Law by failing to disclose, in the preliminary information provided in writing to prospective purchasers of term certificates, that following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid.	19
E	The Society violated Section 3209(d)(6) of the New York Insurance Law by failing to disclose the life insurance cost indexes and the equivalent level annual dividends at the end of the tenth and twentieth policy years or at the end of the premium-paying period, if earlier, in the preliminary information provided in writing to prospective purchasers of term certificates.	19
F	The examiner recommends that the Society put appropriate procedures in place in order to ensure compliance with Department Regulation No. 60 in the future.	19
G	The Society violated Section 2112(a) and Section 2114(a)(1) of the New York Insurance Law by failing to file a certificate of appointment in such form as the Superintendent may prescribe in order to appoint insurance agents to represent such insurer and paying commissions to such agents.	20
H	The Society violated Section 2112(d) of the New York Insurance Law by failing to notify the Superintendent of the facts relative to the termination of the certificate of appointment of one agent.	20



APPOINTMENT NO. 22440

STATE OF NEW YORK  
**INSURANCE DEPARTMENT**

I, HOWARD MILLS, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**MARK MCLEOD**

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

**INDEPENDENT ORDER OF FORESTERS**

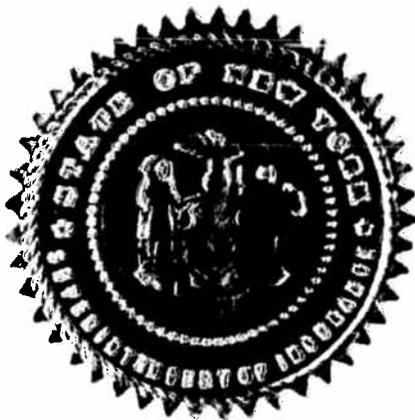
*and to make a report to me in writing of the condition of the said*

**SOCIETY**

*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 6th day of December, 2005*



*Howard Mills*

\_\_\_\_\_  
**HOWARD MILLS**  
Superintendent of Insurance