



STATE OF NEW YORK INSURANCE DEPARTMENT  
REPORT ON EXAMINATION  
OF THE  
POLISH UNION OF AMERICA

CONDITION:

DECEMBER 31, 2004

DATE OF REPORT:

AUGUST 1, 2005

STATE OF NEW YORK INSURANCE DEPARTMENT

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EXAMINER:

VICTOR U. AGBU

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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

August 1, 2005

Honorable Howard Mills  
Superintendent of Insurance  
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22342, dated March 7, 2005 and annexed hereto, an examination has been made into the condition and affairs of the Polish Union of America, hereinafter referred to as "the Society," at its home office located at 745 Center Road, West Seneca, New York 14224.

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 Department has not certified the Society's reserves for the past six years. With the submission of the Society's March 31, 2005 quarterly statement, it was determined that additional reserves of approximately \$1.7 million were required, due to the high interest rate guarantees (up to 5.5%) on certain deferred annuities. On August 1, 2005, the Society sent letters to certain deferred annuity certificateholders apprising them of the assessment of the equitable proportion of the deficiency allocated to their contracts, and the options available to them for satisfying the assessment. The certificateholders were given until September 1, 2005 to elect an option. (See item 5D of this report)

The Society violated Section 1411(a) of the New York Insurance Law by failing to have the board of directors approve its investments. (See item 4 of this report)

The Society violated Section 3201(b)(1) of the New York Insurance Law by failing to file an application form with the Department. (See item 6 of this report)

The examiner recommends that the Company revise the custody and investment management agreement with Mellon Financial to include the indemnification clause suggested by Department Circular Letter No. 13 (1976). (See item 3 of this report)

The Society violated Section 219.5(a) of New York Insurance Regulation 34-A by not maintaining a complete file with a notation indicating the manner and extent of distribution, and by failing to indicate the form number of the policies that were advertised. (See item 6 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2001. This examination covers the period from January 1, 2002 through December 31, 2004. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2004 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, 2004 to determine whether the Company's 2004 filed annual statement fairly presents its financial condition. The examiner reviewed the Company'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:

- Company 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 Company
- 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, recommendations and comment 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 was incorporated in 1915 as a fraternal benefit society pursuant to the provisions of the New York Insurance Law and commenced business in 1917.

#### B. Management

The Society's constitution provides that the board of directors shall be comprised of the National President, National Vice President-Treasurer, National Vice President-Secretary and six National Directors. In addition, the National Chaplain, the National Assistant Chaplain, and the National Attorney may attend meetings of the board in an advisory capacity with no voting rights. Directors are elected for a period of four years at the quadrennial Grand Convention held by the Society in August of the quadrennial year. The Society's last convention was held in 2002. An annual minimum of six board meetings, as determined by the president and secretary, are to be held each year.

The nine board members and their principal business affiliation, as of December 31, 2004, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Randolph C. Ashby* Alden, NY	Student	2003
James A. Clarke Elma, NY	Comptroller Polish Union of America	2002
Eugenia A. Halady Blasdell, NY	National Vice President and Treasurer Polish Union of America	1994
Maurice Janeczko* Alden, NY	Retired	1999
James P. Jozwiak Springville, NY	National President Polish Union of America	1998
Edward J. Reska Hamburg, NY	National Vice President and Secretary Polish Union of America	1990

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
James Serafin* Cheektowaga, NY	Grant writer Self-employed	2004
Marie Urbanski* Williamsville, NY	Retired	2001
William R. Winiatowski* North Tonawanda, NY	Retired	1998

\* Not affiliated with the Society

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, 2004:

<u>Name</u>	<u>Title</u>
James P. Jozwiak	National President
Edward J. Reska*	National Vice President and Secretary
Eugenia A. Halady	National Vice President and Treasurer
Wallace C. Piotrowski	National Attorney
Rev. David W. Bialkowski	National Chaplain
Rev. Matt F. Nycz	National Assistant Chaplain

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

#### Custody and Investment Management Agreement

Department Circular Letter No. 13 (1976) states, in part:

“ . . . SUGGESTED PARAGRAPHS TO BE INCLUDED IN CUSTODY AGREEMENT

That the bank as custodian is obligated to indemnify the insurance company for any loss of securities of the insurance company in the bank’s custody occasioned by the dishonesty of the bank’s officers or employees, burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction; That in the event that there is a loss of the securities in the custody of the bank that same shall be promptly replaced or the value thereof and the value of any loss of rights or privileges resulting from said loss of securities and that the bank shall make available to the insurance company any and all securities or values amount so replaced . . . ”

The Company entered into an undated custody and investment management agreement with Mellon Financial. This agreement does not contain an indemnification clause as suggested in Department Circular Letter No. 13 (1976).

The examiner recommends that the Company revise the custody and investment management agreement with Mellon Financial to include the indemnification clause suggested by Department Circular Letter No. 13 (1976).

#### C. Territory and Plan of Operation

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

The Society is licensed to transact business in eight states, namely New York, Pennsylvania, Illinois, Massachusetts, Indiana, Connecticut, Michigan and New Jersey. In 2004, 98.4% of life premiums and 86.5% of annuity considerations were received from New York, and 10.9% of annuity considerations were received from Pennsylvania. Although the Society sold a few contracts, it did not actively market its annuity product during the examination period. Certificates are written on a participating basis.

The Society's agency operations are conducted on a lodge system basis. The sales force consists of the Society's directors, officers, lodge secretaries and one general agency.

#### D. Reinsurance

As of December 31, 2004, the Society had one reinsurance treaty in effect with Swiss Re Life of Hartford, an authorized reinsurer. The Society's life business is 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 currently \$25,000. The total face amount of life insurance ceded, as of December 31, 2004, was \$3,579,693, which represents 13.8% of the total face amount of life insurance in force. The Society did not have any reinsurance assumed as of December 31, 2004.

A review of the Society's reinsurance operations detected the following significant internal control problems:

- no employee was assigned the responsibility to oversee the reinsurance program;
- at least ten policies with total face value of about \$700,000 were not reinsured;
- the Society unilaterally increased its retention limit from \$10,000 to \$25,000, without notifying the reinsurer; and,
- the Society has not consistently applied its retention limit to all policies issued since it changed its retention limit. The old \$10,000 limit was applied to some policies, even after the Society supposedly increased its retention limit to \$25,000.

Some of the above findings could affect the Society's ability to collect on future reinsurance claims. It is imperative that the Society immediately correct the problems noted. The examiner recommends that the Society take steps to ensure that: reinsurance is in effect for all policies with face amounts in excess of its retention; the reinsurer is advised of the Society's new retention limit (which may require changes to the current reinsurance agreement or a new

agreement); and, the Society reinsures its policies consistent with its retention limit. The prior report on examination contained a similar recommendation.

#### 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 following table indicates the Society's financial growth (decline) during the period under review:

	<u>December 31,</u> <u>2001</u>	<u>December 31,</u> <u>2004</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$18,338,515</u>	<u>\$19,276,003</u>	<u>\$ 937,488</u>
Liabilities	<u>\$17,767,371</u>	<u>\$19,077,769</u>	<u>\$1,310,398</u>
Unassigned funds (surplus)	<u>571,144</u>	<u>198,234</u>	<u>(372,910)</u>
Total liabilities and surplus	<u>\$18,338,515</u>	<u>\$19,276,003</u>	<u>\$ 937,488</u>

The Society's invested assets as of December 31, 2004 were mainly comprised of bonds (83.1%) and mortgage loans (9.2%). The majority (97.9%) of the Society's bond portfolio, as of December 31, 2004, was comprised of investment grade obligations.

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.”

Section 4 of Article 8 of the Society's constitution states:

“The National President, the National Vice President-Treasurer, and the National Vice President-Secretary are hereby appointed to serve as an Investment Committee charged with the duty of supervising or making financial investments, first mortgages and loans on behalf of the PUA. The minutes of such Investment Committee describing such financial transactions, shall be recorded and a report thereof shall be submitted to the National Board of Directors at its next meeting.”

The minutes of the board meetings did not indicate that the investment committee presented the Society's securities transactions to the board for its approval. In addition, the

Society was unable to provide the minutes of the investment committee meetings, since such minutes were not recorded.

The Society violated Section 1411(a) of the New York Insurance Law by failing to have the board of directors approve its investments.

The Society also failed to comply with Section 4 of Article 8 of its constitution by failing to record the minutes of the investment committee meetings.

NAIC Statement of Statutory Accounting Principles (“SSAP”) No. 37 states, in part:

“ . . . When a loan is determined to be in default (per the contractual terms of the loan), the accrued interest on the loan shall be recorded as investment income due and accrued if deemed collectible. If a loan in default has any investment income due and accrued which is 180 days past due and collectible, the investment income shall continue to accrue, but all interest related to the loan is to be reported as a nonadmitted asset. If accrued interest on a mortgage loan in default is not collectible, the accrued interest shall be written off immediately and no further interest accrued. . . .”

The Society included, as an admitted asset, \$5,524 of interest due on a defaulted mortgage loan. This amount was past due more than 180 days as of December 31, 2004.

The Society failed to comply with the NAIC SSAP No. 37 by including past due interest on a defaulted mortgage loan as an admitted asset.

The following is the net gain (loss) from operations by line of business before realized capital gains (losses) reported for each of the years under examination in the Society's filed annual statements:

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Ordinary:			
Life insurance	\$105,653	\$185,595	\$ 50,306
Individual annuities	(102,466)	(134,002)	(193,799)
Supplementary contracts	<u>      0</u>	<u>      0</u>	<u>  51,907</u>
Total ordinary	\$ <u>  3,187</u>	\$ <u> 51,593</u>	\$ <u>(91,586)</u>
Fraternal	\$ <u>(29,466)</u>	\$ <u>(32,851)</u>	\$ <u>(19,643)</u>
Total	\$ <u>(26,279)</u>	\$ <u> 18,742</u>	\$ <u>(111,229)</u>

Prior to 2004, the Society had incorrectly included its supplementary contract business in the life insurance line of business. The significant difference between the 2003 life insurance gain and the 2004 life insurance gain is a result of the extraction of the supplementary contracts out of the life line of business in 2004.

The net loss in 2004 is mainly due to the decrease in investment income in 2004. The Society disposed of some of its high-yield bonds in 2004 and replaced them with medium-yield investment grade bonds.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities and surplus as of December 31, 2004, as contained in the Society's 2004 filed annual statement, a condensed summary of operations and a reconciliation of the surplus account for each of the years under review.

### A. ASSETS, LIABILITIES AND SURPLUS AS OF DECEMBER 31, 2004

#### Admitted Assets

Bonds	\$15,783,522
Preferred stocks	622,600
Mortgage loans - first liens	1,755,964
Real estate – properties occupied by the Company	242,418
Cash, cash equivalents and short term investments	508,728
Contract loans	59,182
Scholarship account	16,696
Investment income due and accrued	278,603
Electronic data processing equipment and software	<u>8,290</u>

Total admitted assets	<u>\$19,276,003</u>
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#### Liabilities and Surplus

Aggregate reserve for life policies and contracts	\$18,542,871
Contract claims – life	69,369
Premiums and annuity considerations for life contracts received in advance	2,554
Interest maintenance reserve	166,739
Commissions to agents due or accrued	1,219
General expenses due or accrued	44,345
Taxes, licenses and fees due or accrued	37,500
Amounts withheld or retained by company as agent or trustee	96,468
Asset valuation reserve	115,810
Dividends held for interest accumulation	<u>894</u>

Total liabilities	<u>\$19,077,769</u>
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Unassigned funds (surplus)	<u>198,234</u>
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Total liabilities and surplus	<u>\$19,276,003</u>
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B. CONDENSED SUMMARY OF OPERATIONS

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Premiums and considerations	\$1,083,442	\$ 724,219	\$ 791,434
Investment income	<u>1,312,799</u>	<u>1,245,542</u>	<u>1,109,520</u>
Total income	<u>\$2,396,241</u>	<u>\$1,969,761</u>	<u>\$1,900,954</u>
Benefit payments	\$1,276,785	\$ 990,771	\$1,200,459
Increase in reserves	533,519	417,927	277,827
Commissions	26,015	17,583	17,509
General expenses and taxes	<u>586,201</u>	<u>524,738</u>	<u>516,387</u>
Total deductions	<u>\$2,422,520</u>	<u>\$1,951,019</u>	<u>\$2,012,182</u>
Net gain (loss) from operations before net realized capital gains	\$ (26,279)	\$ 18,742	\$ (111,228)
Net realized capital gains (losses)	<u>(272,884)</u>	<u>91,091</u>	<u>(15,049)</u>
Net income	<u>\$ (299,163)</u>	<u>\$ 109,833</u>	<u>\$ 126,277</u>

C. SURPLUS ACCOUNT

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Surplus, December 31, prior year	\$ <u>571,146</u>	\$ <u>286,755</u>	\$ <u>284,861</u>
Net income	\$(299,163)	\$109,833	\$(126,277)
Change in non-admitted assets and related items	13,583	0	0
Change in reserve valuation basis	(100,000)	0	0
Change in asset valuation reserve	<u>101,190</u>	<u>(111,727)</u>	<u>39,652</u>
Net change in surplus	<u>\$(284,390)</u>	<u>\$ (1,894)</u>	<u>\$(86,625)</u>
Surplus, December 31, current year	<u>\$ 286,756</u>	<u>\$284,861</u>	<u>\$198,236</u>

D. Assessment of certificateholders

Section 4519 of the New York Insurance Law states, in part:

“Whichever the superintendent finds from any financial statement . . . that the admitted assets of such society are less than the sum of its required reserves and accrued liabilities, he shall determine the amount of such deficiency and issue a written requisition to such society to remove, repair or make good such deficiency. . .”

Section 4504(g) of the New York Insurance Law states, in part:

“Every authorized society shall provide in its constitution or by-laws and in its certificates that if its reserves as to any class of certificates . . . become impaired, its board of directors may require that there shall be paid by the member to the society the amount of the member’s equitable proportion of such deficiency as ascertained by its board . . .”

The Department had not certified the Society’s reserves for the past six years. With the submission of the March 31, 2005 quarterly statement, the Society’s appointed actuary submitted an asset adequacy analysis updated for March 31, 2005. The actuary concluded that the Society did not have sufficient surplus to appropriate for the additional required reserves. It was determined that additional reserves of approximately \$1.7 million were required, due to the high interest rate guarantees (up to 5.5%) on certain deferred annuities.

On June 23, 2005, in accordance with the provisions of Section 4519 of the New York Insurance Law, an order to remedy, repair or make good the reserve deficiency, no later than September 30, 2005, was sent to the Society. By letter dated July 21, 2005, the Society provided the Department with a written plan to address the order to remove, repair or make good the deficiency.

On August 1, 2005, the Society sent letters to certain deferred annuity certificateholders apprising them of the assessment of the equitable proportion of the deficiency allocated to their contracts, and the options available to them for satisfying the assessment. The certificateholders were given until September 1, 2005 to elect an option.

The assessment of the affected members was done in accordance with the provisions of Section 4504(g) of the New York Insurance Law, the by-laws of the Society and the certificates.

## 6. MARKET CONDUCT ACTIVITIES

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

### A. Advertising and Sales Activities

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

Section 219.4(h) of Department Regulation No. 34-A states:

"Any insurer using the phrase low cost or similar term, to characterize its operation, policy portfolio, or a particular policy form shall, upon request of the superintendent, submit to the superintendent such evidence as it may have to substantiate such use."

The Society used the term "lowest cost" for its single premium ordinary life policy ("SPOL") and its juvenile policy advertisements, without stating the basis of the determination for the "lowest cost" assertion.

The Society violated Section 219.4(h) of Department Regulation No. 34-A for using the term "lowest cost" without being able to provide evidence to substantiate such claim.

Section 219.5(a) of Department Regulation No. 34-A states, in part:

"Each insurer shall maintain at its home a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. In order to be complete, the file must contain all advertisements whether used by the company, its agents or solicitors or other persons . . ."

The Society maintained a copy of each advertisement disseminated during the examination period, but failed to maintain a log indicating the manner and extent of distribution of the advertisements.

The Society violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain a complete file with a notation indicating the manner and extent of distribution, and by failing to indicate the form numbers of policies that were advertised.

Section 51.6(c) of Department Regulation No. 60 states, in part:

“Where a replacement has occurred or is likely to occur, the insurer whose life insurance policy or annuity contract is to be replaced shall:

(1) Upon notice that its existing coverage may be replaced, maintain copies of such notification, indexed by insurer notifying it of such replacement, for six calendar years or until after the filing of the report on examination in which the transaction was subject to review by the appropriate insurance official of its state of domicile, whichever is later. . .”

The Society did not maintain a log of its policies that were replaced by other insurers. The Society was able to provide the examiner with some replaced policy files based on an employee’s memory of what was replaced; however, the examiner had no way of determining whether there were replacement files that were not provided.

The Society violated Section 51.6(c) of Department Regulation No. 60 by failing to maintain a log of its replaced policies that is indexed by insurer.

#### B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Section 3201(b)(1) of New York Insurance Law states, in part:

"No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent . . ."

The Society introduced a "Final Expense Benefit" product during the examination period. The application form that was used in selling this product contains personal information questions, and a signature requirement. This application form was never filed with the Department, and it did not have a form number.

The Society violated Section 3201(b)(1) of the New York Insurance Law by failing to file the above mentioned application form with the Department.

#### 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.

The examiner's review of claim files detected that the Society failed to keep any record of the claim notices or to acknowledge receipt of the claims in writing within 15 working days.

The examiner recommends that, going forward, the Society keep a record of receipt of each claim notice and respond to each claimant in writing within 15 working days if the claim is not paid within such period of time.

In addition, the Society did not keep any record associated with claim payments other than a notation indicating the check number and paid date. The examiner was not able to substantiate when the check was mailed to the claimant since there was no transmittal letter or explanation of benefits accompanying the check.

The examiner recommends that the Society include a letter explaining the claim benefit to the claimant when sending a claim check, and maintain a copy of such letter in the claim file.

## 7. ABANDONED PROPERTY

Section 701.1 of the New York Abandoned Property Law states, in part:

“On or before the first day of April in each year every life insurance corporation shall make a verified written report to the state comptroller . . . of all abandoned property . . . held or owing by it . . . ”

As a result of its inability to locate certain beneficiaries, the Society has unclaimed funds. Some of these unclaimed funds have been retained by the Society for more than three years. It does not appear that the Society has actively attempted to locate the beneficiaries of these policies. The Society has failed to report these funds to the State, as required by Section 701.1 of the New York Abandoned Property Law.

The examiner recommends that the Society improve its efforts to locate the beneficiaries of its policies in a timely manner in order to make payment on its claims. The examiner also recommends that the Society escheat any unclaimed funds in its possession to the State, as required by the New York Abandoned Property Law.

## 8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comment contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommended that the Society comply with its constitution and fill the vacant positions on its National Administrative Board or consider amending its constitution.</p> <p>The Society has adopted a new constitution and all board positions have been filled.</p>
B	<p>The examiner recommended that the Society review its reinsurance operations and takes steps necessary to correct control weaknesses.</p> <p>The Society's reinsurance operation is still very problematic. The Society has started to address some of the problems as a result of discussions between the examiner and management during the current examination.</p>
C	<p>The Society violated Section 4515(c) of the New York Insurance Law by exceeding the total life insurance expense limit in 1999, 2000, and 2001.</p> <p>The Society incorrectly calculated its expense limits for the years 1999, 2000, and 2001. The Society has recalculated its expense limits for those years, in accordance with Section 4515(c) of the New York Insurance Law.</p>
D	<p>The Department had not certified, as to the accuracy or adequacy, the Company's 2001 reserves.</p> <p>The Society's reserves remain uncertified.</p>
E	<p>The examiner recommended that the Society exercise greater care when preparing the annual statement.</p> <p>The Society's preparation of the annual statement has vastly improved.</p>
F	<p>The Society violated Section 2112 of the New York Insurance Law by failing to appoint agents to represent the Society.</p> <p>All agents who represented the Society during the examination period were appointed in accordance with the New York Insurance Law.</p>

- G The Society violated Section 1414(d) of the New York Insurance Law by including uncollected interest due on a foreclosed property in the value of that property.

During the examination period, the Society did not capitalize interest on foreclosed property.

- H The examiner recommended that the Society write down the value of its foreclosed real estate property by \$103,754 to \$55,125.

The Society has disposed of this property.

## 9. SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Company revise the custody and investment management agreement with Mellon Financial to include the indemnification clause suggested by Department Circular Letter No. 13 (1976).	6
B	The examiner recommends that the Society review its reinsurance operations and take the steps necessary to address the deficiencies noted.	7 – 8
C	The Society violated Section 1411(a) of the New York Insurance Law by not having the board of directors approve its investments.	9 – 10
D	The Society failed to comply with Section 4 of Article 8 of its constitution by not recording minutes of the investment committee meetings.	9 – 10
E	The Society failed to comply with the NAIC SSAP No. 37 by including past due interest on a defaulted mortgage loan as an admitted asset.	10
F	The Department has not certified the Society's reserves. With the March 31, 2005 quarterly statement, the Society's actuary concluded that the Society did not have sufficient surplus to appropriate for additional required reserves for its deferred annuity contracts. Additional reserves of approximately \$1.7 million were required to cover the deficiency. On August 1, 2005, the Society sent letters to the affected deferred annuity certificateholders apprising them of the assessment of the equitable proportion of the deficiency allocated to their contracts, and the options available to them for satisfying the assessment. The assessment of the affected members was done in accordance with the provisions of Section 4504(g) of the New York Insurance Law, the by-laws of the Society and the certificates.	14
G	The Society violated Section 219.4(h) of Department Regulation No. 34-A for using the term "lowest cost" without being able to provide evidence to substantiate such claim.	15
H	The Society violated Section 219.5(a) of Department Regulation No. 34-A by failing to maintain a complete file with a notation indicating the manner and extent of distribution, and by failing to indicate the form number of policies that were advertised.	15

- |   |  |    |
|---|--|----|
| I | The Society violated Section 51.6(c) of Department Regulation No. 60 by failing to maintain a log of its replaced policies that is indexed by insurer.   | 16 |
| J | The Society violated Section 3201(b)(1) of the New York Insurance Law by failing to file an application form with the Department.  | 16 |
| K | The examiner recommends that, going forward, the Society keep a record of receipt of each claim and respond to the claimant in writing within 15 working days if the claim is not paid within such period of time. | 17 |
| L | The examiner recommends that the Society include a letter explaining the claim benefit to the claimant when sending a claim check, and maintain a copy of such letter in the claim file.                           | 17 |
| M | The examiner recommends that the Society make a concerted effort to find the beneficiaries of certain life insurance policies, and deliver the claim checks to them.   | 18 |
| N | The examiner recommends that the Society escheat any unclaimed funds to the State, as required by the New York Abandoned Property Law.   | 18 |

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Victor U. Agbu  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Victor U. Agbu

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

APPOINTMENT NO. 22342

**STATE OF NEW YORK**  
**INSURANCE DEPARTMENT**

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

**VICTOR AGBU**

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

**POLISH UNION OF AMERICA**

*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 7th day of March, 2005*



**HOWARD MILLS**  
Acting Superintendent of Insurance

A handwritten signature in cursive script, appearing to read "Howard Mills", written over a horizontal line.

Acting Superintendent