



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

CONDITION:

DECEMBER 31, 2007

DATE OF REPORT:

MARCH 31, 2009

STATE OF NEW YORK INSURANCE DEPARTMENT  
REPORT ON FINANCIAL CONDITION EXAMINATION  
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POLISH UNION OF AMERICA  
AS OF  
DECEMBER 31, 2007

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EXAMINER:

SELREY N DAVID

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

David Paterson  
Governor

Eric R. Dinallo  
Superintendent

June 18, 2009

Honorable Eric R. Dinallo  
Superintendent of Insurance  
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22786, dated July, 1, 2008 and annexed hereto, an examination has been made into the financial condition and affairs of Polish Union of America, hereinafter referred to as “the Society.”

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 Society reported negative surplus of \$(474,520) in its annual statements filed as of December 31, 2008, and is therefore insolvent. (See item 6 of this report)

As of December 31, 2007, the Society received a qualified actuarial opinion pursuant to Section 95.8 of Department Regulation 126 as reported in the Society's Actuarial Memorandum of March, 2008. The qualified opinion was rendered because further losses from surplus were projected owing to low interest rates coupled with current operating expenses and contract guarantees.

As a result of the qualified actuarial opinion as of December 31, 2007, on June 16, 2008 the Society was prohibited from issuing new business in this state or elsewhere in accordance with subsection (a) of Section 4519 of the New York Insurance Law. (See item 5D of this report)

The Society violated Section 4515(c) of the New York Insurance Law by exceeding the total life insurance expense limitation for the years 2006, and 2007. (See item 4 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2004. This examination covers the period from January 1, 2005 through December 31, 2007. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2007 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, 2007 to determine whether the Society's 2007 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
- Territory and plan of operation
- 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, 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 2006. 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, 2007, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Christopher G. Buzynski* Depew, New York	Chief Executive Officer Advanced Technology Solutions	2005
James A. Clarke Elma, NY	Comptroller Polish Union of America	1988
Eugenia A. Halady Blasdell, NY	National Vice President and Treasurer Polish Union of America	1988
James P. Jozwiak Springville, NY	National President Polish Union of America	1998
Brandon M. Machajewski* Depew, NY	Business Student	2005
Norbert Ratajczyk* Orchard Park, NY	Retired	2006

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
James A. Serafin Cheektowaga, NY	National Vice President and Secretary Polish Union of America	2004
Marie M. Urbanski* Williamsville, NY	Retired	1993
William R. Winiatowski* North Tonawanda, NY	Retired	1998

\* Not affiliated with the Society

In April, 2008, Christopher G. Buzynski resigned from the board and was replaced by Ronald E. Brodowski. In September, 2008, William R. Winiatowski resigned from the board and was replaced by Richard J. Streck.

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, 2007:

<u>Name</u>	<u>Title</u>
James P. Jozwiak	National President
James A. Serafin	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

The Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64 is Sue Burdzy.

### C. Territory and Plan of Operation

The Society is authorized to write life insurance and annuities 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 Connecticut, Illinois, Indiana, Massachusetts, Michigan, New Jersey, New York and Pennsylvania. In 2007, 97% of life premiums and 99% annuity considerations were received from New York. Policies 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.

As a result of a qualified actuarial opinion (see item 5D of this report) as of December 31, 2007, on June 16, 2008 the Society was prohibited from issuing new business in this state or elsewhere in accordance with subsection (a) of Section 4519 of the New York Insurance Law.

### D. Reinsurance

As of December 31, 2007, 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, 2007, was \$3,574,514, which represents 13.7% of the total face amount of life insurance in force.

The Society did not assume any business as of December 31, 2007.

During the examination period the Society issued four policies with a face amount in excess of its \$25,000 retention limit:

- Two policies issued in 2005 with face amounts of \$40,000 each, were not reinsured during the examination period. The error was discovered and submitted to the reinsurer in 2008;
- One policy issued in 2006 with a face amount of \$50,000 was submitted to the reinsurer in 2006. The reinsurer failed to record the reinsurance and the Society did not correct the error. The policy lapsed in 2008.

Currently the Society is not issuing new business. The examiner recommends that if the Society resumes issuing new business it take steps to ensure that: reinsurance is in effect for all

policies with face amounts in excess of its retention on a timely basis. 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 decline during the period under review:

	December 31, <u>2004</u>	December 31, <u>2007</u>	<u>(Decrease)</u>
Admitted assets	\$ <u>19,276,003</u>	\$ <u>15,198,449</u>	\$ <u>(4,077,554)</u>
Liabilities	\$ <u>19,077,769</u>	\$ <u>15,043,416</u>	\$ <u>(4,034,353)</u>
Unassigned funds (surplus)	<u>198,234</u>	<u>155,033</u>	<u>(43,201)</u>
Total liabilities and surplus	\$ <u>19,276,003</u>	\$ <u>15,198,449</u>	\$ <u>(4,077,554)</u>

The Society's invested assets as of December 31, 2007 were mainly comprised of bonds (76%), mortgage loans (9%), preferred stocks (7%), and cash and short-term investments (5%).

The majority (96.1%) of the Society's bond portfolio, as of December 31, 2007, was comprised of investment grade obligations.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

	<u>Ordinary Annuities</u>		
	<u>2005</u>	<u>2006</u>	<u>2007</u>
Outstanding, end of previous year	1,599	1,334	1,252
Issued during the year	11	8	23
Other net changes during the year	<u>(276)</u>	<u>(90)</u>	<u>(76)</u>
Outstanding, end of current year	<u>1,334</u>	<u>1,252</u>	<u>1,199</u>

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>2005</u>	<u>2006</u>	<u>2007</u>
Ordinary:			
Life insurance	\$ (23,580)	\$ (31,110)	\$ 10,634
Individual annuities	(160,538)	(109,116)	(23,216)
Supplementary contracts	<u>25,423</u>	<u>23,306</u>	<u>23,003</u>
Total ordinary	<u>\$(158,695)</u>	<u>\$(116,920)</u>	<u>\$ 10,421</u>
Total	<u>\$(158,695)</u>	<u>\$(116,920)</u>	<u>\$ 10,421</u>

The following table indicates for the period under review, the limitations imposed by Sections 4515 of the New York Insurance Law, with respect to total selling expenses:

Limitation of Total Selling Expenses

<u>Year</u>	<u>Limit</u>	<u>Expenses</u>	<u>Margin</u>	<u>Ratio</u>
2005	\$385,764	\$510,527	\$(124,763)	(32.34)%
2006	\$320,683	\$507,661	\$(186,978)	(58.31)%
2007	\$342,584	\$387,168	\$ (44,584)	(13.01)%

Section 4515(c) of the New York Insurance Law states, in part:

“No such society shall . . . make or incur in any calendar year . . . total life insurance expenses . . . in excess of the total life insurance expense limit . . .”

The examiner reviewed the limitations imposed by Section 4515 of the New York Insurance Law with respect to total selling expenses. The Society exceeded the total expense limitation for the years 2006 and 2007, as shown in the above table, and did not apply to the Superintendent for suspension of the expense limitations.

The Society violated Section 4515(c) of the New York Insurance Law by exceeding the total life insurance expense limitation for the years 2006 and 2007.

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, and surplus as of December 31, 2007, as contained in the Society's 2007 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, 2007

#### Admitted Assets

Bonds	\$11,406,653
Preferred stocks	1,044,838
Mortgage loans on real estate – first liens	1,307,575
Real estate – properties occupied by the Society	227,104
Cash, cash equivalents and short term investments	739,658
Contract loans	53,550
Other invested assets	197,111
Investment income due and accrued	207,335
Uncollected premiums and agents' balances in the course of collection	1,505
Electronic data processing equipment and software	<u>13,120</u>
 Total admitted assets	 <u>\$15,198,449</u>

#### Liabilities, and Surplus

Aggregate reserve for life policies and contracts	\$14,751,007
Contract claims – life	48,003
Premiums and annuity considerations for life and accident and health contracts received in advance	627
Interest maintenance reserve	6,439
Commissions to fieldworkers due or accrued	388
General expenses due or accrued	51,399
Amounts withheld or retained by society as agent or trustee	45,711
Asset valuation reserve	138,919
Dividends held for interest accumulation	920
Rounding	<u>3</u>
 Total liabilities	 <u>\$15,043,416</u>
 Unassigned funds (surplus)	 <u>\$ 155,033</u>
 Total liabilities and surplus	 <u>\$15,198,449</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>2005</u>	<u>2006</u>	<u>2007</u>
Premiums and considerations	\$ 576,822	\$ 233,761	\$ 400,449
Investment income	1,072,644	922,458	919,472
Miscellaneous income	<u>2,480</u>	<u>15,276</u>	<u>22</u>
Total income	<u>\$1,651,946</u>	<u>\$1,171,495</u>	<u>\$1,319,943</u>
Benefit payments	\$3,750,341	\$1,699,409	\$1,257,332
Increase in reserves	(2,491,009)	(963,185)	(357,670)
Commissions	12,592	6,945	8,513
General expenses and taxes	<u>538,717</u>	<u>545,245</u>	<u>401,349</u>
Total deductions	<u>\$1,810,641</u>	<u>\$1,288,414</u>	<u>\$1,309,524</u>
Net gain (loss) from operations before net realized capital gains	\$ (158,695)	\$ (116,919)	\$ 10,419
Net realized capital gains (losses)	<u>115,172</u>	<u>32,980</u>	<u>53,839</u>
Net income	<u>\$ (43,523)</u>	<u>\$ (83,939)</u>	<u>\$ 64,258</u>

C. SURPLUS ACCOUNT

	<u>2005</u>	<u>2006</u>	<u>2007</u>
Surplus, December 31, prior year	\$ <u>198,236</u>	\$ <u>235,288</u>	\$ <u>133,847</u>
Net income	\$ (43,523)	\$ (83,939)	\$ 64,258
Change in reserve on account of change in valuation basis	0	0	(20,000)
Change in asset valuation reserve	17,465	(17,502)	(23,072)
Liens place on annuity holders to maintain higher interest rates	<u>63,110</u>	<u>0</u>	<u>0</u>
Net change in surplus for the year	<u>\$ 37,052</u>	<u>\$(101,441)</u>	<u>\$ 21,186</u>
Surplus, December 31, current year	<u>\$235,288</u>	<u>\$ 133,847</u>	<u>\$155,033</u>

#### D. RESERVES

The Statement of Actuarial Opinion (“Actuarial Opinion”) furnished with the Society’s December 31, 2007 filed annual statements and submitted pursuant to Section 95.8 of Department Regulation 126 contained a qualified opinion. The Society’s Actuarial Opinion states in part:

“This is a qualified actuarial opinion since further losses from surplus are projected owing to low interest rates coupled with current operating expenses and contract guarantees. The Society currently does not have sufficient surplus to appropriate the additional reserves required as a result of the asset adequacy analysis.”

As a result of the qualified actuarial opinion, on June 16, 2008 the Society was prohibited from issuing new business in this state or elsewhere in accordance with subsection (a) of Section 4519 of the New York Insurance Law.

#### 6. SUBSEQUENT EVENTS

As of December 31, 2008, the Society reported a negative surplus of \$(474,520) in its filed annual statements and is therefore insolvent. The reduction of surplus in 2008 was primarily due to an incurred realized loss of \$(461,576) associated with other than temporary impairment of Lehman Brothers and Ford Motor Company securities held by the Society. The Society was also required to post additional reserves of \$300,000.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations, recommendations and comments 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 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).</p> <p>The Society revised its custody and investment management agreement with Mellon Financial on January 26, 2006.</p>
B	<p>The examiner recommends that the Society review its reinsurance operations and take the steps necessary to address the deficiencies noted.</p> <p>The Society reviewed its reinsurance operations and retroactively reinsured all policies identified during the prior examination.</p>
C	<p>The Society violated Section 1411(a) of the New York Insurance Law by not having the board of directors approve its investments.</p> <p>The investment committee pre-approved purchases and sales.</p>
D	<p>The Society failed to comply with Section 4 of Article 8 of its constitution by not recording minutes of the investment committee meetings.</p> <p>The investment committee recorded the minutes of its meetings.</p>
E	<p>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.</p> <p>The Society had no mortgages with interest 180 days past due and collectible.</p>

<u>Item</u>	<u>Description</u>
F	<p>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.</p> <p>The Department has not certified the Society's reserves.</p>
G	<p>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.</p> <p>The Society ceased using the term "lowest cost" verbally or in any other form of advertising after being informed of the violation on July 8, 2005.</p>
H	<p>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.</p> <p>The Society maintains computer records of all advertising and maintains back up copies in its computer.</p>
I	<p>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.</p> <p>The Society maintains replacement logs as required by Section 51.6(c) of Department Regulation No. 60.</p>
J	<p>The Society violated Section 3201(b)(1) of the New York Insurance Law by failing to file an application form with the Department.</p> <p>The Society no longer offers this product.</p>

<u>Item</u>	<u>Description</u>
K	<p>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.</p> <p>The Society keeps a record of receipt of each claim and responds to the claimant in writing within 15 working days if the claim is not paid within such period of time.</p>
L	<p>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.</p> <p>The Society sends a letter explaining the claim benefit along with the check and maintains a copy of the letter for its records.</p>
M	<p>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.</p> <p>The Society utilizes its society newspaper and online internet searches in an attempt to find beneficiaries.</p>
N	<p>The examiner recommends that the Society escheat any unclaimed funds to the State, as required by the New York Abandoned Property Law.</p> <p>The Society escheated unclaimed funds as required by the New York Abandoned Property Law.</p>

## 8. SUMMARY AND CONCLUSIONS

Following are the violation, recommendation and comments contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	Comment that as a result of the qualified actuarial opinion as of December 31, 2007, on June 16, 2008 the Society was prohibited from issuing new business in this state or elsewhere in accordance with subsection (a) of Section 4519 of the New York Insurance Law.	6
B	Recommendation that if the Society resumes issuing new business, it take steps to ensure that: reinsurance is in effect for all policies with face amounts in excess of its retention on a timely basis. The prior report on examination contained a similar recommendation.	7
C	Violation of Section 4515(c) of the New York Insurance Law by exceeding the total life insurance expense limitation for the years 2006 and 2007.	9
D	Comment that as of December 31, 2008, the Society had a negative surplus of \$(474,520) and is therefore insolvent.	12



APPOINTMENT NO. 22786

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, ERIC R. DINALLO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**S'ELREY DAVID**

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

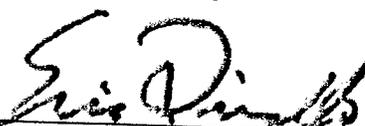
**SOCIETY**

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 1st day of July, 2008

ERIC R. DINALLO  
Superintendent of Insurance

  
Superintendent



APPOINTMENT NO. 22786

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, ERIC R. DINALLO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**S'ELREY DAVID**

as a proper person to examine into the affairs of the

**POLISH UNION OF AMERICA**

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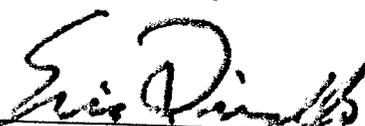
**SOCIETY**

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 1st day of July, 2008

ERIC R. DINALLO  
Superintendent of Insurance

  
Superintendent

