

REPORT ON EXAMINATION

OF THE

COMMUNITY MUTUAL INSURANCE COMPANY

AS OF

DECEMBER 31, 2008

DATE OF REPORT

AUGUST 10, 2009

EXAMINER

WAYNE LONGMORE

TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Company	3
	A. Management	3
	B. Territory and plan of operation	5
	C. Reinsurance	6
	D. Holding company system	8
	E. Significant operating ratios	8
	F. Accounts and records	9
3.	Financial statements	13
	A. Balance sheet	13
	B. Underwriting and investment exhibit	15
4.	Cash, cash equivalents and short-term investments	16
5.	Losses and loss adjustment expenses	16
6.	Market conduct activities	17
7.	Compliance with prior report on examination	19
8.	Summary of comments and recommendations	21



STATE OF NEW YORK
INSURANCE DEPARTMENT
ONE COMMERCE PLAZA
ALBANY, NEW YORK 12257

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30305 dated February 24, 2009, attached hereto, I have made an examination into the condition and affairs of Community Mutual Insurance Company as of December 31, 2008, and submit the following report thereon.

Wherever the designations “the Company” or “CMIC” appear herein without qualification, they should be understood to indicate Community Mutual Insurance Company.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York Insurance Department.

The examination was conducted at the Company’s home office located at 1610 Columbia Turnpike, Castleton, New York 12033.

1. SCOPE OF EXAMINATION

The Department has performed a single-state examination of Community Mutual Insurance Company. The previous examination was conducted as of December 31, 2003. This examination covered the five-year period from January 1, 2004 through December 31, 2008. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook, which requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

This examination report includes a summary of significant findings for the following items as called for in the Financial Condition Examiners Handbook of the NAIC:

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Territory and plan of operation
- Loss experience
- Reinsurance
- Accounts and records
- Statutory deposits
- Financial statements
- Summary of recommendations

This examination report also includes a summary of significant findings regarding market conduct activities.

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations contained in the prior report on examination.

This report on examination is confined to financial statements and comments on those matters, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

2. DESCRIPTION OF COMPANY

An organizational meeting of the Bethlehem Mutual Insurance Association was held in 1854. The Company was incorporated on April 9, 1875, for the purpose of transacting business as an assessment co-operative fire insurance company in the Town of Bethlehem, Albany County, New York.

The Bethlehem Mutual Insurance Association and the New Scotland Mutual Insurance Company merged effective August 31, 1962. The surviving company was known as the Bethlehem and New Scotland Mutual Insurance Company. On December 1, 1992, a merger was effected with the Co-operative Fire Insurance Corporation of Bergholz, New York with the Bethlehem and New Scotland Mutual Insurance Company continuing as the surviving company.

Effective January 1, 1993, the Bethlehem and New Scotland Mutual Insurance Company converted to an advance premium co-operative property/casualty insurance company and changed its name to Community Mutual Insurance Company.

A. Management

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of not less than nine nor more than eighteen members. At least four board meetings were held in each of the years under examination thereby complying with Section 6624(b) of the New York Insurance Law.

At December 31, 2008, the board of directors was comprised of the following ten members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Douglas George Baldrey Averill Park, NY	Retired, College professor
David William Becker Rensselaer, NY	Owner, Beckers Farm LLC
Robert Fay Carpenter, Jr. Sand Lake, NY	Chairman of the Board, Community Mutual Insurance Company
Mona Smith DeMay Sand Lake, NY	Retired, State employee
James Edward Gardner Altamont, NY	Editor, The Altamont Enterprise
Frederick John Gleason Rensselaer, NY	Retired, Key Bank employee
Joan Manclow Gross Sand Lake, NY	Retired, Key Bank employee
Kenneth Harry Herrington Troy, NY	Legislator, Rensselaer County and Farmer
Homer Luther Warner Voorheesville, NY	Vice Chairman of the Board, Community Mutual Insurance Company
Thomas Albert White East Greenbush, NY	President and Treasurer, Community Mutual Insurance Company

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member has an acceptable record of attendance.

As of December 31, 2008, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Robert Fay Carpenter, Jr	Chairman of the Board
Homer Luther Warner	Vice Chairman of the Board
Thomas Albert White	President/ Treasurer
Nancy Miller Grignon	Vice President/Corporate Secretary/Assistant Treasurer

B. Territory and Plan of Operation

As of December 31, 2008, the Company was licensed to write business in New York only.

As of the examination date, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Line of Business</u>
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
12	Collision
13	Personal injury liability
14	Property damage liability
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine (inland marine only)

The Company was also licensed as of December 31, 2008, to accept and cede reinsurance as provided in Section 6606 of the Insurance Law of the State of New York.

Section 6604(a)(3) of the New York Insurance Law states in part:

“A licensed advance premium corporation may apply for an amended license to do any one or more of the kinds of insurance specified in subsection (a) of section one thousand one hundred thirteen of this chapter. . . ”

The Company started writing boiler and machinery, as defined in Section 1113(a)(9) of the New York Insurance Law, in 2008. As of December 31, 2008, the Company was not licensed to write this line of business nor did its charter specify this line. In 2009 the Company requested and was granted approval from the Department to have boiler and machinery insurance added to its charter and license. Nonetheless, it is recommended that the Company comply with Section 6604(a)(3) of the New York Insurance Law and in the future obtain prior approval from the Department before writing a new line of business. It is also recommended that the Company comply with its charter, henceforth.

Based on the lines of business for which the Company is licensed (at December 31, 2008), and pursuant to the requirements of Articles 13, 41, and 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$515,534.

The following schedule shows the direct premiums written by the Company in New York for the period under examination:

<u>Calendar Year</u>	<u>Direct Written Premiums</u>
2004	\$5,298,322
2005	\$5,354,106
2006	\$5,028,695
2007	\$4,661,336
2008	\$4,251,666

At December 31, 2008 the Company wrote insurance through independent agents. The Company's predominant lines of business are commercial multiple peril and homeowners multiple peril which accounted for 43.2% and 41.6% respectively, of the Company's 2008 direct written business.

C. Reinsurance

Assumed

The Company reported no reinsurance assumed during the examination period.

Ceded

The Company had the following reinsurance program in effect at December 31, 2008.

<u>Type of treaty</u>	<u>Cession</u>
Property (2 layers)	\$710,000 in excess of \$40,000 each risk. Reinsurer's liability shall not exceed \$330,000 ultimate net loss in all in any one loss occurrence on the first layer and shall not exceed \$1,200,000 in all in any one loss occurrence on the second layer.

<u>Type of treaty</u>	<u>Cession</u>
Inland Marine (2 layers)	\$710,000 in excess of \$40,000 each risk. Reinsurer's liability shall not exceed \$330,000 ultimate net loss in all in any one loss occurrence on the first layer and shall not exceed \$1,200,000 in all in any one loss occurrence on the second layer.
Casualty (3 layers)	\$960,000 in excess of \$40,000 each loss occurrence.
Contingency (combination loss involving Property, Inland Marine, and/or Casualty business)	\$80,000 in excess of \$40,000 each risk, each loss occurrence.

The Company had the following facultative reinsurance program in effect at December 31, 2008:

Property Facultative	The Company must retain a minimum net and treaty retention of \$600,000 each loss, each risk before making cessions hereunder, and the maximum cessions will then be \$500,000 each loss, each risk plus the reinsurers' pro-rata share of loss expenses. The maximum liability of the reinsurers for loss in any one loss occurrence shall be \$500,000 plus the reinsurers' pro-rata share of loss expenses.
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The Company had the following catastrophe excess of loss reinsurance program in effect at December 31, 2008:

Property Catastrophe (3 layers)	95% of \$3,350,000 in excess of \$150,000 ultimate net loss any one loss occurrence.
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Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in NAIC Accounting Practices and Procedures Manual, Statements of Statutory Accounting Principles ("SSAP") No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's president (chief executive and chief financial officer) pursuant to the Annual Statement Instructions. Additionally, examination review indicated that the

Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraph 26 and 27 of SSAP No. 62 as of December 31, 2008.

The Company ceded to authorized and unauthorized reinsurers during the period under examination.

Since the date of the prior examination, December 31, 2003, the Company's net retention increased from \$25,000 (after quota share reinsurance) to \$40,000 on property business and on casualty business the Company's net retention increased from \$20,000 (after quota share reinsurance) to \$40,000.

All ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

D. Holding Company System

As of December 31, 2008, the Company had a wholly-owned subsidiary, Community Agency, Inc. That agency was organized in 1998. During the period under review the Company provided space, certain clerical and managerial services to the subsidiary and paid all expenses on behalf of the subsidiary. Reimbursement by the subsidiary for the services rendered by the Company is outlined in contracts developed annually by the parties. Copies of the contracts are included in the annual Department Regulation 53 submissions made by the Company to the Department.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2008, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	218%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	83%
Premiums in course of collection to surplus as regards policyholders	14%

All of the above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

The underwriting ratios presented below are on an earned/incurred basis and encompass the five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$ 7,136,991	67.81%
Other underwriting expenses incurred	4,454,912	42.33
Aggregate write-ins for underwriting deductions	158,943	1.51
Net underwriting loss	<u>(1,226,482)</u>	<u>(11.65)</u>
Premiums earned	<u>\$10,524,364</u>	<u>100.00%</u>

F. Accounts and Records

i. Annual Statement Reporting of Mutual Funds

The Company is noted to be reporting a number of Mutual Funds on Schedule E Part 1 of the 2008 filed annual statement as (“Cash”). Statement of Statutory Accounting Principles (“SSAP”) No. 2 (Cash Drafts and Short-term Investments) defines what constitutes cash and it would appear that the mutual fund investments being shown on Schedule E do not fall within that definition. SSAP No. 2, paragraph 10, states that:

“All investments with remaining maturities (or repurchase dates under repurchase agreements) of one year or less at the time of acquisition (excluding those investments classified as cash equivalents as defined in paragraph 3) shall be considered short-term investments. Short-term investments include, but are not limited to, bonds, commercial paper, money market instruments, repurchase agreements, and collateral and mortgage loans which meet the above criteria. Short-term investments shall not include certificates of deposit.”

Paragraph 3.d. of SSAP No. 30 - Investments in Common Stock (excluding investments in common stock of subsidiary, controlled, or affiliated entities) defines common stocks (excluding investments in affiliates) as securities which represent a residual ownership in a corporation and shall include:

“Shares of mutual funds, except for certain money market funds, Class 1 Bond Funds, and Exchange Traded Funds, which qualify for bond treatment, as designated in the NAIC Purposes and Procedures of the Securities Valuation Office (Purposes and Procedures of the SVO), regardless of the types or mix of securities owned by the fund, e.g., bonds, stocks, money market instruments, or other type of investments”.

Therefore, it is recommended that the Company comply with the Statements of Statutory Accounting Principles in the reporting of its mutual fund investments, henceforth, and properly classify them as either short-term, stock or bond investments. It should be noted that a similar recommendation was included in the previous report on examination relative to the reporting of mutual funds as short-term investments instead of as cash.

ii. Custodial agreement updates

During the review of the custodial agreement made available by the Company (other than that for the Superintendent's account) it was noted that several provisions and safeguards required by the New York Insurance Department and the NAIC Financial Condition Examiner Handbook were not included. The Company has been provided with a copy of the handbook guidelines and recommendations are being made as follows:

- It is recommended that the Company obtain agreements for its custodial accounts that include all the provisions required by the Department and the NAIC Financial Condition Examiners Handbook. It should be noted that a similar recommendation was included in the previous report on examination.
- It is recommended that the Company correctly complete the Annual Statement General Interrogatories relative to this issue, henceforth.

iii. Department Regulation 118 Compliance

Upon review of the CPA agreements executed during the examination period (2004 – 2008) between the Company and its CPA firm, it was found that the agreements did not provide for the retention of audit workpapers and communications in accordance with the provisions of Part 243 of Department Regulation 152, which requires retention for six calendar years from the date of the audit report or until the filing of the report on examination covering the period of the audit, whichever is longer, as required by Part 89.2(c) of Department Regulation 118.

It is recommended that the Company ensure that all future contracts entered into with its independent certified public accountants comply with Department Regulation 118.

iv. Schedule P –Reporting

The losses paid and outstanding data provided by the Company were classified by accident year and compared with the reported amounts in Schedule P of the 2008 filed annual statement. Based upon that procedure the following observations were made:

1. The Company reported \$25,000 of case basis losses unpaid on line 2 (accident year 1999), columns 13 (Direct and Assumed) and 14 (Ceded) of Schedule P Part 1 – Summary. Upon review, it was noted that these amounts should have been reported as accident year 1997 losses.
2. Also noted, for loss adjustment expenses reserves being reported on Schedule P Part 1 – Summary of the 2008 annual statement columns 17 and 21, the Company is using a formula instead of actual report numbers to determine Defense and Cost Containment (“DCC”), hence the accident year breakdown on the Annual Statement did not correspond to the data file and system report (LA052) provided by the Company.
3. The system report (LA088) provided by the Company was not sufficiently detailed to allow for verification of the claim counts reported by the Company in Schedule P Part 5 – Section 3 of its 2008 annual statement.

Given the above observations, recommendations as follows are being made:

- It is recommended that the Company exercise due care in the preparation of future Schedule P's.
- It is recommended that the Company retain and be able to provide upon examination, claim level documentation and reconciliations (if necessary) that are sufficiently detailed to support the claim counts being reported in its filed Annual Statements.

v. SSAP 40 Compliance -Rent Charges

Statement of Statutory Accounting Principles (“SSAP”) No. 40, paragraph 15, indicates that a reporting entity shall include in both its income and expenses an amount for rent relative to its occupancy of its own building. The amount recorded shall be at a rate comparable to the rent received from others and/ or rental rates of like property in the same area. If this is unavailable, it shall be derived from consideration of the repairs, expenses, taxes, and depreciation incurred, plus

interest added at an average fair rate on the carrying value of the reporting entity's investment in its home office building.

Based upon discussion with Company management as well as a review of the rental charges for the period under examination (2004 through 2008), the Company should be charging itself a more realistic rental for the occupancy of its own building consistent with the requirements of the aforementioned section of SSAP No. 40.

It is recommended that the Company comply with the requirements of SSAP No. 40, paragraph 15 when determining the rental charge for the occupancy of its own building.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2008 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Examination</u>		<u>Company</u>	<u>Surplus Increase (Decrease)</u>
		<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Net Admitted Assets</u>	
Bonds	\$1,146,446	\$0	\$1,146,446	\$1,146,446	\$ 0
Common stocks	62,629	0	62,629	62,629	0
Real estate: properties occupied by the company	75,268	0	75,268	75,268	0
Cash, cash equivalents and short-term investments	2,203,550	119,119	2,084,431	2,203,550	(119,119)
Investment income due and accrued	22,073	0	22,073	22,073	0
Uncollected premiums and agents' balances in the course of collection	153,777	12,176	141,601	141,601	0
Deferred premiums, agents' balances and installments booked but deferred and not yet due	436,375	0	436,375	436,375	0
Amounts recoverable from reinsurers	(3,507)	0	(3,507)	(3,507)	0
Net deferred tax asset	98,587	0	98,587	98,587	0
Electronic data processing equipment and software	12,499	12,499	0	0	0
Furniture and equipment, including health care delivery assets	10,377	10,377	0	0	0
Receivables from parent, subsidiaries and affiliates	452	0	452	452	0
New York FAIR Plan	<u>72,968</u>	<u>1,803</u>	<u>71,165</u>	<u>71,165</u>	<u>0</u>
Total assets	<u>\$4,291,494</u>	<u>\$155,974</u>	<u>\$4,135,520</u>	<u>\$4,254,639</u>	<u>\$(119,119)</u>

<u>Liabilities, Surplus and Other Funds</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase (Decrease)</u>
<u>Liabilities</u>			
Losses and loss adjustment expenses	\$1,436,040	\$1,410,040	\$(26,000)
Commissions payable, contingent commissions and other similar charges	144,485	144,485	0
Other expenses (excluding taxes, licenses and fees)	27,409	27,409	0
Taxes, licenses and fees (excluding federal and foreign income taxes)	47	47	0
Unearned premiums	1,423,005	1,423,005	0
Advance premium	81,509	81,509	0
Ceded reinsurance premiums payable (net of ceding commissions)	70,427	70,427	0
Amounts withheld or retained by company for account of others	2,445	2,445	0
Aggregate write-ins for liabilities	<u>(48,083)</u>	<u>(48,083)</u>	<u>0</u>
Total liabilities	<u>\$3,137,284</u>	<u>\$3,111,284</u>	<u>\$(26,000)</u>
<u>Surplus and Other Funds</u>			
Aggregate write-ins for special surplus funds	\$515,534	\$414,237	\$101,297
Unassigned funds (surplus)	<u>482,702</u>	<u>729,118</u>	<u>(246,416)</u>
Surplus as regards policyholders	<u>\$998,236</u>	<u>\$1,143,355</u>	<u>\$(145,119)</u>
Total liabilities, surplus and other funds	<u>\$4,135,520</u>	<u>\$4,254,639</u>	<u>\$(145,119)</u>

NOTE: The Internal Revenue Service did not audit the Company's federal income tax returns during the period under examination. The examiner is unaware of any potential exposure of the Company to any tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders decreased \$405,212 during the five-year examination period January 1, 2004 through December 31, 2008, detailed as follows:

Underwriting Income

Premiums earned \$10,524,364

Deductions:

Losses and loss adjustment expenses incurred \$7,136,991

Other underwriting expenses incurred 4,454,912

Aggregate write-ins for underwriting deductions 158,943

Total underwriting deductions 11,750,846

Net underwriting gain or (loss) \$(1,226,482)

Investment Income

Net investment income earned \$455,699

Net realized capital gain 55,360

Net investment gain or (loss) 511,059

Other Income

Net gain or (loss) from agents' or premium balances charged off \$3,244

Finance and service charges not included in premiums 217,850

Aggregate write-ins for miscellaneous income 1,398

Total other income 222,492

Net loss before federal and foreign income taxes \$(492,931)

Federal and foreign income taxes incurred (34,516)

Net loss \$(458,415)

Surplus as regards policyholders per report on examination as of December 31, 2003			\$1,403,448
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net Loss		\$458,415	
Net unrealized capital gains	\$48,479		
Change in net deferred income tax	20,803		
Change in nonadmitted assets		28,983	
Change in provision for reinsurance	7,489		
Aggregate write-ins for gains and losses in surplus	<u>5,415</u>	<u>0</u>	
Total gains or losses in surplus	<u>\$82,186</u>	<u>\$487,398</u>	
Net decrease in surplus			<u>\$(405,212)</u>
Surplus as regards policyholders per report on examination as of December 31, 2008			<u>\$998,236</u>

4. CASH, CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS

The examination admitted asset for the captioned item of \$2,084,431 is \$119,119 less than the \$2,203,550 reported by the Company as of December 31, 2008. The Company had invested in a money market account \$532,672, which was in excess of the 10% of admitted asset limitation prescribed by Section 1409 of the New York Insurance Law. The examination financial change has been made to bring the investment to the acceptable statutory level. Thus, it is recommended that the Company comply with Section 1409 of the New York Insurance Law and not invest more than ten percent of its admitted assets in any one institution. It is noted that a similar recommendation was included in the three prior reports on examination.

5. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$1,436,040 is \$26,000 more than the \$1,410,040 reported by the Company in its December 31, 2008, filed annual statement. The examination change is due to a \$26,000 deficiency, primarily associated with the Company's loss adjustment expenses reserve, indicated by the Company's own appointed actuary.

The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and was based on statistical information contained in the Company's internal records and in its filed annual statements.

6. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau of this Department.

The general review was directed at practices of the Company in the following areas:

- A. Sales and Advertising
- B. Underwriting
- C. Rating
- D. Claims and complaint handling

Agent Termination – Department Regulation 90 Compliance

A) Agent Termination: Number of Days Notice

Based upon the review of agent termination notices issued during the period under examination, it was noted that the Company provided at least thirty days prior notice. However, the underlying contracts reviewed called for at least sixty days prior notice. Given this observation, it does not appear that the Company has complied with the requirements of Department Regulation 90 as respects the number of days notice given upon agency contract termination. It should be noted that a similar observation was made during the previous examination.

Department Regulation 90, Part 218.4(b) states:

“All such notices shall be mailed or delivered to the affected agent or broker at least 30 days prior to the effective date of such termination or such greater period as may be provided for in the contract or account, except that a lesser period is permitted where the insurer alleges that the agent or broker has acted in an untrustworthy manner.”

B) Redlining Notice Requirements

It was also noted from the agent contract termination letters reviewed that the Company is not using the most current redlining notice.

Department Regulation 90, Part 218.5(a) states:

“The following notice shall be clearly and prominently set out in boldface type on the front (except that the company name, company representative, company address and company phone number may be stamped, or typed in the appropriate place in the notice), so that it draws the reader's attention on all notices of refusal to issue, cancellation or nonrenewal, except where the cancellation is for nonpayment of premium; and on all notices of termination of agents' and brokers' contracts or accounts, which are subject to this Part:

If you have any questions in regard to this termination, please contact this company's representative at (company phone number, name of company representative, company address).

The New York Insurance Law prohibits insurers from engaging in redlining practices based upon geographic location of the risk or the producer. If you have any reason to believe that we have acted in violation of such law, you may file your complaint with the Department either on its website at www.ins.state.ny.us/complhow.htm or by writing to the State of New York Insurance Department, Consumer Services Bureau, at either 25 Beaver Street, New York, NY 10004 or One Commerce Plaza, Albany, NY 12257.”

C) General Statements As A Reason For Agency Agreement Terminations

It was also found that some of the agent contract termination notices contained unsupported general statements as the reason for termination. This is not in compliance with Part 218.4(a) of Department Regulation 90 which states:

"All notices to agents or brokers that their contract or account is to be terminated, in whole or in part, shall state the specific reason or reasons for such termination. A specific reason shall not be an unsupported general statement, such as "insufficient volume" or "poor loss ratio."

The notice would be more specific if the Company's thresholds are identified and how the agency failed to meet that threshold is clearly stated in the termination letter.

Given the above, recommendations are being made as follows:

- It is recommended that the Company comply with Department Regulation 90, Part 218.4 and mail or deliver termination notices containing the specific

reason for termination to the affected agent or broker at least 30 days prior to the effective date of such termination or such greater period as may be provided for in the contract or account. A similar recommendation was included in the previous report on examination regarding advance notice.

- It is also recommended that the Company comply with Department Regulation 90, Part 218.5(a) when terminating agents contracts by including the correct redlining notice.

7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained sixteen recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. It was recommended that the Company comply with Section 6611(a)(3) of the New York Insurance Law and maintain a minute book recording the proceedings of the Executive and Finance Committees.</p> <p>The Company has complied with this recommendation.</p>	4
<p>B. It was recommended that the Company comply with Section 1209(d) of the New York Insurance Law and Article VIII of its by-law and obtain the approval of the Superintendent of Insurance before implementing any amendment of its by-laws.</p> <p>The Company has complied with this recommendation.</p>	5
<p>C. It was recommended that the Company comply with Section 6623(b)(2) of the New York Insurance Law and invest in additional securities that qualify as minimum capital investments.</p> <p>The Company has complied with this recommendation.</p>	6
<p>D. It was recommended that the Company comply with Department Regulation 20, Part 125.2 and have in its possession all in-force reinsurance agreements and supplemental contracts.</p> <p>The Company has complied with this recommendation.</p>	7
<p>E. It was recommended that the Company comply with Section 1308(e)(1)(A) of the New York Insurance Law.</p> <p>The Company has complied with this recommendation.</p>	7

ITEMPAGE NO.

- F. It was recommended that the Company comply with Department Regulation 53, Part 81-1.2 and file the necessary Regulation 53 requirements with the Department. Also it is recommended that the Company allocate expenses between it and its subsidiary using a method that will comply with Department Regulation 30, Part 109. 9
- The Company has substantially complied with both of these recommendations.
- G. It was recommended that the Company comply with NAIC suggestions, reinforced by Circular Letter No. 13 (1996) and obtain a custodial agreement that includes the suggestions specified by the NAIC and the New York Insurance Department. 10
- The Company has not complied with this recommendation. A similar recommendation is made in this report.
- H. It was recommended that the Company comply with SSAP No. 64 and set-up a separate liability for commissions payable. 11
- The Company has complied with this recommendation.
- I. It was recommended that the Company accurately respond to the annual statement General Interrogatory regarding the largest net aggregate amount insured in any one risk in all future statements filed with this Department. 11
- The Company has complied with this recommendation.
- J. It was recommended that the Company comply with SSAP No. 40 and report real estate and any capitalized improvement on the property net of depreciation. 15
- The Company has complied with this recommendation.
- K. It was recommended that the Company comply with SSAP No. 26 paragraph 2 and report certificates of deposit with fixed schedule of payments and maturity date in excess of one year as bonds. 16
- The Company has complied with this recommendation.
- L. It was recommended that the Company comply with SSAP No. 2 paragraph 10 and report money market instruments as short-term investments in the annual statement. 16
- The Company has not complied with this recommendation. A similar

<u>ITEM</u>	<u>PAGE NO.</u>
	recommendation is made in this report.
M.	17
	It was recommended that the Company comply with Section 1409 of the New York Insurance Law and not invest more than ten percent of its admitted asset in any one institution.
	The Company has not complied with this recommendation. A similar recommendation is made in this report.
N.	18
	It was recommended that the Company comply with Department Regulation 90, Part 218.4 and provide terminated agents the required advance notice.
	The Company has not complied with this recommendation. A similar recommendation is made in this report regarding advance notice.
O.	18
	It was recommended that the Company comply with Section 6609(a)(2) and provide its policyholders a policy form that will include the provisions of the Company's by-laws.
	The Company has substantively complied with this recommendation.

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A.	5
	<u>Territory and Plan of Operation</u>
	It is recommended that the Company comply with Section 6604(a)(3) of the New York Insurance Law and in the future obtain prior approval from the Department before writing a new line of business. It is also recommended that the Company comply with its charter, henceforth.
B.	
	<u>Accounts and Records</u>
i.	10
	It is recommended that the Company comply with the Statements of Statutory Accounting Principles in the reporting of its mutual fund investments, henceforth, and properly classify them as either short-term, stock or bond investments. It should be noted that a similar recommendation was included in the previous report on examination relative to the reporting of mutual funds as short-term investments instead of as cash.

<u>ITEM</u>	<u>PAGE NO.</u>
ii. It is recommended that the Company obtain agreements for its custodial accounts that include all the provisions required by the Department and the NAIC Financial Condition Examiners Handbook. It should be noted that a similar recommendation was included in the previous report on examination.	10
iii. It is recommended that the Company correctly complete the Annual Statement General Interrogatories relative to this issue, henceforth.	10
iv. It is recommended that the Company ensure that all future contracts entered into with its independent certified public accountants comply with Department Regulation 118.	10
v. It is recommended that the Company exercise due care in the preparation of future Schedule P's.	11
vi. It is recommended that the Company retain and be able to provide upon examination, claim level documentation and reconciliations (if necessary) that are sufficiently detailed to support the claim counts being reported in its filed Annual Statement.	11
vii. It is recommended that the Company comply with the requirements of SSAP No. 40, paragraph 15 when determining the rental charge for the occupancy of its own building.	12
 C. <u>Cash, Cash Equivalents and Short-Term Investments</u>	
It is recommended that the Company comply with Section 1409 of the New York Insurance Law and not invest more than ten percent of its admitted assets in any one institution. It is noted that a similar recommendation was included in the three prior reports on examination.	16
 D. <u>Market Conduct Activities</u>	
i. It is recommended that the Company comply with Department Regulation 90, Part 218.4 and mail or deliver termination notices containing the specific reason for termination to the affected agent or broker at least 30 days prior to the effective date of such termination or such greater period as may be provided for in the contract or account. A similar recommendation was included in the previous report on examination regarding advance notice.	18
ii. It is recommended that the Company comply with Department Regulation 90, Part 218.5(a) when terminating agents contracts by including the correct redlining notice.	19

Respectfully submitted,

_____/s/
Wayne Longmore
Senior Insurance Examiner

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

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

_____/s/
Wayne Longmore

Subscribed and sworn to before me

this _____ day of _____, 2010.

Appointment No 30305

STATE OF NEW YORK
INSURANCE DEPARTMENT

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

WAYNE LONGMORE

as proper person to examine into the affairs of the

COMMUNITY MUTUAL INSURANCE COMPANY

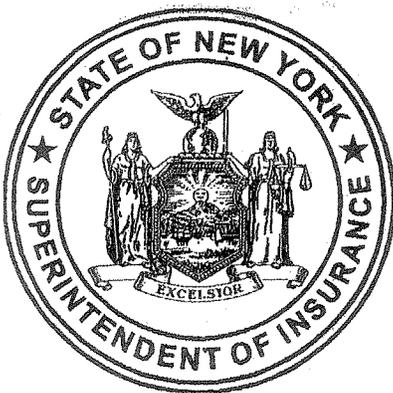
and to make a report to me in writing of the condition of the said

Company

with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed by the
name and affixed the official Seal of this Department, at
the City of New York,

this 24th day of February 2009



A handwritten signature in cursive script that reads "Eric Dinallo".

ERIC DINALLO

Superintendent of Insurance