

REPORT ON EXAMINATION

OF THE

ATRIUM INSURANCE CORPORATION

AS OF

DECEMBER 31, 2007

DATE OF REPORT

APRIL 18, 2008

EXAMINER

LAMIN JAMMEH

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

April 18, 2008

Honorable Eric R. Dinallo  
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 22727 dated December 27, 2007 attached hereto, I have made an examination into the condition and affairs of Atrium Insurance Corporation as of December 31, 2007, and submit the following report thereon.

Wherever the designations "the Company" or "Atrium" appear herein without qualification, they should be understood to indicate Atrium Insurance Corporation.

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 administrative offices located at 3000 Leadenhall Road, Mt Laurel, New Jersey 08054.

## 1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 2001. This examination covered the six-year period from January 1, 2002 through December 31, 2007. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The current examination was organized, planned, and conducted based upon the application of the risk surveillance approach in accordance with the guidelines and procedures established in the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners ("NAIC"). To the extent considered appropriate, work performed by the Company's independent public accountants and the Sarbanes Oxley documentation was considered. A review also made of the following items as called for in the Financial Condition Examiners Handbook of the NAIC:

- History of Company
- Management and control
- Corporate records
- Territory and plan of operation
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

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

Atrium Insurance Corporation was incorporated under the laws of the State of New York on June 15, 1994 and commenced business on November 9, 1995. The Company is a wholly-owned subsidiary of PHH Corporation (“PHH”). On January 31, 2005, PHH began operating as a separate publicly traded company subsequent to a spin-off from Cendant Corporation “(Cendant)”. Cendant has no continuing ownership in PHH.

As of December 31, 2006, capital paid in was \$1,000,000 consisting of 1,000 shares of common stock at \$1,000 par value per share. Gross paid in and contributed surplus was \$80,816,004. Gross paid in and contributed surplus increased by \$52,216,004 during the examination period, as follows:

<u>Year</u>	<u>Description</u>		<u>Amount</u>
12/31/2001	Beginning gross paid in and contributed surplus		\$28,600,000
2002	Surplus contribution	\$17,500,000	
2005	Surplus contribution	<u>34,716,004</u>	
	Total surplus contributions		<u>52,216,004</u>
12/31/2007	Ending gross paid in and contributed surplus		<u>\$80,816,004</u>

### 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 thirteen nor more than twenty-one members. At December 31, 2007, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Spiro Bantis New York, NY	Attorney-at-law, London Fischer LLP
Richard J. Bradfield Mt. Laurel, NJ	Senior Vice President and Secretary of Marketing, PHH Mortgage Corporation
William F. Brown Mt. Laurel, NJ	Senior Vice President and General Counsel, PHH Corporation and PHH Mortgage Corporation
Mark R. Danahy Mt. Laurel, NJ	Senior Vice President and Chief Financial Officer, PHH Mortgage Corporation

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Terence W. Edwards Mt. Laurel, NJ	President and Chief Executive Officer, PHH Corporation and PHH Mortgage Corporation
John J. Erdman Mt. Laurel, NJ	Vice President and Controller, PHH Mortgage Corporation
Mark E. Johnson Mt. Laurel, NJ	Vice President and Treasurer, PHH Corporation
George J. Kilroy Sparks, MD	President and Chief Executive Officer, PHH Vehicle Management Services, LLC
Henry Miller New York, NY	Vice President of Business Management, PHH Vehicle Management Services, LLC
Clair M. Raubenstine Mt. Laurel, NJ	Executive Vice President and Chief Financial Officer, PHH Corporation
Donna Van Osten Mt. Laurel, NJ	Senior Vice President PHH Mortgage Corporation
Joseph W. Weikel Sparks, MD	Senior Vice President and General Counsel, PHH Vehicle Management Services, LLC
Ronald O. Whitford Jr. Mt. Laurel, NJ	Vice President, PHH Corporation

Pursuant to Article I, Section 1 of the Company's by-laws, the shareholders of the Company are required to meet annually on the first Monday in May of each calendar year for the purpose of electing the directors of the Company. Immediately following the annual meeting of the shareholders, the board is required to meet for the purpose of electing the officers of the Company. It is noted that the board of directors never physically met during the examination period; all board business, including the election of Company officers, was conducted by unanimous written consent of directors in lieu of regular meetings. The Company's by-laws permit unanimous written consent of the directors in lieu of regular board of directors meetings; however, Article II, Section 8 of the by-laws restricts these meeting to those situations "where time is of the essence, but not in lieu of any regular or special scheduled meeting of the board of directors or any committee thereof . . ." It is recommended that the Company's board of directors hold at least one annual meeting and limit action

by unanimous written consent of directors without a meeting to emergency situations only, pursuant to the provisions of its by-laws.

As of December 31, 2007, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Terry Edwards	President
William F. Brown	Senior Vice President and Secretary
Mark Danahy	Senior Vice President and Chief Financial Officer
Mark E. Johnson	Vice President and Treasurer

B. Territory and Plan of Operation

As of December 31, 2007, the Company was licensed to write business in the State of New York only.

The Company is licensed pursuant to Article 65 of the New York Insurance Law, as a mortgage guaranty insurer, to transact only the business of mortgage guaranty insurance as described in paragraph 23 of Section 1113(a) of the New York Insurance Law.

The Company did not write any direct premiums during the period under examination. All of the Company's gross premiums written consisted of premiums assumed from four non-affiliated insurers that write mortgage guaranty insurance on a direct basis. The Company assumes mortgage guaranty premiums applicable only to mortgage loans originated by one or more of the Company's affiliates (PHH Mortgage Corporation and its affiliates.). The Company maintains no agency system and does not solicit business on the open market (see "Reinsurance" below for additional details).

Based on the line of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 65 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$1,500,000.

C. Reinsurance

Assumed

Assumed reinsurance accounted for 100% of the Company's gross premiums written at December 31, 2007. The Company's assumed reinsurance business has decreased since the last examination. All of the Company's assumed premiums written were derived from four reinsurance agreements whereby Atrium assumed, on an excess of loss basis, mortgage guaranty insurance. All business assumed by the Company relates to mortgage guaranty insurance on loans originated by PHH Mortgage Corporation and its affiliates. Atrium is a member of the PHH Holding Company System. The Company utilizes reinsurance accounting as defined in NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles ("SSAP") No. 62 for all of its assumed reinsurance business.

The examination review of the assumed reinsurance contracts in place as of the examination date showed that the contracts contained the required clauses, including the insolvency clauses, meeting the requirements of Section 1308 of the New York Insurance Law.

The four assumed reinsurance agreements are similar in nature. Under the terms of one agreement, for the policy year beginning before April 1 1997, the reinsurance coverage provided by Atrium provides for 100% assumption when the cumulative net losses produce a policy year paid claim ratio that is over 6.5% up to that portion of cumulative net losses that produce a policy year paid claim ratio of 12.5%. For the policy year beginning on or after April 1 1997, the reinsurance coverage provided by Atrium provides for 100% assumption when the cumulative net losses produce a policy year paid claim ratio that is over 4.0% up to that portion of cumulative net losses that produce a policy year paid claim ratio of 14.0%.

The Company assumes premiums under the agreement at a rate of 25% of gross written premiums less ceding commission of 19.0% for policies with effective dates of October 1993 through March 1997; a rate of 45% of gross written premiums less ceding commission of 19.0% for policies with effective dates from April 1997 through December 1999; a rate of 45% of gross written premium less a ceding commission of 11.1% for policies with effective dates of January 2000 and forward. Assumed premiums under this agreement totaled \$19,688,000 for calendar year 2007.

Under the terms of the second agreement, the ceding company retains up to 4% of the aggregate net losses. Reinsurance coverage provided by Atrium provides for 100% assumption of

aggregate net losses in excess of 4% up to aggregate net losses of 14%. Reinsurance coverage stops at aggregate net losses in excess of 14% of the applicable book of business.

The reinsurance premium was at a rate of 45% of gross premiums written with an 11.1% ceding commission for policies with effective dates of January 2000 and forward. Assumed premiums under this agreement totaled \$10,786,000 in 2007.

Under the terms of the third agreement, the ceding company retains up to 4% of the cumulative underwriting year net losses. Reinsurance coverage provided by Atrium provides for 100% assumption of cumulative underwriting year net losses in excess of 4% up to cumulative underwriting year net losses of 14%.

The reinsurance premium was at a rate of 40% of gross premiums written with an 11.1% ceding commission for policies with effective dates of July 2004 and forward. Assumed premiums under this agreement totaled \$893,000 in 2007.

Under the terms of the fourth agreement, the ceding company retains up to 2.25% of the cumulative underwriting year net losses. Reinsurance coverage provided by Atrium provides for 100% assumption of cumulative underwriting year net losses in excess of 2.25% up to cumulative underwriting year net losses of 6.25%.

The reinsurance premium was at a rate of 25% of gross premiums written for policies with effective dates of February 2006 and forward. Assumed premiums under this agreement totaled \$1,077,000 in 2007.

#### Ceded

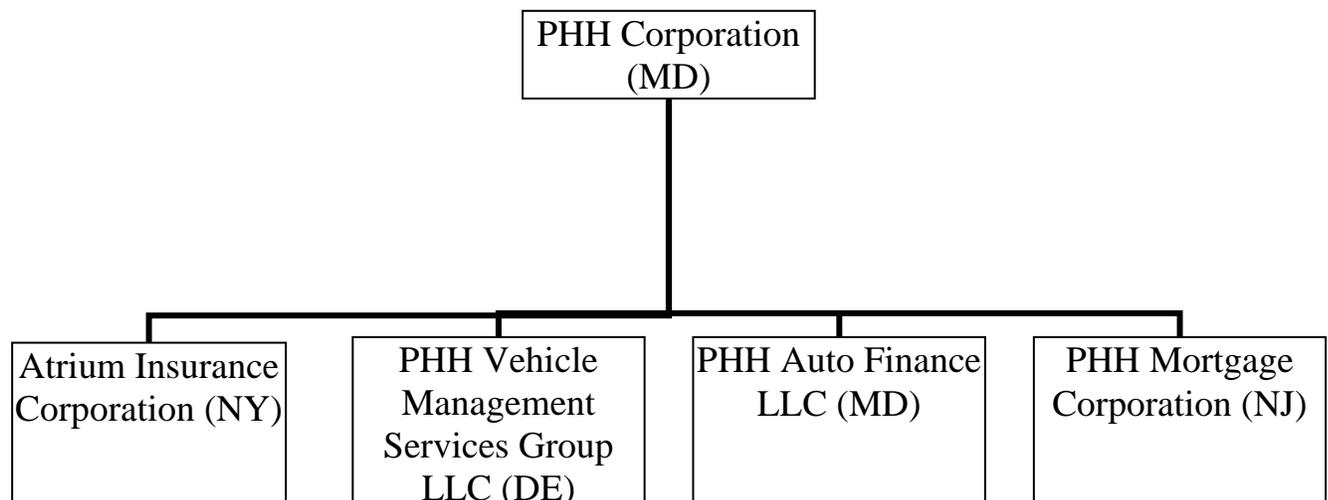
The Company did not cede any business during the examination period.

D. Holding Company System

The Company is a member of the PHH Corporation Holding Company System. The Company is a wholly-owned subsidiary of PHH Corporation, a Maryland corporation.

A review of the holding company registration statements filed with this Department indicated that such filings were complete and were filed in a timely manner.

The following is an abridged chart of the holding company system at December 31, 2007:



At December 31, 2007, the Company was party to the following agreements with other members of its holding company system:

Expense Allocation Agreement

In accordance with the terms of the expense allocation agreement, PHH has agreed to provide office space and furnishings suitable for the professional and support personnel of the Company. PHH has also agreed to provide such systems, personnel and equipment support as will be reasonably necessary for the operation of the Company's business. These services are provided on an actual cost basis. This agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

### Service Allocation Agreement

Under the terms of the service allocation agreement, PHH US Mortgage has agreed to provide accounting, information systems, bookkeeping, account analysis, bank reconciliation work and investment services to the Company. This agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

### Tax Allocation Agreement

Effective December 31, 2005, the Company is party to a tax allocation agreement with members of its holding company system. A review of the minutes of the board of directors meetings held during the examination period revealed that the board of directors did not approve the tax allocation agreement. Circular Letter No. 33 (1979) states:

“Every domestic insurer which is a party to a consolidated federal income tax filing must have a definitive written agreement, approved by its board of directors, governing its participation therein.”

It is recommended that the Company's board of directors approve the tax allocation agreement pursuant to the provisions of Department Circular Letter No. 33 (1979).

Additionally, it was noted that the Company did not file a copy of its tax allocation agreement with this Department. Circular Letter No. 33 (1979) states:

“Every domestic insurer is directed to notify this Department within 60 days of this circular letter if it participates in a consolidated tax return and to submit a copy of its tax allocation agreement with such notification. Any domestic insurer which currently does not participate in a consolidated tax return shall file a copy of its tax allocation agreement with this Department within 30 days of electing to do so. Furthermore, notification to this Department should be given within 30 days of any amendment to or termination of a tax allocation agreement.”

It is recommended that the Company file its tax allocation agreement with the Department pursuant to the provisions of Circular Letter 33 (1979).

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2007, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	39%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	75%
Premiums in course of collection to surplus as regards policyholders	13%

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 six-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$ 20,478,324	8.52%
Other underwriting expenses incurred	30,512,083	12.69
Net underwriting loss	<u>189,435,407</u>	<u>78.79</u>
Premiums earned	\$ <u>240,425,814</u>	<u>100.00%</u>

F. Accounts and Records

Section 1411(a) of the New York Insurance Law provides that “no domestic insurer shall make any loan or investment ... unless authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investment or loan.” The review of the minutes of the board of directors meetings indicated that securities were purchased without the formal approval of the Company’s board of directors, in violation of Section 1411(a) of New York Insurance Law.

It is recommended that the board of directors approve the Company’s investments pursuant to the provisions of Section 1411(a) of New York Insurance Law. It is noted that a similar recommendation was included in the prior report on examination.

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2007 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Examination</u>		
	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Common stocks	\$ 64,893,359	\$ 0	\$ 64,893,359
Cash, cash equivalents and short-term investments	221,558,532	0	221,558,532
Investment income due and accrued	2,259,707	0	2,259,707
Uncollected premiums and agents' balances in the course of collection	10,626,767	0	10,626,767
Net deferred tax asset	956,964	915,842	41,122
Prepaid rent	7,172	0	7,172
Security Deposit	<u>4,604</u>	<u>0</u>	<u>4,604</u>
Total assets	<u>\$300,307,105</u>	<u>\$915,842</u>	<u>\$299,391,263</u>
<u>Liabilities, Surplus and Other Funds</u>			
<u>Liabilities</u>			
Losses			\$ 32,280,240
Commissions payable, contingent commissions and other similar charges			1,122,097
Other expenses (excluding taxes, licenses and fees)			48,569
Current federal and foreign income taxes			4,167,611
Unearned premiums			587,452
Statutory contingency reserve			<u>178,832,098</u>
Total liabilities			\$217,038,067
<u>Surplus and Other Funds</u>			
Common capital stock		\$ 1,000,000	
Gross paid in and contributed surplus		80,816,004	
Unassigned funds (surplus)		<u>537,194</u>	
Surplus as regards policyholders			<u>82,353,198</u>
Total liabilities, surplus and other funds			<u>\$299,391,265</u>

**NOTE:** The Internal Revenue Service has completed its audits of the Company's consolidated Federal Income Tax returns through tax year 2002. All material adjustments, if any, made subsequent to the date of examination and arising from said audits, are reflected in the financial statements included in this report. Audits covering tax years 2003 through 2005 are currently under examination. The Internal Revenue Service has not yet begun to audit tax returns covering tax years 2006 and 2007. 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 increased \$48,542,071 during the six-year examination period January 1, 2002 through December 31, 2007, detailed as follows:

Underwriting Income

Premiums earned		\$240,425,814
Deductions:		
Losses incurred	\$20,478,324	
Other underwriting expenses incurred	<u>30,512,083</u>	
Total underwriting deductions		<u>50,990,407</u>
Net underwriting gain		\$189,435,407

Investment Income

Net investment income earned	<u>\$39,712,768</u>	
Net investment gain		39,712,768

Other Income

Aggregate write-ins for miscellaneous income	<u>\$113,081</u>	
Total other income		<u>113,081</u>
Net income before federal and foreign income taxes		\$229,261,256
Federal and foreign income taxes incurred		<u>80,797,461</u>
Net income		<u>\$148,463,795</u>

C. Capital and Surplus Accounts

Surplus as regards policyholders per report on examination as of December 31, 2001			\$33,811,127
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$148,463,797		
Change in net deferred income tax		\$ 245,679	
Change in nonadmitted assets		915,842	
Surplus adjustments paid in	52,216,004		
Dividends to stockholders		33,500,000	
Change in statutory contingency reserve	<u>                    </u>	<u>117,476,209</u>	
Total gains and losses	<u>\$200,679,801</u>	<u>\$152,137,730</u>	
Net increase in surplus			<u>48,542,071</u>
Surplus as regards policyholders per report on examination as of December 31, 2007			<u>\$82,353,198</u>

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$32,280,240 is the same as reported by the Company as of December 31, 2007. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Companies internal records and in its filed annual statements.

#### 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i.     It was recommended that the Company comply with the provisions of its charter and by-laws with regard to its annual meeting of its shareholders for the election of its board of directors.	4
The Company has complied with this recommendation.	
ii.    It was recommended that the Company comply with the provisions of its charter and by-laws with regard to its annual meeting of its board of directors for the purpose of electing the officers of the Company.	4
The Company has not complied with this recommendation. A similar comment is made in this report.	
iii.   It was recommended that the Company comply with the provisions of Section 1411(a) of the New York Insurance Law and have its board of directors approve all investment purchases.	5
The Company has not complied with this recommendation. A similar comment is made in this report.	
B. <u>Reinsurance</u>	
It was recommended that the Company amend its assumed reinsurance contracts to include the necessary language to comply with the Department Office of General Counsel's opinion dated February 26, 2002.	8
The Company has complied with this recommendation.	

<u>ITEM</u>		<u>PAGE NO.</u>
C.	<u>Holding Company System</u>	
i	It was recommended that the Company comply with the NAIC's Annual Statement Instructions with regards to the completion of Schedule Y-Part 1- Organizational Chart in all future annual statements.	9
	The Company has complied with this recommendation.	
ii	It was recommended that the Company comply with Circular Letter No. 15 (1975) and settle its intercompany tax liability within 90 days due.	10
	The Company has complied with this recommendation.	
D.	<u>Abandoned Property</u>	
	It was again recommended that the Company file its abandoned property reports on a timely basis pursuant to the provisions of Section 1316 of the New York State Abandoned Property Law.	10
	This recommendation is no longer applicable.	
E.	<u>Accounts and Records</u>	
	<u>Minimum Capital Investments</u>	
i.	It was recommended that the Company comply with Section 1402(a) of the New York Insurance Law by maintaining an amount equal to the Company's minimum capital and surplus requirements held free and clear of any or all security interests.	13
	The Company has complied with this recommendation.	

## 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Management</u>	
	It is recommended that the Company's board of directors hold at least one annual meeting and limit action by unanimous written consent of directors without a meeting to emergency situations only, pursuant to the provisions of its by-laws.	4
B.	<u>Holding Company System</u>	
i.	It is recommended that the Company's board of directors approve the tax allocation agreement pursuant to the provisions of Department Circular Letter No. 33 (1979).	9
ii.	It is recommended that the Company file its tax allocation agreement with the Department pursuant to the provisions of Circular Letter 33 (1979).	9
C.	<u>Accounts and Records</u>	
i.	It is recommended that the board of directors approve the Company's investments pursuant to the provisions of Section 1411(a) of New York Insurance Law.	10

Respectfully submitted,

\_\_\_\_\_/S/  
Lamin Jammeh  
Senior Insurance Examiner

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

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

\_\_\_\_\_/S/  
Lamin Jammeh

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Appointment No. 22727

**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:

**Lamin Jammeh**

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

**ATRIUM INSURANCE CORPORATION**

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

**Corporation**

*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 27th day of December, 2007*



A handwritten signature in cursive script, reading "Eric Dinallo".

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**ERIC R. DINALLO**  
*Superintendent of Insurance*