

REPORT ON EXAMINATION

OF THE

SAMMARNICK INSURANCE CORPORATION

AS OF

DECEMBER 31, 2007

DATE OF REPORT

NOVEMBER 9, 2009

EXAMINER

VERONICA DUNCAN BLACK

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

November 9, 2009

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 30211 dated October 2, 2008 attached hereto, I have made an examination into the condition and affairs of Sammarnick Insurance Corporation as of December 31, 2007, and submit the following report thereon.

Wherever the designations "the Company" or "Sammarnick" appears herein without qualification, it should be understood to indicate Sammarnick 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 offices located at 200 Liberty Street, New York, NY 10004.

1. SCOPE OF EXAMINATION

The purpose of this examination was to determine whether the Company was operating within its by-laws, was conforming to Article 70 of the New York Insurance Law, and was in compliance with its plan of operation as submitted to the Department.

A review was conducted of the Company's operations, from its date of incorporation as a New York captive insurance company, July 1, 2003 through December 31, 2007. The review included an analysis of the Company's financial condition, the corporate records, and limited tests of the various income and disbursement items as deemed necessary. This report is submitted on an "exception" basis. Comments and recommendations are limited to those items requiring financial adjustment, procedural recommendations, or instances where the Company was not conforming to the application submitted to the Department or Article 70 of the New York Insurance Law.

The report utilized work performed by the Company's independent certified public accountants to the extent considered appropriate.

2. DESCRIPTION OF COMPANY

The Company was incorporated on July 1, 2003 and commenced operations as a captive insurance company under the laws of the state of New York on July 3, 2003. The Company is a wholly-owned subsidiary of Viacom, Inc., which is a media conglomerate with various worldwide interests in cable and satellite television networks including MTV Networks and BET, and in movie production and distribution that include Paramount Pictures and DreamWorks movie studios. During December 2005, Viacom, Inc. ("New Viacom") was spun off as a new publicly-traded Company from the original Viacom, Inc ("Old Viacom"), and the original Viacom, Inc. changed its name to CBS Corporation.

A. Articles of Incorporation

As stated in its articles of incorporation, the Company was organized for the purpose of transacting the kinds of insurance specified in Section 1113 of the New York Insurance Law, subject at all times to the limitations on the business of pure captive insurance companies set forth in Article 70 of the New York Insurance Law.

B. By-Laws

The by-laws of the Company were reviewed and it was noted that the Company was operating in full conformity with its by-laws in all material respects.

C. Capital Structure

The Company was incorporated as a pure captive insurance company. On July 1, 2003, the Company issued 100,000 shares of its common stock having a \$1.00 par value per share to its parent company, Viacom, Inc. for \$150,250,000. In December 2005, the Company issued a return of capital to the "Old Viacom" through a reduction of the notes receivable in the amount of \$150,000,000. In addition, the Company was recapitalized with a \$50,000,000 demand note from the "New Viacom." The captioned capitalization is permitted pursuant to Section 7006(a) of New York Insurance Law.

Contributed surplus and capital paid in decreased by \$100,000,000 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
2003	Beginning paid in capital and contributed surplus	\$ 150,250,000
2005	Surplus reduction	\$(150,000,000)
	Surplus contribution	<u>50,000,000</u>
	Total surplus contribution (reduction)	<u>(100,000,000)</u>
2007	Ending paid in capital and contributed surplus	<u>\$ 50,250,000</u>

Section 7004(a) of the New York Insurance Law requires a pure captive insurer to maintain capital and surplus as regards policyholders of not less than \$250,000. Section 7004(b) of the New York Insurance Law requires that such minimum capital and surplus must be in the form of cash; minimum capital or surplus to policyholders investments of the types specified in Section 1402(b)(1) or (2) of this chapter; or an irrevocable letter of credit. As of December 31, 2007, the Company had a cash investment of \$230,145 and investments in mutual funds in the amount of \$25,727,258 and \$151,554,260. The mutual fund investments do not qualify as capital and surplus investments

pursuant to Section 7004(b) of the New York Insurance Law; therefore, the Company did not meet the minimum capital and surplus investment requirement of \$250,000.

It is recommended that the Company maintain at least \$250,000 in the types of minimum capital and surplus investments specified in Section 7004(b) of the New York Insurance Law.

D. Corporate Records

The corporate records reviewed appeared to be substantially accurate and complete in all material respects.

E. Plan of Operation

The Company's plan of operation states that it will provide to its parent company, Viacom, Inc. and all of its domestic subsidiaries with insurance coverages as permitted by Article 70 of the New York Insurance Law. The initial plan was designed to cover the parent company's property risk associated with acts of terrorism as defined by the 2002 Terrorism Risk Insurance Act. The plan was amended three times to add new lines of business. Effective December 1, 2004, the Company amended the plan to include an entertainment/motion picture policy as part of its insurance coverages. Further, in calendar year 2006, the Company amended its plan of operation to include an integrated risk and deductible buyback policy.

F. Reinsurance

The examiner reviewed all of the Company's ceded reinsurance contracts in effect at December 31, 2007. As of the examination date, the Company had an excess of loss reinsurance arrangement in place for the protection of its entertainment, property and terrorism insurance business. The Company did not engage in any assumed reinsurance arrangements for the period under examination.

Entertainment Policy Reinsurance

The Company provided certain excess of loss reinsurance coverage to Viacom, Inc. and its subsidiaries. Viacom, Inc. has a reinsurance coverage limit of \$192.5 million excess of a \$5 million

self insured limit. The Company, however, provides protection for only certain layers of coverage, as follows:

\$5 million excess of \$35 million each occurrence, each production, excess of \$5 million self-insured retention each claim, each production.

\$5 million excess of \$40 million each occurrence, each production, excess of \$5 million self-insured retention each claim, each production.

\$5 million excess of \$50 million each occurrence, each production, excess of \$5 million self-insured retention each claim, each production.

\$20 million excess of \$90 million each occurrence, each production, excess of \$5 million self-insured retention each claim, each production.

\$10 million excess of \$110 million each occurrence, each production, excess of \$5 million self-insured retention each claim, each production.

All of these layers are 100% reinsured to various reinsurers. It was noted that the excess of loss entertainment reinsurance agreement was not in compliance with Section 7010(c) of the New York Insurance Law for the period ended December 31, 2007. This section of the law specifies that in order for a captive insurer to be able to take credit for reserves on risks or portion of risks ceded to reinsurers, such reinsurance arrangement must be in compliance requirements with Section 1308(a)(2)(i) of the New York, or that such reinsurance arrangement be approved by the superintendent. Subsequent to this determination, the captive manager informed the examiner that the Company and its parent, Viacom, Inc. did not renew the captioned excess of loss reinsurance agreement effective June 1, 2009. Given this circumstance, it was determined that a recommendation regarding this matter was not necessary.

Property Policy Reinsurance

The Company also provides an excess of loss property reinsurance agreement that included coverage for acts of terrorism to Viacom, Inc. and its subsidiaries. Effective December 9, 2005, in connection with the split of Viacom, Inc. and CBS Corporation, the property coverage was transferred to Blackrock Insurance Corporation, a New York captive insurance company wholly owned by CBS Corporation. Concurrently a new property reinsurance agreement was issued by the Company to Viacom, Inc. for certain layers of coverage. This agreement afforded Viacom, Inc. with a limit of \$1.5 billion with various sub-limits by coverage, in excess of the \$2 million per occurrence and in the aggregate self-insured retention for policy period December 9, 2005 to December 9, 2006.

This agreement was renewed for the period December 9, 2006 through February 15, 2008 with a reduced policy limit of \$1 billion with same layers being written by the Company and all terms of the agreement remaining substantially the same. Further, the terrorism coverage was included within the property policy from December 9, 2006 to December 9, 2007, which was extended by an endorsement through December 31, 2007. The terrorism coverage became its own policy effective December 31, 2007; which was renewed on December 31, 2008. The Company ceded 100% of the property coverage to various reinsurers through facultative certificates. A review of the property reinsurance contracts shows that all of the contracts contain the required standard clauses including insolvency clauses meeting the requirements of Sections 7010(c) and 1308(a)(2)(i) of the New York Insurance Law.

Terrorism Policy Reinsurance

For the period ended December 2007, the Company had an excess of loss terrorism reinsurance agreement in place for the protection of its parent company's certified and non-certified terrorism risk. The terrorism insurance coverage provided the Company with a reinsurance limit of \$150 million part of \$1 billion for certified terrorism risks, and a limit of \$500 million excess of \$100 million for non-certified risks. A review of the terrorism reinsurance contracts shows that all of the contracts contain the required standard clauses including insolvency clauses meeting the requirements of Sections 7010(c) and 1308(a)(2)(i) of the New York Insurance Law.

On November 26, 2002, the Terrorism Risk Insurance Act of 2002 ("TRIA" or "the Act") was signed into law. On December 26, 2007, the President of the United States signed the Terrorism Risk Insurance Program Reauthorization Act of 2007 into law, which extended TRIA through December 31, 2014. The Act created a U.S. government facility that provides reinsurance coverage to insurers as a result of declared terrorism events. The Act established a "program trigger" that must be met before the Treasury will cover a loss. The program trigger is currently \$100 million and applies to all certified acts of terrorism. When the program is triggered, the Federal government is required to pay 85% of insured terrorism losses in excess of individual insurer trigger/deductible while the insurer pays 15%. Prior to January 1, 2007, the percentage of coinsurance provided by the Treasury was set at 90%, and the "program trigger" amount was set at \$50 million.

G. Management

Captive Manager

The Company originally executed its captive management agreement with Aon Insurance Managers (USA) Inc. (“AIM”). By a letter dated June 27, 2006, Viacom, Inc. advised AIM that its services as a captive manager would be terminated effective July 1, 2006; and effective June 30, 2006, Viacom, Inc. appointed Willis of New York, Inc. to act as the Company’s captive manager. As of the examination date, Ms. Courtney Ziter was licensed as the captive manager on the behalf of Willis of New York, Inc. Further, effective June 30, 2006, Sammarnick executed a new captive management agreement with Willis of New York, Inc., whereby the Company appointed the captive manager to perform services such as: maintaining the books and the records of the Company, which includes administrative, accounting and regulatory reporting of the Company, executing and issuing all insurance policies and treaties/contracts of reinsurance, and managing and settling insurance claims.

Board of Directors

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 three, but nor more than ten members. At December 31, 2007, the board of directors was comprised of the following four members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Michael D. Fricklas New York, NY	President and Director, Sammarnick Insurance Corporation
James Barge Old Greenwich, CT	Vice President and Director, Sammarnick Insurance Corporation
Barrie Wexler Plainsboro, NJ	Vice President, Risk Management, Viacom, Inc.
Jay Kushner Armonk, NY	Senior Vice President, Global Tax Treasury, Viacom, Inc.

The board met five times during the period covered by this examination. A review of the minutes of the board of directors’ meetings held during the examination period indicate that the

meetings were generally well attended, with the exception of Michael D. Fricklas who did not attend any of the meetings for which he was eligible to attend.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the insurer. It is essential that board members attend meetings consistently and set forth their views on relevant matters so that the board may reach appropriate decisions. Individuals who fail to attend at least one-half of the regular meetings do not fulfill such criteria. It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

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

<u>Name</u>	<u>Title</u>
Michael D. Fricklas	President
James W. Barge	Vice President and Secretary
George S. Nelson	Vice President and Treasurer
Jay Kushner	Vice President
Barrie Wexler	Vice President and Assistant Treasurer

H. (i) Certified Public Accountant and Actuarial Services

The Company was audited by PricewaterhouseCoopers (“PwC”) for the period ended December 31, 2007. For the prior periods December 31, 2003 through December 2006, the Company was audited by Johnson Lambert & Co. Gregory Alff of Willis Casualty Actuarial Practices provided actuarial services for the Company for the period ended December 31, 2007. Terry Alfuth of Aon Risk Consulting Services provided actuarial services for the prior periods, December 31, 2003 through December 31, 2006.

Section 7006(b) of the New York Insurance Law requires that a captive insurance company to file annually on or before July first, a report of its financial condition at last year-end with an opinion of an independent certified public accountant. The Company could not provide audited financial statements for three of the five years under examination. Additionally, the audited financial statements for the years 2006 and 2007 were not filed with the Department until January 2, 2008 and September 24, 2008, respectively. It is recommended that the Company file audited financial

statements with the Department annually and in a timely manner pursuant to Section 7006(b) of the New York Insurance Law.

(ii) Audited Financial Statement for prior years

PwC was asked to issue an audit report on the Company's financials as of December 31, 2007 and opine on the December 31, 2006, financials, which were restated to correct the recognition of certain earned premiums. The previous auditors issued a qualified opinion on Company's financial statements for the period ended December 31, 2006, due to an accelerated recognition of the premium written for the integrated risk policy. The premium was recognized in its entirety at the policy's July 1, 2006 inception date. The accelerated recognition resulted in \$70,870,000 of income before taxes, which were in excess of earning that would have been recognized under accounting principles generally accepted in the United States ("GAAP").

PwC issued an unqualified audit opinion on the Company's financial for the captioned periods with the following comment:

"The financial statements of the Company as of December 31, 2006 and for the year then ended, prior to the restatement described in Note 2 on page 9, were audited by the auditors whose report, dated January 2, 2008, expressed a qualified opinion on those statements in respect of the accelerated premium recognition described in Note 1. We have audited the adjustments described in Note 1 that were applied to restate the December 31, 2006 financial statements. In our opinion, such adjustments are appropriate and have been properly applied to the prior period financial statements."

The restatement in Note 1 of the Company's financial statement included the following:

". . . The amounts as of December 31, 2006 and for the year then ended in the accompanying financials statements have been restated to recognize that premium ratably over the term of the policy in accordance with GAAP. The effect of the restatement on the balances as at December 31, 2006 was increased to unearned premiums by \$70,870,000, increase the deferred tax asset by \$4,919,423, increase deferred policy acquisition and brokerage costs by \$118,507 and decrease federal income tax payable by \$19,843,600. The effect of the restatement on the balances for the year ended December 31, 2006 was to reduce net premiums earned by \$70,870,000, reduce policy acquisition cost by \$118,507, and to reduce federal income tax expense by \$24,763,023. The cumulative effect of the restatement was to reduce earnings by \$45,988,470 as of December 31, 2006."

I. Growth of Company

The following schedule sets forth the Company's significant summary financial information for the years covered by this examination:

<u>Year</u>	<u>Net Premiums Earned</u>	<u>Net Income</u>	<u>Asset</u>	<u>Capital and Surplus</u>
2003	\$ 1,245,362	\$ 1,218,135	\$165,144,809	\$151,468,135
2004	\$ 2,387,326	\$ 2,904,547	\$166,534,081	\$154,372,682
2005	\$ 1,409,973	\$ 4,275,521	\$111,819,927	\$ 54,810,813
2006	\$ 71,055,280	\$ 47,272,705	\$261,948,622	\$102,083,518
2007	\$157,182,393	\$105,522,130	\$355,933,903	\$207,605,648

3. FINANCIAL STATEMENTS

A. Balance Sheet

The financial statements of the Company are presented in conformity with generally accepted accounting principles. The financial position of the Company as presented and accepted was audited by the Company's certified public accountant:

Balance Sheet As of December 31, 2007

Assets

Cash	\$ 230,145
Other invested assets – mutual funds	177,281,518
Investment income due and accrued	7,920,875
Accounts and premiums receivable	8,158,961
Investments in and advances to affiliates	139,579,000
Reinsurance recoverable on unpaid losses and LAE	13,213,929
Prepaid reinsurance premiums	2,882,841
Deferred acquisition costs	542,573
Deferred tax asset	<u>6,124,061</u>
Total assets	<u>\$355,933,903</u>

Liabilities, Capital and Surplus

Liabilities

Losses	\$19,518,138
Loss adjustment expense	1,900,437
Commissions, expenses and fees	61,675
Taxes payable	35,643,908
Unearned premium	89,254,229
Premium tax payable	72,300
Federal excise tax payable	114,621
Claims payable	247,493
Unearned ceding commission	<u>400,416</u>
Total liabilities	\$148,328,255

Capital and Surplus

Paid in capital	\$ 100,000
Contributed surplus	50,150,000
Surplus (accumulated earnings)	<u>157,355,648</u>
Total capital and surplus	<u>207,605,648</u>
Total liabilities, capital and surplus	<u>\$355,933,903</u>

B. Statement of Income

Capital and surplus increased \$207,605,648 during the four-year and six month examination period, July 1, 2003 through December 31, 2007:

Underwriting Income

Net premiums earned		\$233,371,268
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Underwriting expense

Net losses incurred	\$7,597,394	
Net loss adjustment expense	1,271,275	
Commission and brokerage	2,186,722	
General and administrative	511,885	
Other underwriting expense	<u>967,461</u>	
Total underwriting expense		<u>12,534,737</u>
Underwriting profit(loss)		\$220,836,531
Investment income (net)		23,068,312
Other income		<u>2,095,788</u>
Income before dividends and taxes		\$246,000,631
Taxes		<u>84,807,593</u>
Net income		<u>\$161,193,038</u>

Capital and Surplus Account

Capital and surplus at July 1, 2003	<u>Increase</u>	<u>Decrease</u>	\$	0
Net income	\$161,193,038			
Capital changes – paid in	100,000			
Surplus adjustments – paid in	200,150,000			
Transfer from capital stock		\$150,000,000		
Dividends to stockholders	<u>0</u>	<u>3,837,390</u>		
Total increase and decrease	<u>\$361,443,038</u>	<u>\$153,837,390</u>		
Net gain in surplus				<u>207,605,648</u>
Surplus as regard policyholder, per report on examination as of December 31, 2007				<u>\$207,605,648</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The Company reported losses and loss adjustment expenses of \$21,418,575 as of December 31, 2007. The examiner did not independently review the loss but rather relied upon the opinion of the Company's Actuary. The Company's actuary at December 31, 2007 was Gregory Alff of Willis Casualty Actuarial Practices.

The purpose of the actuarial opinion is to provide an evaluation as to the reasonableness of the Company's loss and loss adjustment expense reserves as of December 31, 2007. Mr. Gregory Alff states in his Statement of Actuarial Opinion that the Company's December 31, 2007 reserves:

“They meet the requirements of the captive insurance laws of New York, are computed in accordance with generally accepted loss reserving practices and fairly stated in accordance with sound loss reserving principles, are based upon factors relevant to policy provisions, are based on loss data as of December 31, 2007 provided by the captive manager, and make reasonable provisions for all unpaid loss and loss adjustment obligations of the company for coverages defined under the terms of the policies and agreements provided... for review.”

It was also expressed that the opinion was not a guarantee of the accuracy of the estimated amounts, and therefore, the final results could not be known until the Company has paid all claims from all years.

Based upon the actuarial opinion, no changes were made to the reserves as reported by the Company for the period ended December 31, 2007.

5. ARTICLE 70 COMPLIANCE

Article 70 of the New York State Insurance Law is the governing law for the formation and continued operation of captive insurance companies in New York State. A review was performed to test the Company's compliance with Article 70. This review shows that the Company has met its compliance with Article 70, except for Sections 7004(b) and 7006(b) of the New York Insurance Law. The compliance issues are discussed in Section C and H herein.

6. INSURANCE PROGRAM

The Company was established to facilitate the management of its parent company and its subsidiaries' risks. The formation of Sammarnick allowed the parent company to augment its existing commercial risk program by insuring risks in excess of current policy limitations, to provide loss funding where commercial coverage was deemed unavailable or too expensive, and to gain access to federal Terrorism Risk Insurance Act of 2002 protection.

For the period under examination the Company provided Viacom, Inc. and its subsidiaries with the following insurance policies: an entertainment policy that provided coverage for cast, extra, expense, negative film and faulty stock/faulty camera and faulty processing; a property policy; and a terrorism policy. These policies are described under Reinsurance, subsection F herein. The Company also afforded Viacom, Inc. and its subsidiaries a deductible buy-back policy at various limits, which included coverage for workers compensation, general liability, and automobile liability. This policy is a deductible reimbursement policy formed under the respective Travelers Property Casualty Company of America policies with Viacom, Inc. Finally, the Company also provided Viacom, Inc. and its subsidiaries with an integrated risk policy, which included coverage for feature film portfolio, directors and officers, errors and omission, employment practices liability, fiduciary liability and other risks that were not previously insured by a third party carrier. This policy provides a per occurrence limits over the entire policy range from \$5 million to \$500 million with an annual policy aggregate of \$500 million.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Capital Structure</u>	
	It is recommended that the Company maintain at least \$250,000 in the types of minimum capital and surplus investments specified in Section 7004(b) of the New York Insurance Law.	4
B.	<u>Management – Board of Directors</u>	
	It is recommended that the board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	8
C.	<u>Certified Public Accountant</u>	
	It is recommended that the Company file audited financial statements with the Department annually and in a timely manner pursuant to Section 7006(b) of the New York Insurance Law.	8

Respectfully submitted,

_____/s/_____
Veronica Duncan Black,
Senior Insurance Examiner

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

VERONICA DUNCAN BLACK, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____/s/_____
Veronica Duncan Black

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

Appointment No. 30211

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:

Veronica Duncan Black

as proper person to examine into the affairs of the

SAMMARNICK INSURANCE CORPORATION

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

Corporation

with such other information as she 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 2nd of October, 2008



A handwritten signature in black ink that reads "Eric Dinallo".

ERIC R. DINALLO
Superintendent of Insurance