

REPORT ON EXAMINATION
OF THE
AMERICAN STEAMSHIP OWNERS MUTUAL
PROTECTION AND INDEMNITY ASSOCIATION, INC.
AS OF
DECEMBER 31, 2001

DATE OF REPORT

JULY 25, 2003

EXAMINER

ERWIN ROCA

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

George E. Pataki
Governor

Gregory V. Serio
Superintendent

July 25, 2003

Honorable Gregory V. Serio
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 21946 dated October 28, 2002, attached hereto, I have made an examination into the condition and affairs of the American Steamship Owners Mutual Protection and Indemnity Association, Inc. as of December 31, 2001 and submit the following report thereon.

The examination was conducted at the Association's home office located at 60 Broad Street, New York, New York 10004.

Wherever the designation the "Association" appears herein without qualification, it should be understood to indicate the American Steamship Owners Mutual Protection and Indemnity Association, Inc.

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

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1996. This examination covered the five-year period from January 1, 1997 through December 31, 2001. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2001. The examination included a review of income, disbursements and Association records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Association's independent certified public accountants. A review was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of the Association
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Territory and plan of operation
- Growth of the Association
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

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 ASSOCIATION

A. History

American Steamship Owners Mutual Protection and Indemnity Association, Inc. was incorporated under the laws of the State of the New York on February 14, 1917.

The Association is a mutual marine association. The policyholders of the Association are also the members of the Association. The Association began issuing non-assessable policies in early 1996. Previously, all policies issued were assessable, and the majority of the policies in effect as of the examination date are assessable. These policyholders are subject to a contingent liability for assessments, without limit, for their proportionate share of any deficiency or impairment as provided by law and fixed in accordance with the by-laws of the Association.

B. Management

Pursuant to the Association's charter and by-laws, management of the Association is vested in a board of directors consisting of not less than thirteen nor more than twenty-five members. At December 31, 2001, the board was comprised of the following sixteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Bruce D. Benn Portland, OR	Chief Commercial Officer, Alaska Tanker Company, LLC
Richard H. Brown, Jr. Rockville Centre, NY	Partner, Kirlin, Campbell & Keating
David L. Gare Kent TN30 7AE, United Kingdom	Polembros Shipping Limited

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Richard F. Gronda Pompton Plains, NJ	President & Chief Operating Officer, Farrell Lines Inc.
Robert A. Guthans Mobile, AL	Retired
Earl G. Jackson Fairhope, AL	President, Midstream Fuel Service Incorporated
Vitaliy Lyutiyy Odessa, Ukraine	President, Cordo International Limited
Markos K. Marinakis New York, NY	President, Marinakis Chartering Incorporated
Hariklia N. Moundreas Ekali, Greece	Director, Good Faith Shipping Company S.A.
Martin C. Recchuite Calabasas, CA	Assistant Treasurer, Atlantic Richfield Co.
Paul Sa New York, NY	Managing Director, Stanships, Inc.
Rogelio D. Salinas Garcia Monterrey, Mexico	Director of Admin. & Finance Grupo Protex
James P. Sweeney Garden City, NY	Vice President, Operations, Penn Maritime Inc.
Thomas V. Van Dawark Sammamish, WA	President & CEO, Marine Resources Incorporated
Jonathan C. Wales Marblehead, MA	Chief Financial Officer, Boston Towing & Transportation Company
Servet Yardimci Istanbul, Turkey	Vice Chairman, Moliva Shipping Incorporated

The board met five times during each of the years covered by the examination. 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 had an acceptable record of attendance.

As of December 31, 2001, the principal officers of the Association were as follows:

<u>Name</u>	<u>Title</u>
Joseph E. M. Hughes	Chairman
Vincent J. Solarino	President

C. Territory and Plan of Operation

As of December 31, 2001, the Association was licensed to write business in New York State only.

As of December 31, 2001, the Association 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>
21	Marine protection and indemnity

Based on the lines of business for which the Association is licensed and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Association is required to maintain a minimum surplus to policyholders in the amount of \$250,000. However, in recognition of the Association's unusual nature and its special form of operation, it has been the Department's long-standing requirement that the Association maintain minimum surplus as regards policyholders over and above the statutory minimum. The Department has specified \$7,500,000 as the minimum surplus to be maintained by the Association.

The Association currently provides liability coverage to domestic and international ship-owners, operators and charters, which is marketed predominately through brokers. Domestic business accounts for a substantial portion of the total premium volume, while the remaining business is attributed to international owners or operators primarily in Greece, Korea, Mexico and Taiwan. Operations are

focused on small to medium-sized shipping interests. In the United States' market, 50% of the premium volume is attributed to tug and barge operations and coastal trade.

D. Reinsurance

Assumed

The Association is a direct writer. The Association was not a party to any assumed reinsurance agreements.

International Group of Protection and Indemnity Clubs ("Pool")

Effective December 1997, the Association was accepted into the International Group of Protection and Indemnity Clubs, a consortium of approximately thirteen assessable mutual protection and indemnity associations that purchase excess of loss reinsurance protection for marine risks as a pool. In accordance with the terms of the agreement between the International Group of Protection and Indemnity Clubs ("Pool") members, the Pool self-insures itself amongst its members. The amount each member must contribute to the Pool losses is determined by the amount of tonnage each member writes in relation to the gross tonnage written. Each member is responsible for its proportional share. The layer of self-insurance between the members is \$25,000,000 excess of \$5,000,000 of losses. Above the \$30,000,000 is when the Pool begins to purchase excess of loss reinsurance protection as a pool.

The Association records the loss liability to the Pool in an account called "Funds Held By Company Under Reinsurance Treaties". The Association treats its loss liability to the Pool as premiums expense payable as opposed to losses expense payable. The Association also offsets balances owed under the international group pooling arrangement from losses assumed from the pool against recoverables from losses ceded to the pool. Statement of Statutory Accounting Principles (SSAP) No. 63 states:

“To the extent that premium is ceded to a pool, premiums and losses shall be recorded in the same manner as any other reinsurance arrangement. A reporting entity who is a member of a pool shall record its participation in the pool as assumed business as in any other reinsurance arrangement”.

It is recommended that the Association adhere to the provisions of SSAP No. 63 and incorporate all its assumed business as in any other reinsurance arrangement. It is also recommended that the Association not include assumed reinsurance losses as an offset to reinsurance recoverable in Schedule F, Part 5, Column 6.

Ceded

All ceded treaty reinsurance contracts effected during the examination period were reviewed. A review of such contracts showed that the reinsurance intermediary bound reinsurance coverage for all contracts (quota share and excess of loss reinsurance) through either cover notes or confirmations of insurance. The reinsurance intermediary did not provide the ceding insurer written evidence that the assuming insurer has agreed to assume the risk. Also, the reinsurance intermediary did not provide written evidence that it has the authority to bind insurance for the assuming insurer or for the ceding insurer. This appears to be a violation of the requirements of Department Regulation 98 in that the reinsurance intermediary needs to obtain and provide the ceding insurance company written evidence from the assuming insurers that they agree to the risk or that the reinsurance intermediary has the authority to bind coverage for the assuming insurer.

Part 32.1 of Department Regulation 98 states the following:

“Verification of coverage and disclosure

(b) When a reinsurance intermediary procures a reinsurance contract on behalf of a licensed ceding insurer:

(1) directly from any assuming insurer or insurers, written evidence must be furnished to the ceding insurer, that the assuming insurer or insurers have agreed to assume the risk; or

(2) from a representative, other than an employee of the assuming insurer or insurers, he shall obtain written evidence from the assuming insurer or insurers of the fact that such insurer or insurers have given authority to the representative to bind risks in their name and the scope of such authority. The written evidence shall be submitted to the ceding insurer”.

The Association did not receive the finalized signed reinsurance contracts from its reinsurance intermediaries. Since the Association could not produce signed Reinsurance Agreements within 9 months of the annual statement as of date, it appears that the Association would be required to account for its unauthorized reinsurance using deposit accounting in accordance with paragraph 23 of SSAP 62.

SSAP No. 62 states, in relevant part:

“It is not uncommon for a reinsurance arrangement to be initiated before the beginning of a policy period but not finalized until after the policy period begins. Whether there was agreement in principle at the beginning of the policy period and, therefore, the agreement is substantively prospective shall be determined based on the facts and circumstances. However, except as respects business assumed by a U.S. reinsurer from ceding companies domiciled outside the U.S. and not affiliated with such reinsurer, or business assumed by a U.S. reinsurer where either the lead reinsurer or a majority of the capacity on the agreement is domiciled outside the U.S. and is not affiliated with such reinsurer, if an agreement entered into, renewed or amended on or after January 1, 1994 has not been finalized, reduced to a written form and signed by the parties within nine months after the commencement of the policy period covered by the reinsurance arrangement, then the arrangement is presumed to be retroactive and shall be accounted for as a retroactive reinsurance agreement”.

It is recommended that the Association make a conscientious effort to obtain finalized contracts in accordance with the guidelines set forth in SSAP No. 62 of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual. It is also recommended that if the Association does not obtain signed finalized contracts within nine months after commencement of the policy period that the Association treat the reinsurance arrangement as a retroactive reinsurance agreement.

The examiners reviewed all ceded reinsurance contracts in effect at December 31, 2001. It was noted that the reinsurance contract issued by the International Group of Protection And Indemnity Clubs as well as two of the Pool's reinsurance contracts made on behalf of the Pool, did not contain the insolvency clause required pursuant to Section 1308(a) of the New York Insurance Law. It is recommended that all reinsurance contracts contain the insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.

Effective December 1997, the Association was accepted into the Pool. Prior to 1998, the Association was indirectly included in the Pool through its previous reinsurance agreement with London Steam-Ship Owners' Mutual Insurance Association, a long-standing member of the Pool.

The Association had the following ceded reinsurance program in effect at December 31, 2001:

<u>Type of Contract</u>	<u>Cession</u>
<u>Excess of Loss</u>	
First Layer 100% Unauthorized	\$1,500,000 excess of \$500,000, ultimate net loss any one vessel, any one accident or occurrence excess of \$9,000,000 in the aggregate otherwise recoverable hereon.
Second Layer 100% Unauthorized	\$3,000,000 excess of \$2,000,000, ultimate net loss any one vessel, any one occurrence. Which in turn is excess of \$1,500,000 in the aggregate otherwise recoverable hereon. Losses to be taken in chronological order of settlement.
Third Layer 2% Authorized 98% Unauthorized	\$25,000,000 excess of \$5,000,000 any one vessel, any one occurrence.

Type of ContractCession

Fourth Layer

9% Authorized

91% Unauthorized

Owners' risks

\$500,000,000 excess of \$30,000,000 any one vessel, any one event plus a separate limit of \$500,000,000 excess of \$30,000,000 any one vessel, any one event for oil pollution risks as original.

Charters' risks

\$300,000,000 excess of \$30,000,000 plus a separate limit of \$100,000,000 excess of \$30,000,000 for oil pollution risks as original. For both risks (owners and charterers) subject to an aggregate limit of \$300,000,000, in respect of any one vessel arising out of any one event in respect of oil pollution risks for a charterers entry or entries, as original.

Fifth layer

4% Authorized

96% Unauthorized

\$500,000,000 excess of \$530,000,000 plus a separate limit of \$500,000,000 excess of \$530,000,000 for oil pollution.

Sixth layer

100% Unauthorized

\$500,000,000 excess of \$1,030,000,000.

Seventh layer

100% Unauthorized

\$500,000,000 excess of \$1,530,000,000. It has an aggregate limit of \$500,000,000 but is subject to one reinstatement at 100% additional premium returning 75 % if on further claim made.

Return Premium Protection

15% Authorized

85% Unauthorized

To indemnify the assured for their loss of return premium under the International Group Pooling Agreement 1st and 2nd general excess reinsurance.

First excess of amount insured: \$8,500,000

Second excess of amount insured: \$1,750,000.

Marine Liability

100 % Authorized

\$150,000,000 any one accident or occurrence or series of accidents or occurrences arising out of one event or equivalent in other currencies, each declaration and each conveyance of any description within each declaration as agreed. Other loss basis to be agreed.

Marine Liability

12% Authorized

88% Unauthorized

\$400,000,000 excess of \$100,000,000, any one accident or occurrence or series of accidents or occurrences arising out of one event, or equivalent in other currencies.

<u>Type of Contract</u>	<u>Cession</u>
	\$200,000,000 excess of \$100,000,000 with respect of oil pollution whether declarations are made in excess of International Group placement. Other loss bases to be agreed.
<u>Salvors Liability</u> 100% Unauthorized	\$100,000 in excess of \$375,000, any one salvage operation. To cover Salvors legal liability for oil pollution during work of the nature of salvage but only to pay claims. Limit of liability of \$100,000, any one salvage operation.
<u>Collision Guarantee</u> 93% Authorized 7% Unauthorized.	To indemnify the assured against default and omission from any cause of the guarantor named in a guarantee given to the assured. Limit of liability not to exceed \$20,000,000, any one declaration.

The Association continues to utilize unauthorized reinsurers to a greater degree than authorized reinsurers. Its retentions level has increased from \$250,000 to \$500,000. In addition, protection is afforded at \$4,030,000,000 currently as compared to \$1,533,000,000 in the past.

Unauthorized Reinsurance

The trust agreements and letters of credit obtained by the Association in order to take credit for cessions made to unauthorized reinsurers were reviewed for compliance with Department Regulations 114 and 133, respectively. The review revealed that one trust agreement was not in compliance with Part 126.3(c) of Department Regulation 114. The trust agreement was established at a foreign bank without the Superintendent approval, as required by Part 126.3(c) of Department Regulation No. 114. It is recommended that the Association submit for approval to the superintendent the trust agreement that is being held in a foreign bank.

The review also revealed that one letter of credit was not in compliance with Part 79 of Department Regulation 133. The Association could not produce a letter of credit supporting \$793,000 of the \$1,178,000 reinsurance recoverable for ERC Frankona. It is recommended that the Association obtain all letters of credit or trust agreements that are being held by the broker to receive the proper credit due the Association.

E. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed to be abandoned property. Such abandoned property shall be reported to the comptroller on or before the first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report.

The Association's abandoned property reports for the period of this examination were all filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

F. Accounts and Records

(1) Custodian Agreement

At the Department's request, the Association entered into a custodial agreement with Deutsch Bank Trust Association Americas. Previously the brokerage firm of Weiss, Peck and Greer held the Association's investments. The examiner noted that the Association does not have a formal custodian agreement with Deutsch Bank. It is recommended that the Association obtain a formal custodian agreement from Deutsch Bank in conformity with Part 1 Section IV (J) of the NAIC Financial Condition Examiners Handbook.

(2) Premiums and Agents' Balances in Course of Collection

The Association did not properly calculate the non-admitted portion of the asset “Premiums and agents' balances in course of collection” as follows:

(i) The Association calculated the not-admitted portion of this asset “gross” of commissions. Section 1301(a)(11) of the New York Insurance Law states:

“In determining the financial condition of a domestic or foreign insurer or the United States branch of an alien insurer for the purposes of this chapter, there may be allowed as admitted assets of such insurer, unless otherwise specifically provided in this chapter, only the following assets owned by such insurer:... Premiums in course of collection, other than life insurance premiums, not more than ninety days past due, less commissions payable thereon”.

(ii) The Association failed to follow the provisions of Part 110.1(a) of Department Regulation 13A by admitting premium balances on policies that were due subsequent to the over ninety-day amount.

Part 110.1(a) of Department Regulation 13A states:

“In any statement, annual or quarterly, by any insurer, or in any other determination of the financial condition of an insurer, installment premiums, other than life insurance premiums, which are recorded on the books of the insurer and on which the appropriate unearned premium reserve is charged as a liability, shall be deemed an admitted asset in an amount equal to the unpaid balance of such installments at the date of determination (less commissions payable thereon unless a separate liability is carried for such commissions), except in either of the following cases: (a) If any installment of any premium other than a premium on a policy of the kind specified in subdivision (b) of this section, has been due and unpaid for more than 90 days at the date of determination, no unpaid installment of such premium shall be allowed as an admitted asset”.

(iii) The Association did not reduce the non-admitted amount when it was greater than the receivable amount.

(iv) The Association offset amounts that were ninety days past due with losses payable.

It is recommended that the Association follow the instructions contained in SSAP No. 6 of the NAIC Accounting Practices and Procedures Manual, as well as Section 1301(a)(11) of the New York

Insurance Law and Department Regulation 13A, when determining the non-admitted portion of the agents' balances and uncollected premiums account.

(3) Regulation 20 Credit

A review of the Association's December 31, 2002 filed annual statement revealed that it had taken credit for cessions to unauthorized reinsurers pursuant to Part 125.4(e)(2)(viii) of Department Regulation 20. According to the Regulation, as amended in 2001, "the credit allowed...shall be an amount not to exceed, in the aggregate, ten percent of the ceding insurer's policyholders surplus."

At December 31, 2002, the Association's filed annual statement reflected Regulation 20 credit for \$6.4 million. This exceeded the maximum allowable amount of \$1.8 million (based on the Association's reported surplus at December 31, 2001) \$4.6 million, which represented 31% of the Association's December 31, 2002 reported surplus to policyholders.

Management has indicated that they were unaware of this cap on the allowable credit at the time it prepared its annual statement. The Association is currently negotiating with an US insurer to provide a letter of credit on behalf of a foreign affiliate. If this letter of credit is obtained, it will alleviate the majority of the excess Regulation 20 credits on a going-forward basis.

It is recommended that the Association comply with the provisions of Part 125.4 of Department Regulation 20 in future statement filings with this Department and limit any credit to 10% of its reported surplus to policyholders.

G. Significant Operating Ratios

The following ratios have been computed as of December 31, 2001 based upon the results of this examination:

Net premiums written in 2001 to surplus as regards policyholders	3.6 to 1
Liabilities to liquid assets (cash and invested assets less investment in affiliates)	133.0%
Premiums in course of collection to surplus as regards policyholders	137.0%

All of the above ratios exceed the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners. Relative to the first and third ratios, the examination decrease to surplus caused the unusual value. Relative to the second ratio, the Association reported a material decrease in its liquid assets from 2000 to 2001, primarily as a result of unrealized losses and net claim payments. Additionally, the Association reported a material non-liquid asset for future assessments.

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	\$126,072,927	101.0%
Other underwriting expenses incurred	20,630,110	16.5
Future assessments	(7,500,000)	(6.0)
Net underwriting loss	<u>(14,332,049)</u>	<u>(11.5)</u>
Premiums earned	<u>\$124,870,988</u>	<u>100.00%</u>

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2001 and as reported by the Association.

<u>Assets</u>	<u>Examination</u>		<u>Company</u>		<u>Surplus Increase (Decrease)</u>
	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Net Admitted Assets</u>	
Bonds	\$39,147,537	\$	\$39,147,537	\$39,147,537	\$
Common stocks (stocks)	15,997,148		15,997,148	15,997,148	
Cash and short-term investments	2,795,266		2,795,266	2,795,266	
Receivable for securities	1,975,919		1,975,919	1,975,919	
Premiums and agents' balances in course of collection	27,156,677	2,972,037	24,184,640	24,184,640	
Reinsurance recoverables on loss and loss adjustment expense payments	3,529,443		3,529,443	3,529,443	
Federal and foreign income tax recoverable	26,269		26,269	26,269	
EDP equipment and software	343,710		343,710	343,710	
Interest, dividends and real estate income due and accrued	599,070		599,070	599,070	
Paid loss in suspense	1,399,738	292,522	1,107,216	1,107,216	
Future assessments up to diff. in ultimate & present value of losses	8,226,662	3,665,000	4,561,662	8,226,662	(3,665,000)
New York State income tax & payroll taxes receivable	(143)	_____	(143)	(143)	_____
Total assets	<u>\$101,197,296</u>	<u>\$6,929,559</u>	<u>\$94,267,737</u>	<u>\$97,932,737</u>	<u>\$(3,665,000)</u>

Liabilities, surplus and other funds

	<u>Examination</u>	<u>Company</u>	Surplus Increase <u>(Decrease)</u>
Losses and loss adjustment expenses	\$64,608,622	\$62,913,622	\$(1,695,000)
Other expenses (excluding taxes, licenses and fees)	117,755	117,755	
Taxes, licenses and fees (excluding federal and foreign income taxes)	(93,238)	(93,238)	
Unearned premiums	5,778,177	5,778,177	
Ceded reinsurance premiums payable (net of ceding commissions)	783,459	783,459	
Funds held by company under reinsurance treaties	5,925,190	5,925,190	
Provision for reinsurance	4,114,413	4,114,413	
Payable for securities	<u>750,000</u>	<u>750,000</u>	_____
Total liabilities	<u>\$81,984,309</u>	<u>\$80,289,378</u>	<u>\$(1,695,000)</u>
<u>Surplus and Other Funds</u>			
Unassigned funds (surplus)	<u>\$12,283,359</u>	<u>\$17,643,359</u>	<u>\$(5,360,000)</u>
Surplus as regards policyholders	<u>\$12,283,359</u>	<u>\$17,643,359</u>	<u>\$(5,360,000)</u>
Total liabilities, surplus and other funds	<u>\$94,267,737</u>	<u>\$97,932,737</u>	

NOTE: The Internal Revenue Service has never audited the Association's federal income tax returns. The examiner is unaware of any potential exposure of the Association 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 \$4,077,304 during the five-year examination period

January 1, 1997 through December 31, 2001, detailed as follows:

Underwriting Income

Premiums earned		\$124,870,988
Deductions:		
Losses and loss adjustment expenses incurred	\$126,072,927	
Other underwriting expenses incurred	20,630,110	
Future assessments up to difference in ultimate & present value losses	<u>(7,500,000)</u>	
Total underwriting deductions		<u>140,717,037</u>
Net underwriting gain or (loss)		\$(14,332,049)

Investment Income

Net investment income earned	\$11,683,553	
Net realized capital gains	<u>5,556,418</u>	
Net investment gain or (loss)		17,239,971

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ <u>(775,256)</u>	
Total other income		<u>(775,256)</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$ 2,132,666
Federal and foreign income taxes incurred		<u>488,329</u>
Net income		\$ <u>\$1,644,337</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1996			\$16,360,663
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$1,644,337		
Net unrealized capital gains or (losses)	142,420		
Change in non-admitted assets		\$5,603,019	
Change in provision for reinsurance		2,047,579	
Change in future assessments up to difference in ultimate and present value of losses	<u>1,786,537</u>	_____	
Total gains and losses	<u>\$3,573,294</u>	<u>\$7,650,598</u>	
Net increase (decrease) in surplus			<u>(4,077,304)</u>
Surplus as regards policyholders per report on examination as of December 31, 2001			<u>\$12,283,559</u>

4. **FUTURE ASSESSMENTS UP TO DIFFERENCE IN ULTIMATE AND PRESENT
VALUE OF LOSSES**

The examination admitted asset of \$4,561,662 is \$3,665,000 less than the \$8,226,662 reported by the Company as of December 31, 2001.

The Department allows the Association to take credit for the captioned asset based on the determination that if there are sufficient invested assets to cover the present value of losses, the difference between the actual loss amount, and the present value, would be allowed as an admitted asset.

The allowance of this asset is based on the understanding that:

1. the assessability feature on the Association's policies allows them to bill their members if additional funds are needed to cover outstanding losses and;
2. the fact that the Association is under no legal obligation to pay the losses on any policy on which the member has defaulted on premium or assessment payments.

The Department requires the Association to submit quarterly verification of the interest rate used in the calculation of the captioned asset. In addition, the Department requests that the Association submit verification of the methodology and data used in the calculation of this asset. Subsequent to, and during the examination period, the Association failed to provide the Department with any of the above-mentioned information.

It is recommended that the Association submit the documentation agreed upon with the Department on a timely basis.

The Association discounts its reserve at 6% for the asset future assessment recoverable. The examiner obtained a letter from the Deutsche Bank stating that the average traditional long-term investment return for the Association's investment portfolio is 6%. The examiner notes that the Association's investment yield is 3.1%, according to the NAIC's IRIS Ration Number 6. The Department believes the discount factor used by the Association to be too high. It is the Department's opinion that the discount factor of 3.1% be used instead of 6%. The examination change reflects the difference between the two discount factors.

5. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability of \$64,608,622 is \$1,695,000 more than the \$62,913,622 reported by the Association as of December 31, 2001. 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.

As noted in item D of this report, the Association reported assumed loss and loss adjustment expense reserves in the amount of \$5,925,190 associated with its participation in the International Group of Protection and Indemnity Clubs under the caption "Funds held by Company under reinsurance treaties." No examination change has been made as a result of this misclassification; however, it is recommended that the Association include its share of the reserves associated with its participation in this pool under the captions "Losses" and "Loss Adjustment Expenses" on lines 1 and 3 of page 3 in its filed annual statement, pursuant to the provisions of SSAP 63.

Additionally, it is noted that as a result of this misclassification, the Company's actuary never opined on the reserves assumed from the Pool. It is recommended that the statement of actuarial opinion include the reserves associated with the Pool.

A review of the Association's Schedule P data indicated that such data was reported on a policy year basis, despite the requirement that this schedule should be completed on an accident year basis. It is recommended that the Association comply with the annual statement when completing this schedule.

6. COMPLIANCE WITH PRIOR REPORT COMMENTS AND/OR RECOMMENDATIONS

There were no comments and or recommendations in the prior report on examination.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Reinsurance</u>	
i. It is recommended that the Association adhere to the provisions of Paragraph 8 of SSAP 63 and incorporate all of its pool business as if it were any other reinsurance arrangement.	7
ii. It is also recommended that the Association not include assumed reinsurance losses as an offset to reinsurance recoverable in Schedule F, Part 5, Column 6.	7
iii. It is recommended that the Association make a conscientious effort to obtain finalized contracts in accordance with the guidelines set forth in SSAP No. 62 of the National Association of Insurance Commissioners Accounting Practices and Procedures Manual.	8
iv. It is also recommended that if the Association does not obtain signed finalized contracts within nine months after commencement of the policy period that the Association treat the reinsurance arrangement as a retroactive reinsurance	8

agreement.

<u>ITEM</u>	<u>PAGE NO.</u>
v. It is recommended that all reinsurance contracts contain the insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.	9
vi. It is recommended that the Association submit for approval to the superintendent the trust agreement that is being held in a foreign bank.	11
vii. It is recommended that the Association obtain all letters of credit or trust agreements that are held by the broker to receive the proper credit due the Association.	12
B. <u>Accounts and Records</u>	
(1) <u>Custodian Agreement</u>	
It is recommended that the Association obtain a formal custodian agreement from Deutsch Bank in conformity with Part 1-Section IV (J) of the NAIC Financial Condition Examiners Handbook.	12
(2) <u>Premiums and Agents' Balances in Course of Collection</u>	
It is recommended that the Association follow the instructions in SSAP No. 6 of the NAIC Accounting Practices and Procedures Manual, as well as Section 1301 of the New York Insurance Law and Part 110.1 of Department Regulation 13A, when determining the non-admitted portion of the agents' balances and uncollected premiums account.	13
(3) <u>Regulation 20 Credit</u>	
It is recommended that the Association comply with the provisions of Part 125.4 of Department Regulation 20 in future statement filings with this Department and limit any credit to 10% of its reported surplus to policyholders.	14
C. <u>Future Assessments Up to Difference in Ultimate and Present Value of Losses</u>	
It is recommended that the Association submit the documentation agreed upon with the Department on a timely basis.	20
D. <u>Loss and Loss Adjustment Expenses</u>	
i. It is recommended that the Association include its share of the reserves associated with its participation in this pool under the captions "Losses" and "Loss Adjustment Expenses" on lines 1 and 3 of page 3 in its filed annual statement, pursuant to the provisions of SSAP 63.	21

- ii. It is recommended that the statement of actuarial opinion include the reserves associated with the Pool. 22

ITEMPAGE NO.

- iii. It is recommended that Association comply with the annual statement instructions when completing Schedule P. 22

Appointment No 21946

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, GREGORY V.SERIO, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Erwin Roca

as proper person to examine into the affairs of the

**AMERICAN STEAMSHIP OWNERS MUTUAL PROTECTION AND
INDEMNITY ASSOCIATION, INC.**

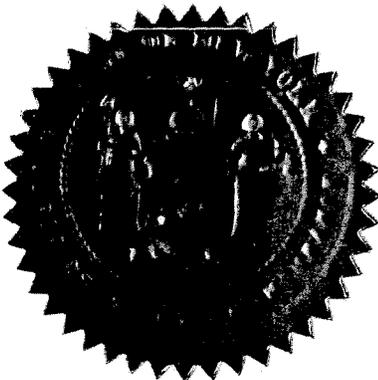
and to make a report to me in writing of the condition of the said

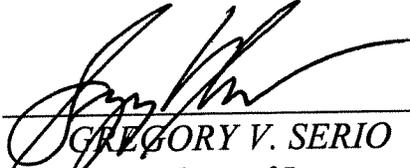
Association

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 28th day of October, 2002





GREGORY V. SERIO
Superintendent of Insurance