

REPORT ON EXAMINATION

OF THE

NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY

AS OF

DECEMBER 31, 2006

DATE OF REPORT

OCTOBER 10, 2007

EXAMINER

TODD FATZINGER

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of Examination	2
2.	Description of Company	2
	A. Management	3
	B. Territory and plan of operation	5
	C. Reinsurance	6
	D. Holding company system	9
	E. Significant operating ratios	12
	F. Accounts and Records	13
3.	Financial Statements	16
	A. Balance sheet	16
	B. Underwriting and investment exhibit	18
4.	Losses and loss adjustment expenses	19
5.	Market conduct activities	19
6.	Compliance with prior report on examination	20
7.	Summary of comments and recommendations	23



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

October 10, 2007

Mr. 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 22502 dated May 12, 2006 attached hereto, I have made an examination into the condition and affairs of the New York Central Mutual Fire Insurance Company as of December 31, 2006, and submit the following report thereon.

The examination was conducted at the Company's home office located at 1899 Central Plaza East, Edmeston, NY 13335.

Wherever the designations "the Company" or "NYCMFIC" appear herein without qualification, they should be understood to indicate the New York Central Mutual Fire Insurance Company.

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, 2000. This examination covered the six-year period from January 1, 2001 through December 31, 2006. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a verification of assets and liabilities as of December 31, 2006. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountants ("CPA"). A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners ("NAIC"):

- History of Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements
- 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**

The Company was organized under the laws of the State of New York on April 11, 1899 for the purpose of transacting business as a co-operative fire insurance corporation in Otsego County, New York. The Company currently operates as an advance premium cooperative property/casualty corporation under the provisions of Article 66 of the New York Insurance Law.

The Company reinsured outstanding risks of the Central City Co-operative Fire Insurance Company of Onondaga County on January 27, 1921 and the outstanding business of the Protective Co-operative Fire Insurance Company of Alfred, New York on February 2, 1923.

On November 1, 1942, the Company assumed all of the assets and liabilities of Merchants Co-operative Fire Association of Central New York, and on April 1, 1957, assumed all of the assets and liabilities of the Woodstock Mutual Fire Insurance Association of Woodstock, New York.

In order to facilitate the formation of A. Central Insurance Company (“ACIC”), a wholly-owned stock property and casualty insurance company to write non-standard automobile insurance, Central Services Group (“CSG”) was formed in 2000 as a group holding company. NYCMFIC is the largest member of CSG. Since NYCMFIC is an advanced premium cooperative company, which is owned by the members of the company, NYCMFIC is not a wholly-owned subsidiary of CSG.

On June 23, 2000, the Department issued a non-objection letter to the Company regarding its proposed formation of a subsidiary, NYCM Holdings, Inc. (“Holdings”). Holdings was incorporated on January 24, 2001 for the purpose of acting as an intermediate holding company to hold all of the issued and outstanding voting stock of a stock insurance company, A. Central Insurance Company. On February 22, 2001, the Company paid \$5,100,000 for 100 shares of Holdings. ACIC was incorporated on December 21, 2000. On February 23, 2001, ACIC issued 3,000 shares of common stock to Holdings, for a consideration of \$5,050,000. On June 10, 2002, the Department issued a non-objection letter to the Company allowing an additional investment of \$5,000,000 cash in Holdings. In turn, Holdings made a capital contribution of \$5,000,000 cash to its wholly owned subsidiary ACIC.

All policies issued by the Company are non-assessable.

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 eleven or more than fifteen members. As of the examination date, the board of directors was comprised of thirteen members. The board met twenty-three times during the examination period; three times in 2001 and four times in each year from 2002 through 2006. In addition, numerous Executive Committee meetings were held in each of the years during the period under examination, thereby complying with Section 6624(b) of the New York Insurance Law. At December 31, 2006, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Daryl Robert Forsythe Norwich, NY	Chairman NBT Bancorp; Director ACIC
Edward Gozigian Cooperstown, NY	Attorney, Gozigian, Washburn & Clinton; Director ACIC
Benjamin Clark Nesbitt West Oneonta, NY	Senior Vice President and Senior Investment Officer Wilber National Bank; Director ACIC
Albert Pylinski, Jr. Edmeston, NY	Executive Vice President, CFO and Treasurer NYCMFIC; Director, Executive Vice President, CFO and Treasurer ACIC and Holdings; Director and Treasurer A.F. Stager, Inc.
Robert Wesley Ranger West Winfield, NY	Private Investment Banker Director ACIC
Douglas Theodore Robinson Edmeston, NY	Vice Chairman, NYCMFIC; Director and Vice Chairman ACIC; Vice Chairman Holdings; Director A.F. Stager, Inc.; Agent, Robinson Agency Inc.
VanNess Daniel Robinson Edmeston, NY	Chairman and Secretary, NYCMFIC; Director, Chairman, and Secretary ACIC; Chairman and Secretary Holdings; President A.F. Stager, Inc.; Owner, Robinson Agency Inc.
VanNess Daniel Robinson, II Edmeston, NY	President and CEO, NYCMFIC; Director, President and CEO of ACIC and Holdings; Director and Vice President A.F. Stager, Inc.; Agent, Robinson Agency Inc.
Charles Raymond Schanz Cooperstown, NY	Owner/President C.R. Schanz, Inc.; Director ACIC
Harry William Smith, Jr. Norwich, NY	President Smith Norwich, Inc.; Director ACIC
William Francis Streck, M. D. Cooperstown, NY	President and CEO Bassett Healthcare; Director ACIC
Howard Chase Talbot, Jr. Cooperstown, NY	Retired Director/Treasurer of the National Baseball Hall of Fame; Director ACIC
Bruce Clayton Wratten Leonardsville, NY	Owner Horned Dorset Inn, LTD; Director ACIC

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, 2006, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
VanNess Daniel Robinson	Chairman of the Board and Secretary
Douglas Theodore Robinson	Vice Chairman of the Board
VanNess Daniel Robinson, II	President and CEO
Albert Pylinski, Jr.	Executive Vice President, CFO and Treasurer
Jeffrey R. Barrett	Senior Vice President
Stephen M. Cembrinski	Senior Vice President
John E. Holdorf	Senior Vice President
James R. Slosek	Senior Vice President
Douglas Franklin	Senior Vice President
Michael J. LaCava	Senior Vice President
James E. Potts, Jr.	Vice President
Katherine S. Bell	Vice President
William W. Couperthwait	Vice President
Peter Owens	Vice President
Thomas McDaniel	Vice President
Timothy A. Trueworthy	Vice President

B. Territory and Plan of Operation

As of December 31, 2006, the Company was licensed to write business within the State of New York only. The following schedule shows the direct premiums written by the Company for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums Written (000's)</u>
2001	\$418,577
2002	\$479,247
2003	\$514,957
2004	\$514,548
2005	\$478,858
2006	\$437,569

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
9	Boiler and machinery
10	Elevator
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine (inland marine only)

Based on the lines of business for which the Company is licensed and pursuant to the requirements of Articles 13, 41 and 66 of the New York Insurance Law, as of December 31, 2006, the Company is required to maintain a minimum surplus to policyholders in the amount of \$1,450,000.

At December 31, 2006, the Company wrote insurance through independent agents. The Company maintained three branch offices, one in Sherburne, New York, one in Amsterdam, New York and one in Orchard Park, New York.

The Company's predominant lines of business are homeowners multiple peril, private passenger auto liability and auto physical damage, which accounted for 34.24%, 39.49% and 20.96%, respectively, of the Company's 2006 direct written business.

#### C. Reinsurance

For 2006, the Company reported the following distribution of net premiums written:

Direct business	\$437,569,376
Reinsurance assumed (from affiliates)	10,557,045
Reinsurance assumed (from non-affiliates)	<u>0</u>
Total direct and assumed	<u>\$448,126,421</u>

Reinsurance ceded (to affiliates)	\$ 8,597,831
Reinsurance ceded (to non-affiliates)	<u>18,234,738</u>
Total ceded	\$ <u>26,832,569</u>
Net premiums written	<u>\$421,293,852</u>

The Company's reinsurance program consists of an inter-company reinsurance pool and an external (other than affiliated companies) reinsurance program. The only assumed business is through a net pooling arrangement with an affiliate. Assumed reinsurance accounted for 2.36% of the Company's gross premium written at December 31, 2006.

The Company had one retroactive assumed reinsurance agreement in effect as of December 31, 2006. The agreement was with Home Mutual Insurance Company of Binghamton, New York (HMI), effective October 5, 1993. The Company assumed 100% of HMI's claims and loss adjustment expenses with respect to claims incurred prior to September 30, 1993. The Company has reported reserves assumed in accordance with the NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles ("SSAP") No. 62.

The Company entered into a Net Pooling Reinsurance Agreement ("Pooling Agreement") with ACIC effective July 1, 2001. The Pooling Agreement has been submitted to the New York Insurance Department. The respective participation in the net combined pooled business for 2001 was: ACIC, 5% and NYCMFIC, 95%. Effective January 1, 2002, the pool participation percentages were changed to ACIC, 2% and NYCMFIC, 98%. This amendment was also submitted to the New York Insurance Department. All lines of business that both companies are authorized to write are included in the Pooling Agreement and are ceded 100% to the lead company, NYCMFIC, after all non-affiliated ceded reinsurance has been recorded. In addition, this Pooling Agreement allows the pooling of certain assets, liabilities, income, and expense items as listed within the agreement. ACIC cedes business to non-affiliated reinsurance companies prior to pooling between the companies.

On May 16, 2006, NYCMFIC and ACIC executed Addendum # 2 to the Net Pooling Reinsurance Agreement. The Addendum modified the Term and Cancellation provision of the agreement effective January 1, 2006. The documentation provided to the Examiner indicated that Addendum #2 was filed with the New York Insurance Department on June 25, 2007. The Company failed to disclose this Addendum to the Net Pooling Reinsurance Agreement in its annual filing pursuant to Department Regulation 53 Part 81-1.2(f).

A recommendation regarding compliance with the reporting requirements of Department Regulation 53 part 81-1.2(f) is included in Section 2.D. of this report.

At December 31, 2006, the Company had the following ceded reinsurance program in place:

Personal Umbrella – Quota Share	50% of the first \$1,000,000 each occurrence; 100% of \$4,000,000 above \$1,000,000 each occurrence
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At December 31, 2006, the Company had the following property/casualty excess of loss reinsurance program in place:

Property (3 layers)	\$4,500,000 in excess of \$500,000 each risk; liability of the Reinsurer not to exceed \$1,250,000, \$2,400,000, nor \$3,300,000 on each respective layer with respect to all net loss and loss adjustment expenses combined on all risks involved in one occurrence; \$3,400,000 (2 <sup>nd</sup> layer), \$6,600,000 (3 <sup>rd</sup> layer) with respect to all net loss and loss adjustment expenses combined arising out of all loss occurrences taking place during the agreement year.
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With regards to Terrorism Occurrences the limit of liability of the Reinsurer shall not exceed \$1,000,000 under the first excess cover, \$2,000,000 under the second excess cover or \$3,000,000 under the third excess cover with respect to all net loss and loss adjustment expenses combined arising out of all loss or damage directly or indirectly arising out of, caused by, or resulting from all Terrorism Occurrences during the agreement year.

Casualty (2 layers)	\$4,500,000 in excess of \$500,000 each occurrence; liability of the Reinsurer under the second excess cover for losses in excess of policy limits and extra contractual obligations combined arising out of all occurrences taking place during each agreement year shall not exceed \$6,000,000.
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As of the examination date, the Company also maintained the following catastrophe coverage on a per occurrence basis:

Property (5 layers)	\$261,000,000 in excess of \$9,000,000 each and every loss occurrence; third excess layer (\$150,000,000 xs \$50,000,000) 99.45% placed; fifth excess layer (\$20,000,000 xs \$250,000,000) 50% placed. Note: Fourth and fifth layers cancelled effective December 31, 2006.
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Since the last examination, the NYCMFIC's net retention for both property and casualty business has increased from \$109,375 to \$500,000. The Company's net retention for auto liability exposures increased from \$118,125 to \$500,000 and the net retention for personal umbrella exposures increased from \$50,000 to \$500,000.

The majority of the Company business that was reinsured, 81%, was ceded to authorized reinsurers and 19% was ceded to unauthorized reinsurers. Letters of credit were obtained by the Company to take credit for cessions to unauthorized reinsurers.

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.

Management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Representations were supported by an attestation from the Company's Chief Executive and Chief Financial Officers pursuant to the NAIC's Annual Statement Instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements.

During the period covered by this examination, the Company commuted one reinsurance agreement where it was a ceding reinsurer. This commutation was immaterial to the Company's surplus position.

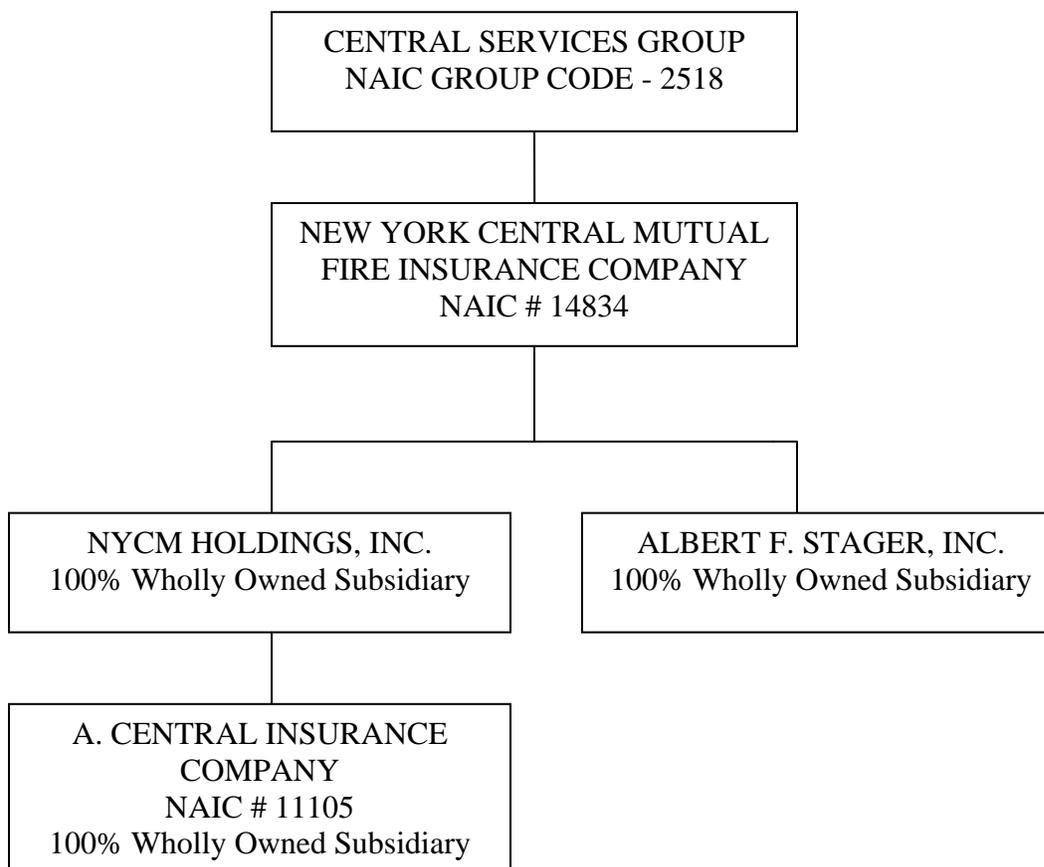
D. Holding Company System

The Company owns 100% of the common stock of NYCM Holdings, Inc., an insurance holding company. Through NYCM Holdings, Inc., the company owns 100% of the common stock of A. Central Insurance Company. The Company also owns 100% of the common stock of Albert F. Stager, Inc. ("Stager"), an insurance adjusting firm. The Company's subsidiary, Stager was purchased in 1991 from Charles M. Kuhn for the negotiated price of \$264,500. The Company owns 14.5 shares of Stager, which represents 100% of the issued and outstanding shares. On April 5, 1991, this Department issued a non-objection letter to the purchase of Stager by the Company.

Stager provides claims adjusting services primarily in Western New York to property and casualty insurance companies. The majority of Stager's income is derived from providing services to the Company.

A review of the Holding Company Registration Statements filed with this Department was performed to verify that such filings were filed in a timely manner pursuant to Department Regulation 53.

The following is a chart of the holding company system at December 31, 2006:



At December 31, 2006, the Company was party to the following agreements with other members of its holding company system:

Net Pooling Reinsurance Agreement

Refer to Section 2.C. of this report for commentary on the Net Pooling Reinsurance Agreement between the Company and A. Central Insurance Company.

Cost Allocation Agreement between NYCMFIC and NYCM Holdings, Inc.

The Company entered into a cost allocation agreement, effective July 1, 2001, with NYCM Holdings, Inc. Pursuant to the agreement, the Company makes available to Holdings, at cost, the services of its personnel and also office space, the use of office equipment, and data processing services. Shared expenses are allocated pursuant to Department Regulation 30 using the following bases of allocation; actual usage or weighted time method.

At the end of each month, the Company submits a statement on an estimated basis and, if necessary, a quarterly adjustment of such amounts is made. All charges due under this agreement are paid to NYCMFIC by Holdings within fifteen (15) days following receipt of each billing.

Agreements between NYCMFIC and operating units of A. F. Stager, Inc.

Effective January 1, 2002, the Company entered into five separate agreements with Stager, whereby Stager provides the Company with claims processing services, Special Investigation Unit services, underwriting inspections and the operation of the Company's 24-hour customer service center whenever the Company is closed. The Company also shares office space, in Amsterdam, New York, pursuant to a rental agreement with Stager.

All of the agreements provide for monthly settlements.

The Company was unable to provide documentation that the five agreements between A.F. Stager, Inc. and NYCMFIC had been reported to the New York Insurance Department. The failure to report the inter-company service agreements is a violation of Department Regulation 53 Part 81-1.2(f) and Department Circular Letter No. 17 (2001) paragraph (4)(iv).

It is recommended that the Company fully comply with the reporting requirements of Department Regulation 53 Part 81-1.2(f) and Department Circular Letter No. 17 (2001).

Cost Allocation Agreement between NYCMFIC and Robinson Agency Inc.

This agreement was entered into on November 1, 2002, between the Company and Robinson Agency Inc. of Edmeston, New York, an independent insurance agency operating from the offices of NYCMFIC in Edmeston. Pursuant to the agreement, all expenses for services, equipment or facilities of the Company for the benefit of Robinson Agency Inc. shall be determined and allocated pursuant to New York Insurance Department Regulation 30. Personnel, office space, fixed assets and general expenses shall be reimbursed by Robinson Agency Inc. to the Company according to the weighted time method.

After the close of each quarter, the Company submits a statement on an estimated basis and, if necessary, there is an annual adjustment of such amounts. Payment of all charges under this agreement is due to NYCMFIC within fifteen (15) days following receipt of each billing.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2006, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	130%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	66%
Premiums in course of collection to surplus as regards policyholders	2%

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	\$1,710,762,742	73.16%
Other underwriting expenses incurred	658,215,404	28.15%
Net underwriting loss	<u>(30,726,210)</u>	<u>(1.31)%</u>
Premiums earned	<u>\$2,338,251,936</u>	<u>100.00%</u>

F. Accounts and Records

i. Custodial Agreements

The Company maintained four custodial accounts at two large banks as of December 31, 2006. The majority of the investments are maintained at NBT Bank, with the remaining securities held at the Bank of America.

The provisions of the Company's custodial agreements with NBT Bank complied with the requirements of the New York Insurance Department and the NAIC Financial Condition Examiners Handbook. The Company entered into two new custodial agreements with the Bank of America subsequent to December 31, 2006. To assess the Company's current custodial practices, the examination emphasis was placed on reviewing the provisions of the newly executed agreements. The two custodial agreements with Bank of America lack seven of the eleven clauses required by the New York Insurance Department and the NAIC Financial Condition Examiners Handbook.

It is recommended that the Company amend the custodial agreements with Bank of America to include all the provisions required by the New York Insurance Department and the NAIC Financial Condition Examiners Handbook. It is noted that a similar recommendation was included in the prior report on examination.

ii. Agreements with CPA Firm

A review of the written contracts entered into by the Company and PricewaterhouseCoopers, LLP, its independent auditors, for each of the years under examination, revealed that such contracts did not fully conform with all of the provisions of Department Regulation 118, Section 89.2.

It is recommended that the Company ensure that the contracts entered into with its independent auditors are in full compliance with Department Regulation 118. It is noted that a similar recommendation was included in the prior report on examination.

After the Company's management was notified of the above, the Company entered into an agreement with its new CPA firm for the 2007 audit that substantively meets the requirements of Department Regulation 118.

iii. Directors and Officers Indemnification Insurance

The examination reviewed the Directors and Officers indemnification policy that the Company had at December 31, 2006 for compliance with Department Regulation 110, Part 72. Regulation 110, Part 72.1(c) states, in part:

- (c) retention amounts and coinsurance are both required, in accordance with this Part, for D&O indemnification policies issued to corporations formed under the Insurance Law...

Further, Regulation 110, Part 72.3 states, in part:

- (a) A D&O indemnification policy ... shall make each director or officer a coinsurer of any net (less retention amount) loss, for the first \$1,000,000 of coverage, to an extent no less than the applicable percentage set forth in section 72.4 of this Part;

The Directors and Officers indemnification policy as of the examination date did not contain the requisite coinsurance percentage.

It is recommended that the Company comply with Department Regulation 110 and ensure that its Directors and Officers indemnification policy includes the requisite coinsurance percentage.

When this matter was brought to the attention of Company management, an endorsement to the policy with the requisite coinsurance requirement was issued.

iv. Compliance with SSAP No. 91

A review of the underlying collateral on repurchase agreements owned as of December 31, 2006 revealed that the fair value of the underlying collateral transferred by the bank did not equal or exceed 102% of the purchase price paid for the securities subject to the repurchase agreements as required by

SSAP No. 91 paragraph 71(a). This finding does not result in a change to the financial statements, but is noted as a failure to comply with SSAP No. 91, paragraph 71(a).

It is recommended that the Company require collateral for repurchase agreements having a fair value of at least 102% of the purchase price in accordance with SSAP No. 91, paragraph 71(a).

v. Compliance with Purposes and Procedures Manual of the NAIC Securities Valuation Office

The Company failed to file a security listed with an SVO valuation price of "UP" as required by Part Four, Section 1(d) of the Purposes and Procedures Manual of the NAIC Securities Valuation Office. The security was a common stock of Federal City Bancorp Inc. owned as of December 31, 2006.

It is recommended that the Company comply with the filing requirements of the Purposes and Procedures Manual of the NAIC Securities Valuation Office, specifically, Part Four, Section 1(d).

### **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, 2006. This statement is the same as the balance sheet provided by the Company. The figures included in these financial statements have been rounded; thus, the columns may not total.

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$660,072,455	\$ 0	\$660,072,455
Common stocks	78,021,399	0	78,021,399
Mortgage loans on real estate: First liens	180,206	0	180,206
Real Estate: Properties occupied by the company	11,032,684	0	11,032,684
Cash, cash equivalents and short-term investments	21,674,064	0	21,674,064
Receivable for securities	5,008	0	5,008
Investment income due and accrued	8,413,096	0	8,413,096
Uncollected premiums and agents' balances in the course of collection	6,602,115	432,247	6,169,868
Deferred premiums, agents' balances and installments booked but deferred and not yet due	90,439,086	0	90,439,086
Amounts recoverable from reinsurers	4,621,899	0	4,621,899
Current federal and foreign income tax recoverable and interest thereon	1,867,069	0	1,867,069
Net deferred tax asset	16,777,874	0	16,777,874
Electronic data processing equipment and software	8,617,144	6,430,695	2,186,449
Furniture and equipment, including health care delivery assets	1,262,964	1,262,964	0
Receivables from parent, subsidiaries and affiliates	365,899	0	365,899
Accounts receivable	5,226	0	5,226
Cash surrender value (split life)	12,773,697	0	12,773,697
Equities and deposits in pools and associations	<u>2,244,020</u>	<u>0</u>	<u>2,244,020</u>
Total assets	<u>\$924,975,904</u>	<u>\$8,125,906</u>	<u>\$916,849,997</u>

Liabilities, surplus and other fundsLiabilities

Losses and loss adjustment expenses	\$359,288,617
Reinsurance payable on paid losses and loss adjustment expenses	554,787
Commissions payable, contingent commissions and other similar charges	7,399,841
Other expenses (excluding taxes, licenses and fees)	2,454,892
Taxes, licenses and fees (excluding federal and foreign income taxes)	16,892
Unearned premiums	211,627,283
Advance premium	4,157,604
Ceded reinsurance premiums payable (net of ceding commissions)	896,669
Amounts withheld or retained by company for account of others	5,066,086
Provision for reinsurance	13,386
Payable for securities	37,288
Retroactive reinsurance reserve assumed	203,224
Commutation of ceded reinsurance	<u>165</u>
Total liabilities	<u>\$591,716,734</u>

Surplus and Other Funds

Special contingent surplus	\$1,450,000
Unassigned funds (surplus)	<u>323,683,262</u>
Surplus as regards policyholders	<u>\$325,133,262</u>
Total liabilities, surplus and other funds	<u>\$916,849,997</u>

Note: The Internal Revenue Service has completed its audits of the Company's Federal Income Tax returns for tax years 2003, 2004 and 2005. All material adjustments arising from these audits, are reflected in the financial statements included in this report. There are no IRS audits currently in progress. 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 \$124,318,013 during the six-year examination period January 1, 2001 through December 31, 2006, detailed as follows:

<u>Underwriting Income</u>		
Premiums earned		\$2,338,251,936
Deductions:		
Losses and loss adjustment expenses incurred	\$1,710,762,742	
Other underwriting expenses incurred	<u>658,215,404</u>	
Total underwriting deductions		<u>2,368,978,146</u>
Net underwriting gain or (loss)		\$ (30,726,210)
<u>Investment Income</u>		
Net investment income earned	\$133,760,389	
Net realized capital gain	<u>(696,609)</u>	
Net investment gain or (loss)		133,063,780
<u>Other Income</u>		
Net gain or (loss) from agents' or premium balances charged off	\$ (1,033,179)	
Finance and service charges not included in premiums	35,112,195	
Aggregate write-ins for miscellaneous income	<u>(5,378,952)</u>	
Total other income		<u>28,700,064</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$131,037,634
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$131,037,634
Federal and foreign income taxes incurred		<u>38,799,182</u>
Net Income		<u>\$ 92,238,452</u>

Surplus as regards policyholders per report on examination as of December 31, 2000			\$200,815,249
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$92,238,452	\$ 0	
Net unrealized capital gains or (losses)	21,911,357		
Change in net deferred income tax	11,676,166		
Change in nonadmitted assets		5,077,233	
Change in provision for reinsurance		13,386	
Cumulative effect of changes in accounting principles	6,882,569		
Aggregate write-ins for gains and losses in surplus	<u>0</u>	<u>3,299,912</u>	
Total gains or losses in surplus	<u>\$132,708,544</u>	<u>\$8,390,531</u>	
Net increase (decrease) in surplus			<u>124,318,013</u>
Surplus as regards policyholders per report on examination as of December 31, 2006			<u>\$325,133,262</u>

#### **4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$359,288,617 is the same as reported by the Company as of December 31, 2006. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

#### **5. 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. Marketing and sales
- B. Producer licensing
- C. Advertising

Review of new business applications for NYCMFIC indicated that a producing agent had not been appointed by the Company. This is a violation of Section 2112(a) of the New York Insurance Law.

It is recommended that the Company appoint agents in accordance with Section 2112(a) of the New York Insurance Law prior to transacting business with the agent. A recommendation regarding compliance with Section 2112(a) of the New York Insurance Law was included in the prior report on examination.

## **6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The prior report on examination contained fifteen 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, henceforth, the board of directors and the officers of the Company remain mindful of their responsibilities to the Company and its policyholders, as set forth in Sections 717(a) and 715(h) of the New York Business Corporation Law. In addition, the Company was directed to replace any director and/or officer who cannot or does not fulfill his/her duties in good faith and with that degree of care, which an ordinarily prudent person in like position would use under similar circumstances.  The Company has complied with this recommendation.	5-6
(ii) It was recommended that the Company ensure directors and officers disclose all potential conflicts of interest on an annual basis when completing their conflict of interest statement.  The Company has complied with this recommendation.	6
B. <u>Reinsurance</u>	
(i) It was recommended that the Company ensure that its reinsurance contracts containing extra contractual obligations clauses either specifically exclude punitive damages or contain a “savings clause”, as coverage for punitive damages is against the public policy of New York State.  The Company has complied with this recommendation.	11
(ii) It was recommended the Company submit any subsequent amendments to its 2001 reinsurance contracts to the Department, as well as any new contracts it becomes party to, for review in accordance with Section 1308(e)(1)(A) of the New York Insurance Law.	11

<u>ITEM</u>	<u>PAGE NO.</u>
The Company has complied with this recommendation.	
C. <u>Holding Company System</u>	
(i) It was recommended the Company comply with Section 1608(c) of the New York Insurance Law and maintain accounting information to support the reasonableness of all charges or fees between itself and its subsidiary Albert F. Stager, Inc.	12
The Company has complied with this recommendation.	
(ii) It was recommended the Company comply with Department Regulation 59 Part 78.4(d) when valuing a subsidiary on the basis of Department Regulation 59 Part 78.3(b)(1) and submit to the Department an explanation of any differences between the valuation of a subsidiary's stock included in the annual statement and the value determined by the CPA audit.	13
The Company has complied with this recommendation.	
D. <u>Allocation of Expenses</u>	
Management was directed to establish and maintain written documentation supporting the allocation of each expense category to the major expense groups as required by Department Regulation 30.	16
The Company has complied with this recommendation.	
E. <u>Sections 1217 and 1411(f)(1) of the New York Insurance Law</u>	
It was recommended that the Company and its officers and directors comply with Section 1217 and Section 1411(f)(1) of the New York Insurance Law, henceforth.	16
The Company has complied with this recommendation.	
F. <u>Custodial Agreement Provisions</u>	
It was recommended that should the Company enter into any new custodial agreements in the future that it ensure that such agreement contain all the provisions established by this Department to be included in custodial agreements.	17
A similar recommendation is included in this report. See Section 2.F.i. of this report.	
G. <u>Mortgage Loans</u>	
It was recommended that the Company ensure that its mortgage loans meet the requirements of Section 1404(a)(4) of the New York Insurance Law, henceforth.	18

<u>ITEM</u>	<u>PAGE</u> <u>NO.</u>
The Company has complied with this recommendation.	
H. <u>Agreements with CPA firm</u>	
It was recommended that the Company ensure future agreements with its CPA firm meet the requirements of Section 307(b) of the New York Insurance Law and Department Regulation 118.	18
The Company has not complied with this recommendation. See Section 2.F.ii. of this report.	
I. <u>Transactions with the Robinson Insurance Agency</u>	
It was recommended that the Company and the Robinson Insurance Agency enter into a written agreement that includes payment provisions, termination provisions, the basis for all costs to be reimbursed by the agency, etc. and that the documentation supporting the reasonableness of all charges be maintained and provided upon examination.	19
The Company has complied with this recommendation.	
J. <u>Loss and Loss Adjustment Expenses</u>	
It was recommended that the Company provide an adequate reserve for unpaid losses and loss adjustment expenses in all future financial statements filed with this Department in order to comply with the requirements of Section 1303 of the New York Insurance Law.	24
The Company has complied with this recommendation.	
K. <u>Market Conduct Activities</u>	
(i) It was recommended that the Company appoint agents it wishes to have represent it in accordance with Section 2112(a) of the New York Insurance Law prior to transacting business with such agents, henceforth.	25
The Company has not fully complied with this recommendation. See Section 5 “Market Conduct Activities” of this report.	
(ii) It was recommended that the Company comply with Department Regulation 90 Parts 218.4(a) and 218.5(b) when terminating agents contracts.	25
The Company has complied with this recommendation.	

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Holding Company System</u></p> <p>It is recommended that the Company fully comply with the reporting requirements of Department Regulation 53 Part 81-1.2(f) and Department Circular Letter No. 17 (2001).</p>	11
<p>B. <u>Accounts and Records</u></p> <p>i. <u>Custodial Agreements</u></p> <p>It is recommended that the Company amend the custodial agreements with Bank of America to include all the provisions required by the New York Insurance Department and the NAIC Financial Condition Examiners Handbook. It is noted that a similar recommendation was included in the prior report on examination.</p>	13
<p>ii. <u>Agreements with CPA Firms</u></p> <p>It is recommended that the Company ensure that the contracts entered into with its independent auditors are in full compliance with Department Regulation 118. This is a repeat finding from the 2000 examination.</p> <p>After the Company's management was notified of the above, the Company entered into an agreement with its new CPA firm for the 2007 audit that substantively meets the requirements of Department Regulation 118. It is noted that a similar recommendation was included in the prior report on examination.</p>	14
<p>iii. <u>Directors and Officers Indemnification Insurance</u></p> <p>It is recommended that the Company comply with Department Regulation 110 and ensure that its Directors and Officers indemnification policy includes the requisite coinsurance percentage.</p> <p>When this matter was brought to the attention of Company management, an endorsement to the policy with the requisite coinsurance requirement was issued.</p>	14
<p>iv. <u>Compliance with SSAP No. 91</u></p> <p>It is recommended that the Company require collateral for repurchase agreements having a fair value of at least 102% of the purchase price in accordance with SSAP No. 91, paragraph 71(a).</p>	15

ITEMPAGE  
NO.v. Compliance with the Purposes and Procedures Manual of the NAIC SVO

It is recommended that the Company comply with the filing requirements of the Purposes and Procedures Manual of the NAIC Securities Valuation Office, specifically, Part Four, Section 1(d).

15

C. Market Conduct Activities

It is recommended that the Company appoint agents in accordance with Section 2112(a) of the New York Insurance Law prior to transacting business with the agent. A recommendation regarding compliance with Section 2112(a) of the New York Insurance Law was included in the prior report on examination.

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Respectfully submitted,

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Todd Fatzinger, CFE, CIE, FLMI  
Examiner-in-Charge

STATE OF GEORGIA     )  
                                  )SS:  
                                  )  
COUNTY OF FULTON    )

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

\_\_\_\_\_  
Todd Fatzinger

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Appointment No. 22502

STATE OF NEW YORK  
INSURANCE DEPARTMENT

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

Todd Fatzinger

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

**NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY**

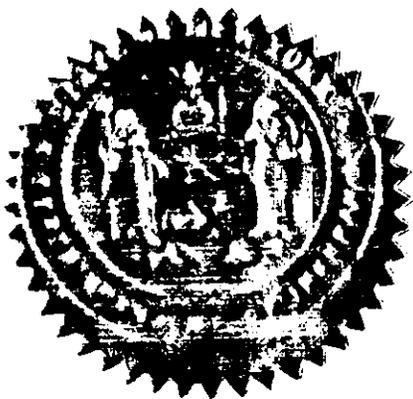
*and to make a report to me in writing of the condition of the said*

**Company**

*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 12th day of May, 2006*



*Howard Mills*

HOWARD MILLS  
Superintendent of Insurance