

REPORT ON EXAMINATION

OF THE

NEW YORK MARINE AND GENERAL INSURANCE COMPANY

AS OF

DECEMBER 31, 2005

DATE OF REPORT

FEBRUARY 21, 2007

EXAMINER

BERNARD LOTT

TABLE OF CONTENTS

| <u>ITEM NO.</u> | | <u>PAGE NO.</u> |
|-----------------|---|-----------------|
| 1 | Scope of examination | 2 |
| 2. | Description of Company | 3 |
| | A. Management | 3 |
| | B. Territory and plan of operation | 5 |
| | C. Reinsurance | 7 |
| | D. Holding company system | 9 |
| | E. Abandoned Property Law | 13 |
| | F. Significant operating ratios | 12 |
| | G. Accounts and records | 14 |
| 3. | Financial statements | 14 |
| | A. Balance sheet | 15 |
| | B. Underwriting and investment exhibit | 17 |
| 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 | 22 |



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

February 21, 2007

Honorable Eric 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 22456 dated February 22, 2006 attached hereto, I have made an examination into the condition and affairs of the New York Marine and General Insurance Company as of December 31, 2005, and submit the following report thereon.

Wherever the designations "the Company" or "New York Marine" appear herein without qualification, they should be understood to indicate New York Marine & General Insurance Company.

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

The examination was conducted at the Company's home office located at 919 Third Avenue, New York, New York 10022.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 2000. The current examination covered the five-year period from January 1, 2001 through December 31, 2005. Transactions occurring subsequent to this period were reviewed where deemed appropriate.

The examination comprised a verification of assets and liabilities as of December 31, 2005. It 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
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

A review was 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.

The Company was examined concurrently with its subsidiary, Gotham Insurance Company ("Gotham"). A separate report thereon has been rendered.

2. DESCRIPTION OF COMPANY

The Company was incorporated as New York Marine Insurance Company on March 22, 1972, under the laws of New York and began business on July 1st of that year. The present corporate title, New York Marine and General Insurance Company, was adopted on September 12, 1979.

Common capital stock of \$8,827,889 consists of 8,827,889 shares of issued and outstanding common stock, with a par value of one dollar per share. A total of 15,000,000 common shares are authorized. Gross paid in and contributed surplus of \$53,318,915 has remained unchanged for the period covered by this examination.

NYMAGIC, INC., an insurance holding company, has held all of the Company's outstanding shares of common stock since 1989.

A. Management

The Company and an affiliate, Mutual Marine Office, Inc. ("MMO"), are parties to a management agreement. Under this management agreement, MMO supplies all services, employees and facilities necessary for the conduct of the Company's business. The agreement is more fully described in Item 2(D)(1)(a) herein.

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of not less than thirteen nor more than nineteen members. At December 31, 2005, the board of directors was comprised of the following fifteen members:

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> |
|---------------------------------------|---|
| John R. Anderson Wyckoff, NJ | Retired |
| Glenn J. Angiolillo New Canaan, CT | President, GJA Management Corp. |
| John T. Baily Farmington, CT | Retired |
| George F. Berg Succasunna, NJ | Senior Vice President, New York Marine and General Insurance Company |

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> |
|---|---|
| Mark W. Blackman Darien, CT | President, New York Marine and General Insurance Company |
| Paul J. Hart Morristown, NJ | Senior Vice President, General Counsel, New York Marine and General Insurance Company |
| David Elden Hoffman Plano, TX | Retired |
| Thomas J. Iacopelli Irvington, NY | Senior Vice President and Chief Financial Officer, New York Marine and General Insurance Company |
| Arthur G. Kallop New York, NY | Chief Executive Officer, New York Marine and General Insurance Company |
| William Jeter Michaelcheck New York, NY | Chairman, Mariner Investment Group, Inc. |
| William Dwight Shaw, Jr. Greenwich, CT | Vice Chairman, New York Marine and General Insurance Company |
| Robert George Simses Palm Beach, FL | Managing Partner, Simses & Associates, PA. |
| George Rea Trumbull, III West Simsbury, CT | Chairman, New York Marine and General Insurance Company |
| Glenn Robert Yanoff Delray Beach, FL | President, Risk Placement Services, Inc. |
| David Warren Young Stonington, CT | Partner, CCP Equity Partners |

The board met four times a year for each year covered by this examination. A review of the minutes for these meetings indicated that they were generally well attended and that each member had an acceptable record of attendance for all meetings for which they were eligible to attend.

As of December 31, 2005, the principal officers of the Company were as follows:

| <u>Name</u> | <u>Title</u> |
|---------------------|-------------------------|
| Arthur G. Kallop | Chief Executive Officer |
| Mark W. Blackman | President |
| Paul J. Hart | Senior Vice President |
| George F. Berg | Senior Vice President |
| Thomas J. Iacopelli | Chief Financial Officer |

The Company's procedure for disclosing conflicts of interest by its directors and officers was reviewed. The Company distributes conflict of interest statements annually to each director and officer. During the period covered by this examination, no material conflicts of interest were disclosed to the board of directors.

B. Territory and Plan of Operation

As of December 31, 2005, the Company was licensed to write business in all fifty states, Puerto Rico and the U.S. Virgin Islands. 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> |
|------------------|--|
| 3 | Accident & health |
| 4 | Fire |
| 5 | Miscellaneous property |
| 6 | Water damage |
| 7 | Burglary and theft |
| 8 | Glass |
| 9 | Boiler and machinery |
| 10 | Elevator |
| 11 | Animal |
| 12 | Collision |
| 13 | Personal injury liability |
| 14 | Property damage liability |
| 15 | Workers' compensation and employers' liability |
| 16 | Fidelity and surety |
| 17 | Credit |
| 19 | Motor vehicle and aircraft physical damage |
| 20 | Marine and inland marine |
| 21 | Marine protection and indemnity |

The Company is empowered to transact such workers' compensation insurance as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a) of the New York Insurance Law, including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Congress as amended; 33 USC Section 901 et seq. as amended) and as authorized by Section 4102(c) of the New York Insurance Law, reinsurance of every kind or description.

In addition, the Company is licensed to write Special Risk Insurance pursuant to Article 63 of the New York Law.

Based on the lines of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, New York Marine is required to maintain a minimum surplus to policyholders in the amount of \$35,000,000. Surplus to policyholders as of December 31, 2005 was \$171,395,202.

The Company specializes in underwriting ocean marine business, specifically marine liability, cargo, drill rig, hull, and energy exposures, inland marine/property and fire coverages and excess and surplus lines casualty coverage, written on both a primary and reinsurance basis. Business is written through New York Marine's participation in insurance underwriting pools managed by Mutual Marine Office, Inc. and its affiliates (Mutual Marine Office of the Midwest, Inc. and Pacific Mutual Marine Office, Inc.). Since January 1, 1997, the Company has increased its participation to 100% in all lines of business produced by the pools. This arrangement is described in Item 2(D)(1)(b), herein.

The following schedule shows the direct premiums written by the Company in New York State compared to its total direct business written for the period under examination:

Direct Premiums Written ("DPW")

| <u>Calendar Year</u> | <u>New York State</u> | <u>Total DPW</u> | <u>% of Total DPW in New York</u> |
|----------------------|-----------------------|------------------|---------------------------------------|
| 2001 | \$13,251,825 | \$82,515,959 | 16.06% |
| 2002 | \$26,886,507 | \$103,370,893 | 26.01% |
| 2003 | \$34,057,625 | \$106,541,273 | 31.97% |
| 2004 | \$43,473,941 | \$132,093,319 | 32.91% |
| 2005 | \$42,751,816 | \$141,561,232 | 30.20% |

C. Reinsurance

Assumed

Assumed reinsurance of \$58,808,589 accounted for 29.4% of the Company's gross premiums written at December 31, 2005. The overwhelming majority (\$45,173,100) was assumed from its affiliate, Gotham Insurance Company, pursuant to an inter-company reinsurance agreement. During the period covered by this examination, the Company's assumed reinsurance business from affiliates has increased considerably while its assumptions from non-affiliates have decreased since the last examination. The Company's assumed reinsurance program consists mainly of fire, ocean marine and professional and contractor's liability coverages, pursuant to treaty agreements with both authorized and unauthorized cedants. The Company utilizes reinsurance accounting as defined in the NAIC Accounting Practices and Procedures Manual Statements of Statutory Accounting Principles ("SSAP") No. 62 for all of its assumed reinsurance business.

The inter-company reinsurance agreement, effective since January 1, 1987, requires New York Marine to assume 100% of Gotham's direct business. New York Marine then cedes 15% of its "net pooled business" (direct business plus assumed business minus cessions to non-affiliated insurers) back to Gotham. The agreement has been submitted to the Department pursuant to Section 1505(d)(3) of the New York Insurance Law and not disapproved. As of the examination date New York Marine ceded \$86,550,427 to reinsurers, with \$20,072,427 of that amount going to Gotham.

Ceded

The Company has structured its ceded reinsurance program to limit its maximum exposure to any one risk to \$2,550,000. During the period covered by this examination, the maximum exposure has ranged from \$1,487,500 to \$3,400,000. Maximum exposure is achieved through the use of various excess of loss, quota share and occasionally facultative reinsurance agreements written through its affiliate Mutual Marine Office, Inc.

As of the examination date the majority of the Company's cessions, approximately 89%, were ceded to authorized reinsurers. This represents a material change from the prior report on examination where cessions to unauthorized reinsurers represented 52% of total ceded business.

It is the Company's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. Letters of credit and trust accounts obtained by the Company to take credit for cessions to

unauthorized reinsurers were reviewed for compliance with Department Regulations 133 and 114, respectively. No exceptions were noted. The Company also reduces its provision for reinsurance pursuant to the provisions of Parts 125.4(e) or (f) of Department Regulation 20. A review indicated that the Company maintained the documentation required by the regulation.

All ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law. However, the Company had a number of agreements with unauthorized reinsurers, where a letter of credit was obtained in order for it to receive full credit for admitted reinsurance. A review of these agreements noted that many had either specifically excluded losses incurred but not reported (“IBNR”) or did not include IBNR in the amount relating to reserves in the letter of credit. Section 79.5(a)(2)(iii) of Department Regulation 133, in stipulating what provisions must be included in a reinsurance agreement when a letter of credit is obtained therewith, states in part:

“...that the reinsurer and ceding insurer agree that the letters of credit provided by the reinsurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the reinsurance agreement, and be utilized by the ceding insurer or any successor by operation of law of the ceding insurer including, without limitation, any liquidator, rehabilitator, receiver or conservator of such insurer for the following purposes:...(iii) to fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer’s liabilities for policies ceded under the agreement. Such amount shall include, but not be limited to, amounts for policy reserves, reserves for claims and losses incurred **(including losses incurred but not reported)**...”

It appears that these agreements do not conform to the aforementioned section of Regulation 133.

It is recommended that where a letter of credit has been obtained, the Company amend all reinsurance agreements to include losses incurred but not reported in the amount relating to reserves, in order to comply with Section 79.5(a)(2)(iii) of Department Regulation 133.

A review of the Company’s 2005 filed Schedule F revealed that it accurately reflected its reinsurance transactions.

The Company’s management has made affirmative representations that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Such representations were supported by appropriate risk transfer analyses and an attestation from the Company’s chief executive officer pursuant to Department Circular Letter No. 8 (2005). All ceded

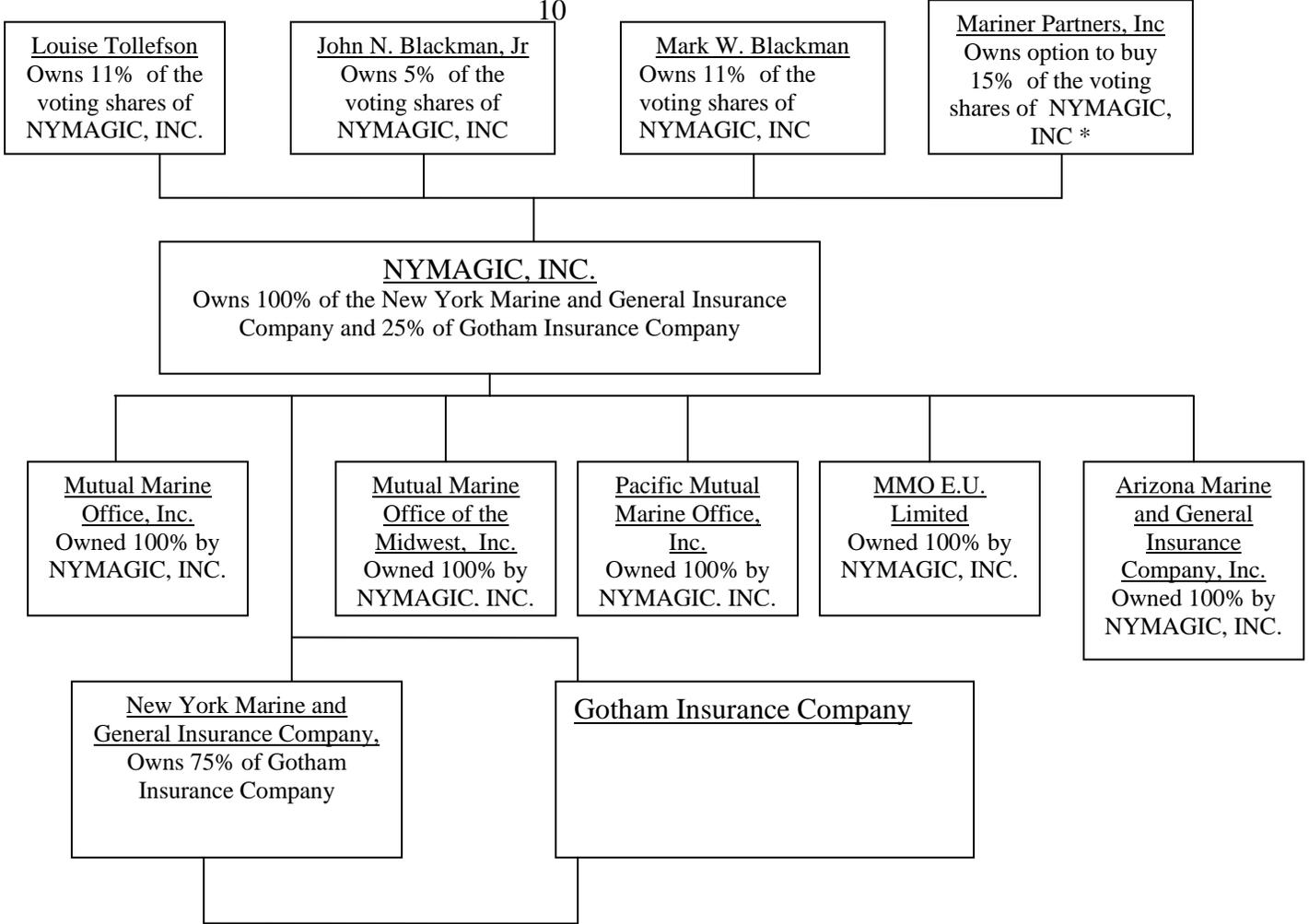
reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraphs 41-44 of SSAP No. 62.

D. Holding Company System

New York Marine is a 100% owned and controlled subsidiary of NYMAGIC, INC., a publicly traded insurance holding company, domiciled in the state of New York. As of December 31, 2005, John N. Blackman, Jr., Mark W. Blackman and Louise Tollefson owned 5%, 11% and 11%, respectively, of the voting shares of NYMAGIC, Inc. Mariner Partners, Inc., an investment management company, owned options to buy 15% of NYMAGIC, Inc.'s voting shares. William J. Michaelcheck, a director of New York Marine, is the chairman, chief executive officer and the beneficial owner of a majority of the stock of Mariner Partners, Inc.

NYMAGIC, Inc. and New York Marine own 25% and 75%, respectively, of Gotham Insurance Company. NYMAGIC, Inc. also owns 100% of Mutual Marine Office, Inc., Mutual Marine Office of the Midwest, Inc. and Pacific Mutual, Inc.

The following is a chart of the holding company system at December 31, 2005:



* William J. Michaelcheck is a majority shareholder of Mariner Partners, Inc.

As a member of a holding company system, the Company is required to file registration statements and amendments with this Department pursuant to Article 15 of the New York Insurance Law and the Department's Regulation 52. Part 80-1.2 of Department Regulation 52 requires that the amendments be filed annually within 120 days following the end of its ultimate holding company's fiscal year (April 30). It was noted in the prior report on examination that the Company failed to file amendments on a timely basis for two of the years covered. A review of the amendments filed for the years covered by the current examination also noted that amendments were not filed on a timely basis for years 2002 and 2005.

It is again recommended that the Company comply with Part 80-1.2 of Department Regulation 52 and file the amendments to its holding company filings by April 30 annually.

In addition to the inter-company reinsurance agreement between the Company and Gotham noted in Item 2C (Reinsurance) herein, the Company was party to the following agreements with other members of its holding company system at December 31, 2005:

1. Management Agreements:

(a) The Company and Mutual Marine Office, Inc. ("MMO") are parties to a management agreement, amended and restated, effective April 1, 1986. Under the terms of this agreement, MMO supplies all employees, services and facilities necessary for the conduct of the Company's business. The management fees paid by the Company to MMO are detailed as follows:

7.5% of gross premiums written on non-pooled business;
1% of gross premiums written on pool business: and
1% of all direct premiums on pool business.

With respect to the fees above, an amendment to the agreement was filed with the Department on July 7, 1986. The amendment noted that compensation allowed was not to exceed the cost and expenses incurred by MMO in fulfilling its obligations under the management agreement.

The management agreement was submitted to and not disapproved by the Department, pursuant to Section 1505(d)(3) of the New York Insurance Law. No changes have been made to this agreement for the period covered by this examination.

(b) In addition to the above management agreement, the Company is a party to three separate agreements, also called management agreements, with its affiliates Mutual Marine Office, Inc., Mutual Marine Office of the Midwest, Inc. and Pacific Mutual Marine Office, Inc. Under the provisions of these agreements the Company's business is written through three insurance underwritings pools managed by the above affiliates. Since January 1, 1997, the Company along with Gotham has had a 100% participation in all lines of business produced by the pools. Amendments to the agreements were submitted to the Department and the Department did not disapprove of the changes.

Under these agreements, the affiliates receive a pool management fee of 5.5% of gross premiums written on pool business and a pool contingent commission of 10% of the underwriting profit for providing underwriting, claims and management services for the pools. In addition, the agreements indicated that the affiliates also receive profits derived from reinsurance contingent commission on pool business ceded under various reinsurance agreements.

Effective January 1, 2002, the Company submitted supplemental waiver of fee statements to the Department, pursuant to Section 1505(d)(3) of the New York Insurance Law. These statements indicate that the affiliates waive their right to receive from the Company pursuant to the pool agreement, any compensation including contingent commissions, to the extent that such compensation exceeds the actual cost incurred by the affiliates in producing such pool business of the Company.

2. Tax Allocation Agreement

Effective July 23, 2002, the Company filed an amended and restated tax allocation agreement with the Department pursuant to Section 1505(d)(3) of the New York Insurance Law. Under this agreement, commencing with the tax year ending December 31, 2001, the Company and its affiliates file a consolidated federal income tax return. The agreement was submitted to and not disapproved by the Department.

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 Company filed abandoned property reports for each year covered by this examination.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2005, based upon the results of this examination:

| | |
|---|----------|
| Net premiums written to surplus as regards policyholders | .66 to 1 |
| Liabilities to liquid assets (cash and invested assets less investments in affiliates) | 108% |
| Premiums in course of collection to surplus as regards policyholders | 9% |

The above ratios fall within the benchmark ranges set forth by the Insurance Regulatory Information System of the National Association of Insurance Commissioners, with the exception of the liabilities to liquid assets ratio. It appears that ratio falls outside of benchmark ranges due to the continued growth in the Company's liabilities in proportion to its liquid assets.

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 | \$290,363,121 | 64.80% |
| Other underwriting expenses incurred | 162,640,569 | 36.29 |
| Net underwriting loss | <u>(4,884,457)</u> | <u>(1.09)</u> |
| Premiums earned | <u>\$448,119,233</u> | <u>100.00%</u> |

G. Accounts and Records
Custodian Agreement

The Company answered affirmatively to the following General Interrogatory in its filed Annual Statement as of December 31, 2005:

“Excluding items in Schedule E, real estate, mortgage loans and investments held physically in the reporting entity’s offices, vaults or safety deposit boxes, were all stocks, bonds and other securities, owned throughout the current year held pursuant to a custodial agreement with a qualified bank or trust company in accordance with Part1-General, Section IV.H-Custodial or Safekeeping Agreement of the NAIC Financial Condition Examiners Handbook?”

A review of the Company’s custodial agreement, however, found that it lacked a number of the protective covenants set forth in the guidelines from the NAIC’s Examiners Handbook.

It is recommended that the Company amend its custodial agreements to include the missing safeguards. It is also recommended that the Company take due care to correctly complete the General Interrogatories of its filed annual statement.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2005 as determined by this examination and as reported by the Company:

| <u>Assets</u> | <u>Assets</u> | <u>Assets Not Admitted</u> | <u>Net Admitted Assets</u> |
|--|----------------------|--------------------------------|--------------------------------|
| Bonds | \$284,636,036 | \$0 | \$284,636,036 |
| Common stocks | 46,359,585 | 0 | 46,359,585 |
| Cash and short-term investments | 66,161,846 | 0 | 66,161,846 |
| Other invested assets | 105,759,631 | 0 | 105,759,631 |
| Receivable for securities | 5,393,503 | 0 | 5,393,503 |
| Investment income due and accrued | 3,009,619 | 0 | 3,009,619 |
| Uncollected premiums and agents' balances in the course of collection | 23,814,271 | 8,217,908 | 15,596,363 |
| Deferred premiums, agents' balances and installments booked but deferred and not yet due | 0 | 0 | 0 |
| Amounts recoverable from reinsurers | 21,131,557 | 0 | 21,131,557 |
| Funds held by or deposited with reinsured companies | 172,150 | 0 | 172,150 |
| Net deferred tax asset | 15,431,833 | 9,761,809 | 5,670,024 |
| Electronic data processing equipment and software | 3,710,637 | 0 | 3,710,637 |
| Furniture and equipment, including health care delivery assets | 3,358,401 | 3,358,401 | 0 |
| Equities and deposits in pools and associations | 2,506,913 | | 2,506,913 |
| Prepaid expenses | 212,733 | 212,733 | |
| Other assets | <u>368,438</u> | <u>368,438</u> | <u> </u> |
| Total assets | <u>\$582,027,153</u> | <u>\$21,919,289</u> | <u>\$560,107,864</u> |

Liabilities, Surplus and Other FundsLiabilities

| | | |
|---|--|----------------|
| Losses | | \$200,745,756 |
| Loss adjustment expenses | | 33,084,780 |
| Commissions payable, contingent commissions and other similar charges | | 3,149,933 |
| Other expenses (excluding taxes, licenses and fees) | | 4,429,785 |
| Taxes, licenses and fees (excluding federal and foreign income taxes) | | 363,771 |
| Current federal and foreign income taxes | | 4,572,499 |
| Unearned premiums | | 51,887,878 |
| Ceded reinsurance premiums payable (net of ceding commissions) | | 37,686,903 |
| Funds held by company under reinsurance treaties | | 13,255,933 |
| Provision for reinsurance | | 25,639,200 |
| Reserves for write-offs of pool member's obligations | | 1,783,621 |
| Loss portfolio transfer liability | | 11,608,574 |
| Other liabilities | | <u>504,029</u> |
| | | |
| Total liabilities | | \$388,712,662 |

Surplus and Other Funds

| | | |
|--|--------------------|----------------------|
| Common capital stock | \$8,827,889 | |
| Gross paid in and contributed surplus | 53,318,915 | |
| Unassigned funds (surplus) | <u>109,248,398</u> | |
| | | |
| Surplus as regards policyholders | | <u>171,395,202</u> |
| | | |
| Total liabilities, surplus and other funds | | <u>\$560,107,864</u> |

NOTE: The Internal Revenue Service has not performed any audits of the consolidated federal income tax returns filed on behalf of the Company, for the years covered by this examination. The examiner is unaware of any potential exposure of the Company to any further tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$2,050,348 during the five-year examination period January 1, 2001 through December 31, 2005, detailed as follows:

Statement of Income

Underwriting Income

| | | |
|---|---------------|--------------------|
| Premiums earned | | \$448,119,233 |
| Deductions: | | |
| Losses incurred | \$249,625,139 | |
| Loss adjustment expenses incurred | 40,737,982 | |
| Other underwriting expenses incurred | 162,640,569 | |
| Aggregate write-ins for underwriting deductions | <u>0</u> | |
| Total underwriting deductions | | <u>453,003,690</u> |
| Net underwriting gain or (loss) | | \$(4,884,457) |

Investment Income

| | | |
|-------------------------------|-------------------|------------|
| Net investment income earned | \$58,703,640 | |
| Net realized capital gain | <u>22,427,637</u> | |
| Net investment gain or (loss) | | 81,131,277 |

Other Income

| | | |
|--|--------------------|---------------------|
| Net gain or (loss) from agents' or premium balances charged off | \$(1,032,028) | |
| Finance and service charges not included in premiums | 0 | |
| Aggregate write-ins for miscellaneous income | <u>(8,931,739)</u> | |
| Total other income | | <u>(9,963,767)</u> |
| Net income before dividends to policyholders and before federal and foreign income taxes | | \$66,283,053 |
| Dividends to policyholders | | <u>0</u> |
| Net income after dividends to policyholders but before federal and foreign income taxes | | \$66,283,053 |
| Federal and foreign income taxes incurred | | <u>23,710,411</u> |
| Net Income | | <u>\$42,572,642</u> |

Capital and Surplus Account

| | | | |
|--|-----------------------------|------------------------------|----------------------|
| Surplus as regards policyholders per report on examination as of December 31, 2000 | | | \$169,344,854 |
| | <u>Gains in Surplus</u> | <u>Losses in Surplus</u> | |
| Net income | \$42,572,642 | | |
| Net unrealized capital gains or (losses) | 12,797,318 | | |
| Change in net deferred income tax | 5,886,265 | | |
| Change in nonadmitted assets | | \$10,396,914 | |
| Change in provision for reinsurance | 767,000 | | |
| Cumulative effect of changes in accounting principles | 5,835,289 | | |
| Dividends to stockholders | <u> </u> | <u>55,411,252</u> | |
| Total gains and losses | <u>\$67,858,514</u> | <u>\$65,808,166</u> | |
| Net increase (decrease) in surplus | | | <u>2,050,348</u> |
| Surplus as regards policyholders per report on examination as of December 31, 2005 | | | <u>\$171,395,202</u> |

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$233,830,536 is the same as reported by the Company as of December 31, 2005. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Companies internal records and in its filed annual statements.

5. 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. Underwriting
- B. Claims

No problem areas were encountered.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

| <u>ITEM</u> | <u>PAGE NO.</u> |
|---|-----------------|
| <p>A. It was recommended that the Company ensure that all directors and officers complete conflict of interest statements yearly.</p> <p>The Company has complied with this recommendation.</p> | 5 |
| <p>B. It was recommended that the Company comply with the NAIC instructions to the annual statements and list in Schedule T each alien jurisdiction where business is written and located.</p> <p>The Company has complied with this recommendation.</p> | 7 |
| <p>C. It is recommended that in the future the Company not enter into assumption agreements that contain extra-contractual obligation clauses unless they are modified with the following clause: <i>"...in no event shall coverage be provided to the extent that such coverage is not permitted under New York Law."</i></p> <p>The Company has complied with this recommendation.</p> | 9 |
| <p>D. It is recommended that in the future, the Company comply with Part 80-1.2 of Department Regulation 52 and file the amendments to form HC-1 annually by April 30.</p> <p>The Company has not complied with this recommendation. A similar comment is made in this report.</p> | 16 |
| <p>E. It is recommended that the Company comply with Section 1505(d)(3) of the New York Insurance Law and submit to the Department prior to implementation all amendments to its management agreements.</p> <p>The Company has complied with this recommendation.</p> | 18 |
| <p>F. It is recommended that the Company comply with Section 1505(d)(2) of the New York Insurance Law and submit to the Department the aggregate stop loss reinsurance agreement entered with Lloyds Syndicate 1265.</p> <p>The Company has complied with this recommendation.</p> | 20 |

ITEMPAGE NO.

- G. It was recommended that the Company amend its custodial agreement with Northern Trust Company to include, at the minimum, the provisions deemed to be representative of good business practices. 23

During the period covered by this examination, the Company changed custodians and obtained a new agreement. In addition, subsequent to the prior examination date, the Department has changed the guidance it uses to determine the minimum provisions that represent good business practices. The new agreement, however, was found not to contain the required provisions of the new guidance. A similar recommendation will be made in this report.

- H. It is recommended that in the future, the Company's name be listed as beneficiary under all letters of credit agreements. 23

The Company has complied with this recommendation.

- I. It is recommended that all existing letters of credit that do not list the Company as the beneficiary be amended to include an acknowledgment that the letter of credit is being administered by the beneficiary on behalf of New York Marine and General Insurance Company and other members of the pool as appropriate to the period in question. 23

The Company has complied with this recommendation.

7. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

| <u>ITEM</u> | <u>PAGE NO.</u> |
|--|-----------------|
| A. <u>Reinsurance</u> | |
| i. It is recommended that where a letter of credit has been obtained, the Company amend all reinsurance agreements to include losses incurred but not reported in the amount relating to reserves, in order to comply with Section 79.5(a)(2)(iii) of Department Regulation 133. | 8 |
| B. <u>Holding Company System</u> | |
| It is again recommended that the Company comply with Part 80-1.2 of Department Regulation 52 and file the amendments to its holding company filings by April 30 annually. | 11 |
| C. <u>Accounts and Records</u> | |
| i. It is recommended that the Company amend its custodial agreements to include the missing safeguards. | 14 |
| ii. It is recommended that the Company take due care to correctly complete the General Interrogatories of its filed annual statement. | 14 |

Respectfully submitted,

_____/S/
Bernard Lott
Senior Insurance Examiner

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

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

_____/S/
Bernard Lott

Subscribed and sworn to before me
this _____ day of _____, 2008.

Appointment No 22456

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:

Bernard Lott

as proper person to examine into the affairs of the

NEW YORK MARINE AND GENERAL INSURANCE COMPANY

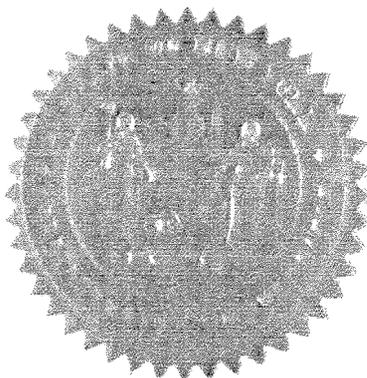
and to make a report to me in writing of the condition of the said

Company

with such other information as he shall deem requisite.

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

this 22nd day of February, 2006



A handwritten signature in cursive script, appearing to read "Howard Mills".

HOWARD MILLS
Superintendent of Insurance