

REPORT ON EXAMINATION

OF THE

INSURANCE COMPANY OF GREATER NEW YORK

AS OF

DECEMBER 31, 2003

DATE OF REPORT

JULY 1, 2005

EXAMINER

MARC ALLEN

## 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	10
	F. Significant operating ratios	11
	G. Accounts and records	11
3.	Financial statements	15
	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	21
7.	Summary of comments and recommendations	22



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

July 1, 2005

Honorable Howard Mills  
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 22253 dated September 10, 2004 attached hereto, I have made an examination into the condition and affairs of Insurance Company of Greater New York as of December 31, 2003, and submit the following report thereon.

Wherever the designations “the Company” or “INSCO” appear herein without qualification, they should be understood to indicate the Insurance Company of Greater New York.

Whenever the term “Group” appears in this report, it should be understood to mean the Greater New York Mutual Insurance Company and its two wholly-owned insurance subsidiaries, the Insurance Company of Greater New York and Strathmore Insurance Company.

Whenever the term “Department” appears in this report, it should be understood to mean the New York State Insurance Department.

The examination was conducted at the Company’s home office located at 200 Madison Avenue, New York, NY 10016.

## 1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1999. This examination covered the four year period from January 1, 2000 through December 31, 2003. 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, 2003. 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 public accountants. 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
- Market conduct activities
- Growth of Company
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations contained in the prior report on examination.

This report on examination is confined to financial statements and comments on those matters, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

## 2. DESCRIPTION OF COMPANY

The Company is a wholly-owned subsidiary of the Greater New York Mutual Insurance Company, and was formed in September 1967. Since January 1968, both companies have pooled premiums, losses, and expenses under a reinsurance pooling agreement discussed under the caption, “Intercompany Pooling Agreement” (see item 2C of this report)

Capital paid in is \$5,000,000, consisting of 50,000 shares of \$100 par value per share common stock. The Company reports no gross paid in and contributed surplus. These amounts are unchanged from the prior examination date.

### A. Management

The Company’s charter and by-laws provide that its business affairs are to be managed and controlled by a board of directors consisting of at least fifteen directors.

At December 31, 2003, the board of directors was composed of fourteen members as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Max Freund New York, NY	Retired Partner, Rosenman & Colin
Warren William Heck New York, NY	Chairman of the Board and Chief Executive Officer, Greater New York Mutual Insurance Company
Carol Trencher Ivanick New York, NY	Partner, Dewey, Ballantine LLP
Charles Frederick Jacey Belle Mead, NJ	Retired
Robert Peter Lewis New York, NY	Retired

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Lance Malcolm Liebman New York, NY	Dean and Professor, Columbia Law School
Jeffrey Stuart Maurer Kings Point, NY	President, United States Trust Company
Henry George Miller Scarsdale, NY	Partner, Clark, Gagliardi & Miller
Henry George Miller Scarsdale, NY	Partner, Clark, Gagliardi & Miller
Arthur William Murphy New York, NY	Professor, Columbia Law School
Robert Frances O'Leary Naples, FL	Retired
James David Rosenthal New York, NY	Vice President, Douglas Elliman
Paul Segal New York, NY	Architect, Paul Segal and Associates
Max Solomon New York, NY	Retired
Dominick Vicari Seaford, NY	President, Greater New York Mutual Insurance Company

A review of the meetings of the board of directors held during the four-year examination period indicated that all meetings were well attended.

The examiner noted that the Company has failed to maintain the fifteen board members required by its charter and by-laws. The Company has had only fourteen board members since May, 2002.

It is recommended that the Company maintain fifteen board members as required by its charter and by-laws or amend the charter and by-laws.

It was noted that the board of directors during their regular meeting held on March 31, 2001 approved an increase in the number of directors constituting a quorum from eight to nine. However, the by-laws still only define a quorum as the presence of eight directors.

It is recommended that the Company amend its by-laws to indicate that nine directors are required to constitute a quorum in order to reflect the intent of the Company.

The following were the principal officers of the Company as of December 31, 2003:

<u>Name</u>	<u>Title</u>
Warren William Heck	Chairman and Chief Executive Officer
Dominick Vicari	President
John B. Minner	Senior Vice President and Treasurer

B. Territory and Plan of Operation

As of December 31, 2003, the Company was licensed to write business in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania.

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>
3(i)	Accident & health
3(ii)	Non-cancellable disability
4	Fire
5	Miscellaneous property damage
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
17	Credit
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

The Company is also empowered to transact workers' compensation business 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 803, 69<sup>th</sup> Congress, as amended; USC Section 901 et seq. as amended).

Pursuant to Section 6302 of the New York Insurance Law, the Company is licensed to write special risks in the "Free Trade Zone".

Based on the lines of business for which the Company is licensed and pursuant to the requirements of Articles 13, 41 and 63 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$4,300,000.

The following schedule shows the direct premiums written by the Company both in total and in New York for the period under examination:

<u>Calendar Year</u>	<u>New York Premiums</u>	<u>Total Premiums</u>	<u>Percentage of New York Total Premiums Written</u>
2000	\$19,576,622	\$39,050,022	50.13%
2001	\$20,850,663	\$46,426,635	44.91%
2002	\$32,796,600	\$57,253,179	57.28%
2003	\$49,675,764	\$76,247,136	65.15%

The majority (more than 98%) of the Company's business is written in New York, New Jersey, Connecticut, Massachusetts, and Pennsylvania. Most of the business originates through independent agents and brokers. The Company maintains branch offices in Glastonbury, Connecticut, East Brunswick, New Jersey, and Quincy, Massachusetts. Each office handles both underwriting and claims functions for its specific territory. Commercial multiple peril is the Company's dominant line of business, followed by workers' compensation.

C. Reinsurance

1. Assumed

The Company is primarily a direct writer. The major portion of its assumed reinsurance represents business obtained through a pooling agreement with its parent, Greater New York Mutual Insurance Company.

2. Pooling Agreement with Parent and Affiliate

The Company, its parent (GNY) and its affiliate (Strathmore) operate under an inter-company pooling agreement, which has been in place since January, 1968. The pooling agreement originally included only GNY and the Company as participants; Strathmore was added effective January 1, 2000. As of the examination date, the pooling participation percentages are 85% GNY, 10% INSCO, and 5% Strathmore.

Article 2 of the pooling agreement states the following with respect to the GNY (referred to in the agreement as “Mutual”) and the Company (referred to in the agreement as “Stock”):

“[the Company] agrees to cede to [GNY] and [GNY] agrees to assume from [the Company] one hundred percent (100%) of the **net policy liability** of [the Company] assumed by [the Company] on or after 12:01 A.M. January 1, 1968 during the continuation of this agreement.” (Emphasis added)

This article was amended effective January 1, 2000 to add Strathmore as a party to the agreement.

The examination review of the group’s annual statement reporting indicated that the Company and Strathmore cede 100% of their gross writings to GNY, rather than their net writings as indicated in the pooling agreement. GNY then cedes to the Company and Strathmore their respective pooling percentages of losses and expenses net of external reinsurance.

It is recommended that the Company either amend the pooling agreement to reflect the fact that the Company and Strathmore cede their writings on a gross basis rather than net or adjust the annual statement presentation to reflect the cessions on a net basis, pursuant to the current terms of the pooling agreement.

Pursuant to the terms of the pooling agreement, each company is required to report its respective participating share of the underwriting assets and related liabilities of the pooled business. On December 31, 2001, Article 4a of the pooling agreement was amended for the purpose of adding Strathmore to the agreement and simplifying the accounting by having GNY maintain the entire provision for reinsurance liability on its balance sheet. The amendment to Article 4a reads as follows:

“...It is further agreed that five percent (5%) of all underwriting assets and related liabilities of [GNY] and [the Company] arising after 12:01AM on the 1<sup>st</sup> day of January 2000, shall be apportioned to Strathmore, except that any penalty imposed for unauthorized reinsurance shall be assumed 100% by [GNY].”

It is noted that the amendment, as written, provides that GNY will assume the penalty imposed for unauthorized reinsurance only for Strathmore, and not the Company. In practice, GNY is reporting 100% of the provision for reinsurance for both subsidiaries. Furthermore, the “penalty imposed for unauthorized reinsurance” is only one component of the provision for reinsurance liability; in practice, GNY is reporting 100% of the entire provision for reinsurance liability.

It is recommended that the Company amend the pooling agreement as follows:

1. The term “penalty imposed for unauthorized reinsurance” should be amended to read “provision for reinsurance” to reflect the actual practice and original intent of the amendment; and
2. Article 4a should be amended to indicate that the Company will assume 100% of the provision for reinsurance for both INSCO and Strathmore, to reflect the actual practice and original intent of the amendment.
3. Ceded Reinsurance Program

The Company cedes 100 percent of its gross writings to its parent, Greater New York Mutual Insurance Company, per the terms of the Group’s pooling agreement (per section C-2). GNY in turn retrocedes 10 percent of its net premiums, losses, and expenses to the Company per the terms of the pooling agreement.

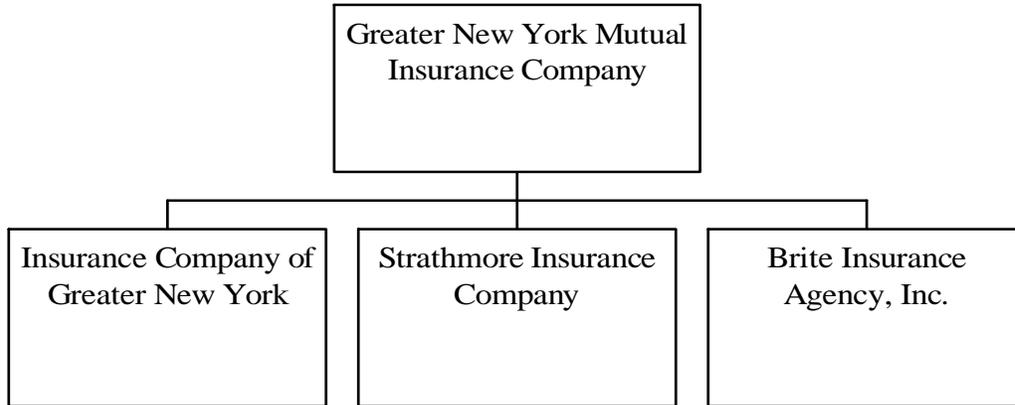
The Company is a named participant in all of GNY’s external ceded reinsurance agreements. At December 31, 2003, GNY had the following external reinsurance program in place:

<u>Type of Treaty</u>	<u>Cession</u>
Property Excess of Loss-five layers	
Layer 1-100% authorized	\$49,800,000 excess of \$200,000 per risk.
Layer 2-56.50% authorized	
Layer 3-42.80% authorized	
Layer 4-100% authorized	
Layer 5-39.25% authorized	
Property Catastrophe Excess of Loss-five layers	
Layer 1-35% authorized	\$53,500,000 excess of \$1,500,000 per occurrence.
Layer 2-36% authorized	
Layer 3-40% authorized	
Layer 4-42.95% authorized	
Layer 5-100% unauthorized	
Casualty Excess of Loss-six layers	
All layers 100% authorized	\$49,700,000 excess of \$300,000 per occurrence.
Terrorism Excess of Loss	
92% authorized	\$15,000,000 excess of \$5,000,000 per occurrence.
Fidelity and Surety Quota Share	
100% authorized	80% per policy up to \$1,000,000.
Umbrella Liability-Quota Share	
100% authorized	95% per policy for the first \$1,000,000 100% cession 14,000,000 excess of \$1,000,000.
Boiler and Machinery Quota Share	
100% authorized	100% cession

D. Holding Company System

The Company is 100% owned by the Greater New York Mutual Insurance Company as of December 31, 2003.

The following is a chart of the holding company system at December 31, 2003:



At December 31, 2003 the Company was a party to:

1. A pooling agreement with its parent and affiliates (see section 2C) which has been approved by the Department.
2. A tax allocation agreement with its parent and affiliates. The agreement is in accordance with Circular Letter No. 33 (1979).

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'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.

A review of the Company's abandoned property procedures revealed that the Company does not have procedures in place for monitoring outstanding checks that may be escheatable. It is recommended that the Company develop formal procedures for monitoring outstanding checks that may be escheatable. Subsequent to the examination date, but prior to the completion of the field work, the Company complied with this recommendation.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2003, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	71.8%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	63.4%
Premiums in course of collection to surplus as regards policyholders	11.9%

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 four year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$41,889,540	77.78%
Other underwriting expenses incurred	18,440,103	34.24
Net underwriting loss	<u>(6,470,543)</u>	<u>(12.01)</u>
Premiums earned	<u>\$53,859,100</u>	<u>100.00%</u>

G. Accounts and Records

(i). Agents' Balances or Uncollected Premiums

The Company tracks its premiums written and premiums receivable through the WINS system. The majority of the Company's premiums receivable is due from agents. A review of the programming for the WINS system indicated that there was no programming in place to disallow future installment premiums due when a previous installment is over 90 days past due.

Part 110.1 of Department Regulation 13-A states in part:

“...If any installment of any premium..., 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...”

Due to immateriality of the amount involved, no additional premiums receivable have been non-admitted by this examination. However, it is recommended that the Company comply with Part 110.1 of Department Regulation 13-A in the future. The Company subsequently complied with this recommendation.

## 2. Custodian Agreement

Management answered affirmatively to the following General Interrogatory:

“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 Part 1-General, Section IV.H-Custodial or Safekeeping Agreements of the NAIC Financial Condition Examiners Handbook”.

However, examination review indicated that the Company’s custodial agreement did not contain all of the protective covenants set forth in Section IV.H of the NAIC Financial Condition Examiners Handbook. It is recommended that the Company amend its custodial agreement to incorporate the following provisions:

- The custodian is obligated to indemnify the insurance company for any insurance company's loss of securities in the custodian's custody, except that, unless domiciliary state law, regulation, or administrative action otherwise require a stricter standard (paragraph below sets forth an example of such a stricter standard), the bank or trust company shall not be so obligated to the extent that such loss was caused by other than the negligence or dishonesty of the custodian
- If domiciliary state law, regulation, or administrative action requires a stricter standard of liability for custodians of insurance company securities than that set forth in above paragraph, then such stricter standard shall apply. An example of a stricter standard that may be used is that the custodian is obligated to indemnify the insurance company for any loss of securities of the insurance company in the custodian's custody occasioned by the negligence or dishonesty

of the custodian's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction.

- In the event of a loss of the securities for which the custodian is obligated to indemnify the insurance company, the securities shall be promptly replaced or the value of the securities and the value of any loss of rights or privileges resulting from said loss of securities shall be promptly replaced.
- The custodian shall not be liable for any failure to take any action required to be taken hereunder in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosions, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.
- In the event that the custodian gains entry in a clearing corporation through an agent, there should be a written agreement between the custodian and the agent that the agent shall be subjected to the same liability for loss of securities as the custodian. If the agent is governed by laws that differ from the regulation of the custodian, the Commissioner of Insurance of the state of domicile may accept a standard of liability applicable to the agent that is different from the standard liability.
- If the custodial agreement has been terminated or if 100% of the account assets in any one custody account have been withdrawn, the custodian shall provide written notification, within three business days of termination or withdrawal, to the insurer's domiciliary commissioner.
- During regular business hours, and upon reasonable notice, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, its records relating to securities, if the custodian is given written instructions to that effect from an authorized officer of the insurance company.
- The custodian and its agents, upon reasonable request, shall be required to send all reports which they receive from a clearing corporation or the Federal Reserve book-entry system which the clearing corporation or the Federal Reserve permits to be redistributed and reports prepared by the custodian's outside auditors, to the insurance company on their respective systems of internal control.
- The custodian shall provide, upon written request from a regulator or an authorized officer of the insurance company, the appropriate affidavits, with respect to the insurance company's securities held by the custodian.
- The custodian shall secure and maintain insurance protection in an adequate amount.

### 3. Certified Public Accountant (“CPA”) Written Contract

The written contracts by which the Company engaged its CPA firm for the years 2000 through 2003 did not contain all of the provisions required by the New York State Department Regulation 118, Part 89.2 which states in part:

“Every insurer subject to this Part shall retain an independent Certified Public Accountant who agrees by written contract with such insurer to comply with the provisions of Section 307(b) of the Insurance Law, this part and the Code of ethics and professional standards adopted by the American Institute of Certified Public Accountants (“AICPA”). Such contract must specify:

a. on or before May 31, the CPA shall provide an audited financial statement and opinion for the prior calendar year and an evaluation of the insurer’s accounting procedures and internal control systems as are necessary to the furnishing of the opinion;

b. any determination by the CPA that the insurer has materially misstated its financial condition as reported to the superintendent or that the insurer does not meet minimum capital and surplus requirements set forth in the Insurance Law shall be given by the CPA, in writing, to the Superintendent within 15 calendar days following such determination; and

c. the workpapers and any communications between the CPA and the insurer relating to the audit of the insurer shall be made available for review by the superintendent at the offices of the insurer, at the Insurance Department or at any other reasonable place designated by the superintendent. The CPA must retain for review such workpapers and communications for a period of not less than five years”.

It is recommended that the Company include in all future contracts written to engage CPA firms the provisions required by Department Regulation 118. The Company subsequently amended its 2003 engagement letter to include the required provisions.

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2003 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	\$58,337,087	\$	\$58,337,087
Cash, cash equivalents and short-term investments	4,587,437		4,587,437
Investment income due and accrued	622,777		622,777
Uncollected premiums and agents' balances in the course of collection	4,045,074	422,783	3,622,291
Deferred premiums, agents' balances and installments booked but deferred and not yet due	4,884,793		4,884,793
Amounts recoverable from reinsurers	500,640		500,640
Net deferred tax asset	1,381,000		1,381,000
Receivables from parent, subsidiaries and affiliates	<u>1,720,180</u>	<u>          </u>	<u>1,720,180</u>
Total assets	<u>\$76,078,988</u>	<u>\$422,783</u>	<u>\$75,656,205</u>

<u>Liabilities, surplus and other funds</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase (Decrease)</u>
Losses	\$24,900,680	\$22,350,680	\$(2,550,000)
Loss adjustment expenses	3,900,000	3,900,000	
Commissions payable, contingent commissions and other similar charges	457,080	457,080	
Other expenses (excluding taxes, licenses and fees)	383,284	383,284	
Taxes, licenses and fees (excluding federal and foreign income taxes)	36,919	36,919	
Current federal and foreign income taxes	302,168	302,168	
Net deferred tax liability	0	0	
Borrowed money and interest thereon	0	0	
Unearned premiums	13,603,327	13,603,327	
Advance premiums	0	0	
Stockholders (dividends declared and unpaid)	0	0	
Policyholders (dividends declared and unpaid)	305,698	305,698	
Ceded reinsurance premiums payable (net of ceding commissions)	<u>1,306,632</u>	<u>1,306,632</u>	
Total liabilities	<u>\$45,195,788</u>	<u>\$42,645,788</u>	<u>\$(2,550,000)</u>
 <u>Surplus and Other Funds</u>			
Common capital stock	\$ 5,000,000	\$ 5,000,000	\$
Unassigned funds (surplus)	<u>25,460,417</u>	<u>28,010,417</u>	<u>(2,550,000)</u>
Surplus as regards policyholders	<u>\$30,460,417</u>	<u>\$33,010,417</u>	<u>\$(2,550,000)</u>
Total surplus and other funds	<u>\$75,656,205</u>	<u>\$75,656,205</u>	

NOTE: The Internal Revenue Service has not audited the Company's tax returns for the examination period. 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 \$3,223,630 during the four-year examination period January 1, 2000 through December 31, 2003, detailed as follows:

Underwriting Income

Premiums earned		\$53,859,100
Deductions:		
Losses incurred	\$32,880,001	
Loss adjustment expenses incurred	9,009,539	
Other underwriting expenses incurred	18,440,103	
Total underwriting deductions		<u>60,329,643</u>
Net underwriting gain or (loss)		\$ (6,470,543)

Investment Income

Net investment income earned	\$12,669,648	
Net realized capital gains	<u>0</u>	
Net investment gain or (loss)		12,669,648

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ (111,219)	
Finance and service charges not included in premiums	14,843	
Aggregate write-ins for miscellaneous income	<u>57,809</u>	
Total other income		<u>(38,567)</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$ 6,160,538
Dividends to policyholders		<u>1,186,783</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$ 4,973,755
Federal and foreign income taxes incurred		<u>3,072,973</u>
Net income		<u>\$ 1,900,782</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1999		\$27,236,787
	<u>Gains in Surplus</u>	
Net income	\$1,900,782	
Change in net deferred income tax	495,000	
Change in nonadmitted assets	2,415	
Cumulative effect of changes in accounting principles	821,900	
Aggregate write-ins for gains and losses in surplus	<u>3,533</u>	
Total gains	<u>\$3,223,630</u>	
Net increase (decrease) in surplus		<u>3,223,630</u>
Surplus as regards policyholders per report on examination as of December 31, 2003		<u>\$30,460,417</u>

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

The examination liability for the captioned items of \$28,800,680 is \$2,550,000 more than the \$26,250,680 reported by the Company in its December 31, 2003, filed annual statement. The examination change reflects the Company's reported 18 month loss and loss adjustment expense runoff for accident years 2003 and prior.

The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles 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 practices 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 and complaint handling

The examination review of the claims and complaint handling function noted the following:

(i). The Company's complaint log failed to include all of the complaints forwarded to the Company by the Department. It also failed to include any complaints referred directly to the Company. This is not in compliance with Department Regulation 64, Section 216.4(e) which states:

“As part of its complaint handling function, an insurer’s consumer services department shall maintain an ongoing central log to register and monitor all complaint activity.”

It is recommended that the Company comply with Department Regulation 64 and include in its complaint log all complaints referred to it by the Department and all complaints referred directly to the Company.

(ii). The Company failed to respond to all of the complaints forwarded to it by the Department within the time frame provided by Department Regulation 64, Section 216.4(e) which states:

“Every insurer, upon receipt of any inquiry from the Insurance Department respecting a claim, shall, within 10 business days, furnish the Department with the available information requested respecting the claim.”

It is recommended that the Company comply with Regulation 64 and respond to all complaints forwarded by the Department within ten business days.

(iii). New York State Insurance Department Circular Letter No. 11 (1978) requires that the Company maintain its complaint log in a columnar form listing the following:

- The date the complaint was received in-house.
- The name of the complainant and the policy or claim file number.
- The New York State Insurance Department file number.
- The responsible internal division.
- The person in the company with whom the complainant has been dealing.
- The person in the company to whom the matter has been referred for review.
- The date of such referral.
- The dates of acknowledgment substantive response, and further contacts with the Insurance Department.
- The subject matter of the complaint.
- The results of the complaint investigation and the action taken.
- Remarks about internal remedial action taken as a result of the investigation.

The Company’s log only included the date of the complaint, the name of the complainant, and the Department file number.

It is recommended that the Company maintain its complaint log in the format outlined in Department Circular letter No. 11 (1978).

(iv). Department Circular Letter No. 11 (1978) states the following with reference to the complaint log.

“The log is to be used as a tool to identify any problem areas within the company. Quarterly reports from the complainant logs should be prepared and forwarded to the heads of the respective operating units and to the company president”.

The Company had not prepared quarterly reports from the complaint logs as specified in Department Circular letter No. 11 (1978).

It is recommended that the Company prepare quarterly reports from its complaint logs and forward such reports to the heads of the Company’s operating units and to the company president as required by Department Circular Letter No. 11 (1978).

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Intercompany Pooling Agreement</u>	9
<p>It is recommended that the Company report a provision for reinsurance equal to ninety percent of the pooled liability as reported by the Group or amend the pooling agreement to delete the pooling of reinsurance recoverable and related liabilities (including the provision for reinsurance).</p> <p>The company has complied with this recommendation.</p>	

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that the Company maintain fifteen board members as required by its charter and by-laws.	4
ii. It is recommended that the Company amend its by-laws to indicate that nine directors are required to constitute a quorum in order to reflect the intent of the Company.	5
B. <u>Reinsurance</u>	
i. It is recommended that the Company either amend the pooling agreement to reflect the fact that the Company and Strathmore cede their writings on a gross basis rather than net or adjust the annual statement presentation to reflect the cessions on a net basis, pursuant to current terms of the pooling agreement.	7
ii. It is recommended that the Company amend Article 4 of its pooling agreement by replacing the language “penalty imposed for unauthorized reinsurance” with “provision for reinsurance”.	8
iii. It is recommended that the Company amend Article 4 of its pooling agreement to indicate that its share of the provision for reinsurance will be assumed by GNY.	8
D. <u>Abandoned Property Law</u>	
It is recommended that the Company develop formal procedures for monitoring outstanding checks that may be escheatable. Subsequent to the examination date, but prior to the completion of the field work, the Company complied with this recommendation.	10
E. <u>Accounts and Records</u>	
i. It is recommended that the Company comply with Part 110.1 of Department Regulation 13-A and non-admit future installment premiums where a prior installment premium is over 90 days past due. The Company subsequently complied with this recommendation.	12
ii. It is recommended that the Company amend its custodial agreement to include all relevant provisions set forth in the NAIC Financial Condition Examiners Handbook.	12

<u>ITEM</u>	<u>PAGE NO.</u>
iii. It is recommended that the Company include the provisions required by Department Regulation 118 in all future contracts written to engage CPA firms.  The Company subsequently amended its 2003 engagement letter to include the required provisions.	14
G. <u>Losses and Loss Adjustment Expenses</u>  The examination increased the Company's loss reserve liability by \$2,550,000 reflecting the Company's 18 month loss and loss adjustment expense runoff for accident years 2003 and prior.	19
H. <u>Market Conduct Activities</u>	
i. It is recommended that the Company comply with Department Regulation 64 and include in its complaint log all complaints referred to it by the Department and all complaints referred directly to the Company.	20
ii. It is recommended that the Company comply with Department Regulation 64 and respond to all complaints forwarded by the Department within ten business days.	20
iii. It is recommended that the Company maintain its complaint log in the format outlined in Circular Letter No. 11 (1978).	21
iv. It is recommended that the Company prepare quarterly reports from its complaint logs and forward such reports to the heads of the Company's operating units and to the company president as required by Circular Letter No. 11 (1978).	21

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Marc Allen  
Associate Insurance Examiner

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Marc Allen

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Appointment No 22253

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:

**Marc Allen**

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

**Insurance Company of Greater New York**

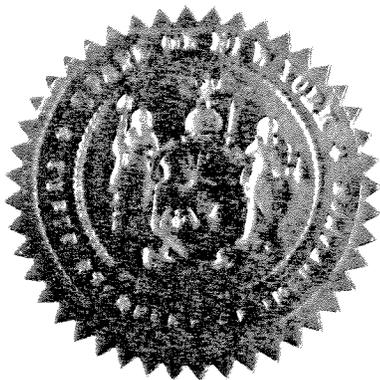
*and to make a report to me in writing of the condition of the said*

**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 10th day of September, 2004*



  
\_\_\_\_\_  
GREGORY V. SERIO  
Superintendent of Insurance