

REPORT ON EXAMINATION  
OF THE  
ONTARIO INSURANCE COMPANY  
AS OF  
DECEMBER 31, 2003

DATE OF REPORT

JULY 2, 2004

EXAMINER

GEORGE BABU



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

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

July 2, 2004

Honorable Gregory V. Serio  
Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 22148 dated February 10, 2004 attached hereto, I have made an examination into the condition and affairs of Ontario Insurance Company as of December 31, 2003, and submit the following report thereon.

The examination was conducted at the Company's administrative offices located at 28 Canandaigua Street, Shortsville, New York 14548.

Wherever the designations "the Company" or "OIC" appear herein without qualification, they should be understood to indicate Ontario Insurance Company.

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

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## 1. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1998. This examination covered the five-year period from January 1, 1999 through December 31, 2003, and was limited in its scope to a review or audit of only those balance sheet items considered by this Department to require analysis, verification or description including: invested assets, inter-company balances, loss and loss adjustment expense reserves and the provision for reinsurance. 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 was also made to ascertain what action was taken by the Company with regards to comments and recommendations contained in the prior report on examination.

## 2. DESCRIPTION OF COMPANY

The Ontario Insurance Company was organized in 1877 and reorganized in 1879 for the purpose of transacting business as an assessment co-operative fire insurance association in Ontario County, New York.

On December 23, 1970, a Certificate of Amendment of the Certificate of Incorporation was approved by this Department changing the name of the Company from Ontario County Patrons Fire Relief Association to the Ontario-Yates Insurance Company.

On April 1, 1995, this Department approved the conversion, pursuant to Section 7305 of the New York Insurance Law, of the Company from an Assessment Co-operative Property/Casualty Insurance Company into an Advance Premium Co-operative Property/Casualty Insurance Company.

On January 17, 2001, the Company filed a Certificate of amendment of the Certificate of Incorporation of Ontario-Yates Insurance Company under Section 805 of the Business Corporation Law. On January 19, 2001, the Department approved the change of name from Ontario-Yates Insurance Company to Ontario Insurance Company.

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 nine nor more than sixteen directors, divided into three groups as nearly equal as possible. As of December 31, 2003, the board of directors comprised of eleven members. The full board meets two times during each calendar year, with executive committee meetings held at least twice a year, to comply with Section 6624(b) of the New York Insurance Law. The directors as of December 31, 2003 were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Susan Andersen Penn Yan, NY	Branch Manager National Bank of Geneva
Eileen M. Beiter Fairport, NY	Senior Health Care Consultant
Kenneth Bersani Fairport, NY	Attorney
Bruce Croucher (E) Clifton Springs, NY	Retired School Teacher
Maureen A. Datthyn Shortsville, NY	Secretary Ontario Insurance Company
David Lankford (E) Webster, NY	Realtor Vice President, Genesee Management

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Beverly Marvin Macedon, NY	Underwriter Ontario Insurance Company
Laura Pedersen Stanley, NY	Agriculture
Paul E. Robinson (E) Fairport, NY	President & Treasurer Ontario Insurance Company
Russell L. Williamson (E) Clifton Springs, NY	Senior Vice President Ontario National Bank
William Wright (E) Fairport, NY	Commissioner Department of Public Works

(E) denotes member of executive committee

A review of the board of directors' meeting held during the period covered by this examination indicated that the meetings were generally well attended. The average attendance by the board of directors during the examination period was approximately 93%, with each individual directors' attendance being adequate at these meetings.

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

<u>Name</u>	<u>Title</u>
Paul E. Robinson	President & Treasurer
Maureen A. Datthyn	Secretary

#### B. Territory and Plan of Operation

As of December 31, 2003, the Company was licensed to write business in New York only.

As of the examination date, the Company was authorize 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 damage
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
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
30	Substantially similar kind

The following schedule shows the direct premiums written by the Company for the period under examination.

<u>Calendar Year</u>	<u>Direct Premiums Written</u>
1999	\$2,794,587
2000	2,955,267
2001	3,186,308
2002	3,419,662
2003	3,581,415

Based upon 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, Ontario Insurance Company is required to maintain surplus to policyholders in the amount \$493,081.

The Company underwrites predominantly homeowners multiple peril, Commercial multiple peril, farmowners multiple peril, fire and inland marine lines of business, which accounted 34%, 32%, 14%, 13% and 7% respectively, of the 2003 net premium writings.

In 2003, the Company wrote approximately \$3,563,755 of premiums through 100 licensed agents. Commissions paid on these premiums amounted to approximately \$799,451.

C. Reinsurance

Assumed

The Company does not assume any reinsurance business.

Ceded

The Schedule F data as contained in the Company's filed annual statement was found to accurately reflect its reinsurance transactions.

All the reinsurance contracts held by the Company during the examination period were reinsured by authorized reinsurer. These contracts all contained the required standard clauses, meeting the requirements of Section 1308 of the New York Insurance Law except as follows.

During the review, it was noted that eight of the contracts had an Extra Contractual Obligations (ECO) clause to cover the actual or alleged negligence, fraud or bad faith in addition to cover other losses and expenses. However, these contracts did not include a savings clause, which states, " in no event shall coverage be provided to the extent that such coverage is not permitted under the New York Law". Examiner brought this finding to the attention of the Company. The Company advised that it has a new reinsurer and that the new reinsurance contracts will incorporate the required savings clause.

Nevertheless, it is recommended that reinsurance contracts with an ECO clause should include a savings clause that in no event shall coverage be provided to the extent that such coverage is not permitted under New York Law.

It was also noted that three of the five years under examination, the Company ceded premiums, which were more than 50% of the unearned premium reserve.

Section 1308(e)(1)(A) of the New York Insurance Law states,

"During any period of twelve consecutive months, without the superintendent's permission: no domestic insurer, except life, shall by any reinsurance agreement or agreements cede an amount of its insurance on which total gross reinsurance premiums are more than fifty percent of the unearned premiums on the net amount of its insurance in force at the beginning of such period..."

The Company had made the necessary filings in 2000 to comply with the aforementioned statute. However, the Company failed to submit to the Department for review, subsequent reinsurance agreements and amendments to the reinsurance agreements as required by Section 1308(e)(1)(A) of the New York Insurance Law.

It is recommended that the Company comply with the requirements of Section 1308(e)(1)(A) of the New York Insurance Law.

The Company had the following ceded reinsurance program in effect at December 31, 2003:

Property(two layers)	\$445,000 x/s \$55,000 ultimate net loss any one loss occurrence; limit of \$1,050,000 all risks in aggregate any one loss occurrence \$36,000 annual aggregate deductible applied \$9,000 per quarter
Non-Obligatory Surplus Reinsurance Agreement	Ten times the Company's net retention per risk, subject to maximum cession of \$500,000 per risk; limited to \$1,000,000 as respects all losses under covered risks from any one occurrence; Company's net retention shall be at least \$10,000.
Property catastrophe(three layers)	95% of the Company's ultimate net loss x/s \$100,000 per loss occurrence; limited to \$2,375,000(95% of \$2,500,000) per occurrence
Casualty	\$1,950,000 x/s \$50,000 ultimate net loss any one loss occurrence.

Aggregate Excess of Loss for Property and Casualty

When Company's total net losses exceed 77.5% of the net premiums written during the term of the agreement, the reinsurer is then liable for 90% of \$1,000,000.

Umbrella Quota Share Reinsurance Casualty(three layers)

95% quota share participation of Company's net retained insurance liability up to but not exceeding \$1,000,000 under each policy from each occurrence.

100% quota share participation of Company's net retained insurance liability of \$1,000,000 x/s \$1,000,000 and \$2,000,000 x/s \$1,000,000 under each policy from each occurrence.

The Company's retention increased from \$30,000 to \$55,000 for property and \$30,000 to \$50,000 for casualty coverage's compared with the prior examination period.

#### D. Holding Company System

The Company was not a member of any holding company system as of December 31, 2003. The Company was independent with no affiliations or pooling agreements in force at December 31, 2003.

#### E. 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	39%
Liabilities to liquid assets(cash and invested assets less investment in affiliates)	36%
Premiums in course of collection to surplus as regards policyholders	1%

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 five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$ 7,354,977	65.44%
Other underwriting expenses incurred	3,970,126	35.33
Net underwriting loss	<u>(86,813)</u>	<u>(0.77)</u>
Premiums earned	<u>\$11,238,290</u>	<u>100.00%</u>

F. Abandoned Property Law

Section 1316 of the New York State 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 State Abandoned Property Law.

G. Accounts and Records

i. Cash

It was noted that one of the additional authorized signatories listed in the bank resolution effective April 9, 2003 was not an officer of the Company.

As per Section 6611(a)(4)(C) "all checks shall be signed either by two officers or by one officer upon the written order of the other officer, except as otherwise provided by resolution of the corporation's board of directors or in its by-law for handling miscellaneous expenses."

It is recommended that authorized signatories including additional signatories shall be officers of the Company as per Section 6611(a)(4)(C) of the New York Insurance Law.

ii. Regulation 30

This Department's Regulation No. 30 (11NYCRR 105-109) sets forth the rules and methods governing the allocation of expenses among the major expense groups (loss adjustment, other underwriting, and investment). This regulation also requires insurers to maintain detailed worksheets on file, supporting percentages used in allocating expenses to the various expense groups.

Management could not provide detailed worksheets to support the allocation of each expense category to a particular expense group. Thus, there was no visible way to determine whether the Company correctly allocated expenses, as per the rules found in the regulation.

It is recommended that management establishes and maintains written documentation supporting the allocation of each expense category to the major expense groups as required by this Department's Regulation No. 30.

### 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, 2003 and as reported by the Company:

<u>Assets</u>	Ledger <u>Assets</u>	Non Admitted <u>Assets</u>	Net Admitted <u>Assets</u>
Bonds	\$6,663,622	\$ -0-	\$6,663,622
Preferred Stocks	352,028	-0-	352,028
Common stocks	959,532	-0-	959,532
Real Estate	526,074	-0-	526,074
Cash and short-term investments	622,149	-0-	622,149
Investment income due and accrued	102,963	-0-	102,963
Uncollected premiums and agents' balances in the course of collection	49,018	2,283	46,735
Deferred premiums, agents' balances and installments booked but deferred and not yet due	359,088	-0-	359,088
Amounts recoverable from reinsurers (reinsurance)	36,867	-0-	36,867
Net deferred tax asset	183,621	34,983	148,638
Furniture and equipment, including health care delivery assets (\$0)	73,232	73,232	
Aggregate write-ins for other than invested assets	<u>53,633</u>	<u>70</u>	<u>53,563</u>
Total Assets	<u>\$9,981,827</u>	<u>\$110,568</u>	<u>\$9,871,259</u>

Losses and Loss adjustment expenses		\$1,271,729
Commissions payable, contingent commissions and other similar charges		225,521
Other expense(excluding taxes, licenses and fees)		14,098
Federal and foreign income taxes		59,900
Unearned premiums		1,813,328
Advance premium		47,557
Ceded reinsurance premiums payable(net of ceding commissions)		<u>78,120</u>
Total liabilities		\$ 3,510,253
Aggregate write-ins for special surplus funds	\$ 397,844	
Unassigned funds(surplus)	<u>5,963,162</u>	
Surplus as regards policyholders		<u>\$ 6,361,006</u>
Total liabilities, surplus and other funds		<u>\$ 9,871,259</u>

Note: The Internal Revenue Service has not performed an audit of the Company's federal income tax returns for any tax year during the examination period.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$1,427,924 during the five-year examination period January 1, 1999 through December 31, 2003, detailed as follows:

Underwriting Income

Premiums earned		\$ 11,238,290
Deductions:		
Losses and Loss adjustment expenses incurred	\$ 7,354,977	
Other underwriting expenses incurred	3,970,126	
Total underwriting deductions		<u>11,325,103</u>
Net underwriting gain or (loss)		(86,813)

Investment Income

Net investment income earned	1,848,173	
Net realized capital gain	<u>2,798</u>	
Net investment gain or (loss)		<u>1,850,971</u>

Other Income

Net gain or (loss from agents' or premium balances charged off	(2,306)	
Finance ants service charges not included in premiums	199,739	
Aggregate write-ins for miscellaneous income	<u>35,621</u>	
Total other income		<u>233,054</u>
Net income before dividends to policyholders and before federal and foreign income taxes		<u>1,997,212</u>
Dividends to policyholders		<u>--0--</u>
Net income after dividends to policyholders but before federal and foreign income taxes		1,997,212
Federal and foreign income taxes incurred		<u>575,735</u>
Net Income(Loss)		\$1,421,477

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1998			\$4,933,081
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$ 1,421,477	-0-	
Net unrealized capital gains or (losses)	-0-	\$ 175,462	
Change in net deferred income tax	74,925	-0-	
Change in non admitted assets	-0-	14,176	
Cumulative effect of changes in accounting principles	147,799	-0-	
Aggregate write-ins for gains and losses in surplus	<u>-0-</u>	<u>26,638</u>	
Net increase in surplus			<u>\$ 1,427,925</u>
Surplus as regards policyholders per report on examination as of December 31, 2003			<u>\$ 6,361,006</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$1,271,729 is the same as reported by the Company as of December 31, 2003. 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.

The general review was directed at practices of the Company in the following areas:

- A. Sales and advertising
- B. Underwriting
- C. Rating
- D. Claims and complaint handling

No problems areas were encountered.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
<ul style="list-style-type: none"> <li>i. It was recommended that the Company follow the annual statement instructions by including call option dates in column 3b and 3c in Schedule D Part 1 of all future financial statements submitted to this Department.</li> </ul> <p>The Company has complied with this recommendation.</p>	9
<ul style="list-style-type: none"> <li>ii. It is recommended that the Company prepare Schedule E-Part 2 in accordance with the annual statement instructions and individually list all securities held by the Superintendent in future financial statements submitted to this Department</li> </ul> <p>The Company has complied with this recommendation.</p>	10

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

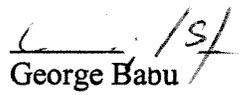
<u>ITEM</u>	<u>PAGE NO.</u>
<b>A. <u>Reinsurance</u></b>	
i. It is recommended that reinsurance contracts with ECO clause should include a savings clause that in on event shall coverage be provided to the extent that such coverage is not permitted under New York Law.	6
ii. It is recommended that the Company comply with the requirements of Section 1308(e)(1)(A) of the New York Insurance Law.	7
<b>B. <u>Accounts and Records</u></b>	
<u>Cash</u>	10
It is recommended that authorized signatories including additional signatories should be officers of the Company as per Section 6611(a)(4)(C) of the New York Insurance Law.	
<b>C. <u>Regulation 30</u></b>	
It is recommended that management establish and maintain written documentation supporting the allocation of each expense category to the major expense groups as required by this Department's Regulation No. 30.	

Respectfully submitted,

  
George Babu  
Senior Insurance Examiner

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

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

  
George Babu  
Senior Insurance Examiner

  
Subscribed and sworn to before me  
this 23 day of July, 2004.

LAM S. MUI  
Notary Public, State of New York  
No. 31-4991826  
Qualified in New York County  
Certified in New York County  
Commission Expires Feb. 18, 2006

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:

**George Babu**

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

**Ontario Insurance Company**

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

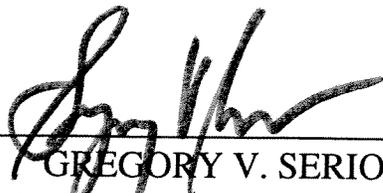
**Company**

*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 Albany,*

*this 10th day of February, 2004*





GREGORY V. SERIO  
Superintendent of Insurance