

REPORT ON EXAMINATION

OF THE

MEDICAL LIABILITY MUTUAL INSURANCE COMPANY

AS OF

DECEMBER 31, 2011

DATE OF REPORT

FEBRUARY 15, 2013

EXAMINER

DILBRINA BELGRAVE

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1	Scope of examination	2
2.	Description of Company	3
	A. Management	4
	B. Territory and plan of operation	7
	C. Reinsurance	9
	D. Holding company system	10
	E. Underwriting and claims services agreement	12
	F. Medical Malpractice Insurance Pool	12
	G. Significant operating ratios	13
3.	Financial Statements	14
	A. Balance sheet	14
	B. Statement of income	16
4.	Losses and loss adjustment expenses	17
5.	Compliance with prior report on examination	18
6.	Summary of comments and recommendations	19



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

February 15, 2013

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
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 30838 dated February 24, 2012, attached hereto, I have made an examination into the condition and affairs of Medical Liability Mutual Insurance Company as of December 31, 2011, and submit the following report thereon.

Wherever the designations “the Company” or “MLMIC” appear herein without qualification, they should be understood to indicate Medical Liability Mutual Insurance Company.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

The examination was conducted at the Company’s branch office located at 8 British American Boulevard, Latham, New York 12110.

## 1. SCOPE OF EXAMINATION

The Department has performed an individual examination of the Company, a multi-state insurer. The previous examination was conducted as of December 31, 2006. This examination covered the 5 year period from January 1, 2007 through December 31, 2011. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook (“Handbook”), which requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the Company’s own control environment assessment and an evaluation based upon the Company’s Model Audit Rule documentation and testing. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

This examination report includes a summary of significant findings for the following items as called for in the Handbook:

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Territory and plan of operation
- Loss experience
- Reinsurance
- Accounts and records
- Statutory deposits
- Financial statements
- Summary of recommendations

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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

## **2. DESCRIPTION OF COMPANY**

The Company was incorporated as Hospital Underwriters Mutual Insurance Company (“HUM”) pursuant to Section 4107 of the New York Insurance Law on September 30, 1976 and commenced business on May 26, 1977. Its membership was originally limited to hospitals and healthcare facilities; however, HUM received approval from the Department to issue policies to individual physicians on July 20, 1990 and allied healthcare professionals on June 6, 1994. On November 18, 1993, the Company changed its name to Healthcare Underwriters Mutual Insurance Company.

On July 18, 2001, HUM merged with Medical Liability Mutual Insurance Company (“Original MLMIC”), with HUM as the surviving company and the new merged entity assumed the name Medical Liability Mutual Insurance Company. The Original MLMIC was incorporated under the laws of New York on April 4, 1975 and commenced business on July 1 of the same year. It was formed under the auspices of the Medical Society of the State of New York (“MSSNY”).

All policyholders are deemed members of the Company. At any regular or special meeting of the members, each individual member shall be entitled to cast one vote and each non-individual member shall be entitled to cast the following number of votes:

- a) Two votes if the member is a group-model health maintenance organization (“HMO”), a preferred provider organization (“PPO”) or a similar managed health care facility not having its own physical plant where medical treatment is provided; or
- b) Five votes if the member is a staff-model HMO, clinic, medical center or similar entity having its own physical plant where medical treatment is provided; or
- c) Ten votes if the member is a hospital.

A. Management

Pursuant to the Company's amended and restated charter and by-laws, management of the Company is vested in a board of directors consisting of thirty nine persons, who shall be divided in three classes; Class I, Class II and Class III, each consisting of thirteen directors, who are elected to serve a three-year term. At December 31, 2011, the board of directors was comprised of the following members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
<b><u>Class I (to serve until May 2014)</u></b>	
John V. Capotorto, MD New York, NY	Endocrinology
William A. Dolan, MD Rochester, NY	Orthopedic Surgery
Mark J. Feldman, DMD Garden City, NY	Dentistry; ADA Former President, Executive Director of NYSDA
Timothy F. Gabryel, MD Orchard Park, NY	Internal Medicine
Samuel M. Gelfand, MD Rockville Centre, NY	Surgery
Kira Geraci-Ciardullo, MD Harrison, NY	Allergy, Pediatrics
Stanley L. Grossman, MD Newburgh, NY	Surgery; Former President of MLMIC
Tarky J. Lombardi, Jr. Jamesville, NY	Attorney; Former member of the NYS Senate
Samuel H. Madell, MD Fort Lee, NJ	Radiology
Robert A. Menotti, MD Clinton, NY	Surgery; President of MLMIC
James K. Reed, MD Cohoes, NY	President, St. Peter's Health Partners; Treasurer of MLMIC
John R. Remillard Oneonta, NY	President, A.O. Fox Memorial Hospital

Name and ResidencePrincipal Business Affiliation

Malcolm J. Rothbard, MD  
New York, NY

Obstetrics and Gynecology

**Class II (to serve until May 2012)**

Anthony A. Ascioti, MD  
Syracuse, NY

Anesthesiology

Charles N. Aswad, MD  
New York, NY

Emergency Medicine

Ann M. Barbaccia, MD  
Rockville Centre, NY

Obstetrics and Gynecology

David W. Felton  
Hamilton, NY

President & Chief Executive Officer,  
Community Memorial Hospital

John A. Fracchia, MD  
New York, NY

Urology

Alvin Katz, MD  
New York, NY

Otolaryngology

L. Arne Skilbred, MD  
Sag Harbor, NY

Orthopedic Surgery

Margaret Lewin, MD  
New York, NY

Internal Medicine

Joseph R. Maldonado, Jr. MD  
Rome, NY

Urology

Paul J. Okosky, MD  
Stillwater, NY

Family Practice

Kenneth D. Roberts  
Setauket, NY

President,  
John T. Mather Memorial Hospital

Salvatore S. Volpe, MD  
Staten Island, NY

Pediatrics, Internal Medicine

Murray A. Yost, Jr. MD  
Naples, FL

Obstetrics and Gynecology

**Class III (to serve until May 2013)**

Beth Cady Burghardt, MD  
Lafayette, NY

Otolaryngology

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Duane M. Cady, MD Lafayette, NY	Surgery; Former Chairman, Board of Trustees of AMA
Gerald J. Cassidy Bonita Springs, FL	Former Vice president of MLMIC
Richard L. Hehir, MD Fayetteville, NY	Internal Medicine
Richard H.S. Karpinski, MD New York, NY	Plastic Surgery
Ezriel E. Kornel, MD White Plains, NY	Neurosurgery
Edward D. Lewis, MD Pittsford, NY	Pediatrics
John W. Lombardo, MD New York, NY	Ophthalmology
Andrew J. Merritt, MD Marcellus, NY	Family Practice
Richard M. Peer, MD Buffalo, NY	Surgery; Member Board of Trustees of MSSNY; Secretary of MLMIC
David Sibulkin, MD New York, NY	Dermatology
Frederick W. Wetzel, Jr. DDS Schenectady, NY	Dentistry
Betsy Wright Jamestown, NY	President & Chief Executive Officer, WCA Hospital

The board of directors meets at least four times during each calendar year. A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member had an acceptable record of attendance.

As of December 31, 2011, the principal officers of the Company were as follows:



<u>Name</u>	<u>Title</u>
Robert A. Menotti, MD	President
Richard M. Peer, MD	Secretary
James K. Reed, MD	Treasurer
Edward J. Amsler	Vice President
Daniel F. Canniff	Vice President
Donald J. Fager	Vice President
K. Wayne Kahle	Vice President

B. Territory and Plan of Operation

As of December 31, 2011, the Company was licensed to write business in eleven states. The Company exclusively wrote its direct business in New York State.

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	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
24	Credit unemployment
26	Gap
27	Prize indemnification
28	Service Contract reimbursement
29	Legal services

The Company is also licensed to write such workers' compensation insurance as may be incidental to coverages contemplated under paragraph 20 and 21 of Section 1113(a) of the New York

Insurance Law, including insurance described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69<sup>th</sup> Congress as amended; 33 USC Section 901et. seq. as amended) and as authorized by Section 4012(c) of the New York Insurance Law, reinsurance of every kind or description. The Company is also licensed to write the business of special risk insurance pursuant to Article 63 of the New York Insurance Law.

Based on the lines of business for which the Company is licensed to write 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 \$35,000,000. Surplus to policyholders as of December 31, 2011 was \$1,164,599,841. The Company also reported a special contingent surplus pursuant to Section 4109 of the New York Insurance Law in the amount of \$1,650,000 and unassigned funds in the amount of \$1,162,949,841.

MLMIC primarily writes medical professional liability coverage for physicians, surgeons, dentists, hospitals, other healthcare professionals and other healthcare facilities in New York. The Company is exclusively endorsed by the Medical Society of the State of New York, numerous county and specialty medical societies, the New York State Dental Association, and many component dental societies. Policies are non-assessable and are written directly on both occurrence and claims-made forms. Optional reporting endorsement (tail) coverage for claims-made policies is available and prior acts (nose) coverage is also offered to claims-made applicants. Business is underwritten based on medical specialty and territory. Premiums are payable on an installment or annual basis.

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>
2007	\$730,331,917
2008	\$657,943,194
2009	\$600,211,263
2010	\$614,917,764
2011	\$567,135,505

C. Reinsurance

Assumed

The Company does not currently assume reinsurance. At the prior examination date, assumed premiums were approximately 2.4% of gross premiums written. All of the business previously assumed is in run-off and the outstanding liabilities thereon were not significant as of the date of this examination.

Effective June 30, 2000, Medical Malpractice Insurance Association (“MMIA”), a non-profit unincorporated association of all insurers engaged in writing personal injury liability insurance in New York, ceased writing policies and was dissolved pursuant to Section 5502(c) of the New York Insurance Law. MMIA was replaced by a new assumed risk mechanism, Medical Malpractice Insurance Pool (“MMIP”), which began writing policies effective July 1, 2000. Pursuant to an amended and restated opinion and decision of the Superintendent of Insurance of the State of New York dated July 3, 2000, the Company assumed on a novation basis, 100% of the policy liabilities of MMIA, which totaled approximately \$379 million as of June 30, 2000. As of December 31, 2011, the remaining outstanding loss and loss adjustment expense reserves reported by the Company for the MMIA business was approximately \$17.5 million on a discounted basis.

The Company utilizes reinsurance accounting as defined in the National Association of Insurance Commissioners (“NAIC”) Accounting Practices and Procedures Manual Statements of Statutory Accounting Principles (“SSAP”) No. 62 for its remaining assumed reinsurance business.

Ceded

As of December 31, 2011, the Company had the following ceded reinsurance program in place:

Type of Treaty	Cession
Casualty Catastrophe “Clash” Excess of Loss covering the Company’s entire book of business.	80% of \$5 million excess of \$7 million ultimate net loss, each Event; limit \$10 million for all Events during the contract term.
Hospital Quota Share covering hospital business underwritten by the Company’s Latham and Syracuse offices.	50% quota share, subject to a limit of \$3 million any one occurrence or claims made and \$7 million in the aggregate.

All significant ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

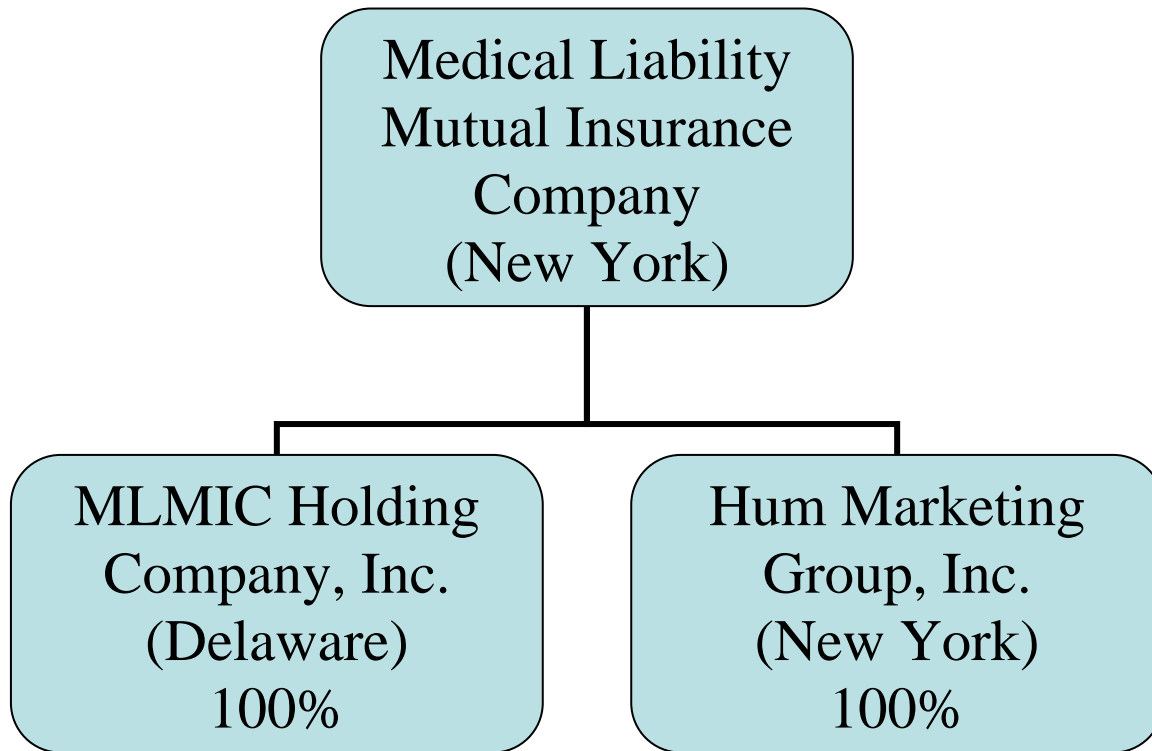
Examination review found that the Schedule F data reported by the Company in its filed annual statement accurately reflected its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer and Chief Financial Officer pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in SSAP No. 62.

D.  Holding Company System

MLMIC is the ultimate parent company of two entities, which are 100% owned by MLMIC.

Pursuant to Section 1502(a) of the New York Insurance Law, MLMIC is exempt from the filing requirements of Article 15. However, pursuant to Circular Letter No. 10 (2010) and Department Regulation 53, the Company makes certain filings with the Department.

The following depicts the Company in relationship to its subsidiaries within the holding company system at December 31, 2011:



Effective January 24, 2012, the Company dissolved MLMIC Holding Company, Inc.

Effective December 31, 2011, the Company sold its indirect wholly owned subsidiary, Princeton, for cash of approximately \$405 million resulting in a realized gain of approximately \$266 million.

As a condition of the sale of Princeton, the New Jersey Insurance Commissioner approved the repayment of the \$40,000,000 surplus note, which Princeton had issued to the Company in 2002, as well as interest in 2011 in the amount of \$2,400,000. MLMIC received and recorded these payments in December 2011. In December 2010, MLMIC received and recorded an approved interest payment in the amount of \$2,400,000.

Effective January 10, 2007, the Company sold its wholly owned subsidiary OHIC Insurance Company. The sales proceeds consisted of cash and a contingent note payable in early 2012.

At December 31, 2011, the Company was party to the following agreement with the other member of its holding company system:

Amended and Restated Allocation of Consolidation Tax Liability Agreement

The Company is a party to an allocation of consolidated tax liability agreement. This agreement was entered into on January 15, 2002, between MLMIC and Princeton Insurance Company, MLMIC Holding Company, Inc. and HUM Marketing Group (collectively, the "Subsidiaries"). MLMIC and each Subsidiary (the "Group") will file consolidated federal income tax returns so long as they are eligible to file such returns under the Tax Code, or until such time as they elect not to file such returns in compliance with the Treasury Department Regulations pursuant to Section 1504 of the Tax Code. MLMIC and each Subsidiary allocate the consolidated federal income tax liability of the Group among the members of the Group. The agreement shall be effective for all taxable years ending on or after December 31, 2001.

E. Underwriting and Claims Service Agreement

Effective December 17, 2007, MLMIC entered into a service agreement with Donald J. Fager & Associates, Inc. ("DJF"). This agreement authorizes DJF to accept applications for insurance coverage which show no losses or reported claims and to submit to the underwriting committee of the Company all other applications for determination as to insurability. In addition, DJF will provide administration services for all claims, except that all policy decisions with respect to handling of claims, including the appointment of legal counsel and approval of the ultimate disposition of claims, will be the sole responsibility of the board of directors of the Company and/or the officer(s) or committee(s) of the Company to whom such functions have been assigned by the said board of directors. This agreement has been reported to the Department pursuant to Department Circular Letter No. 10 (2010), which states in part that pursuant to Section 308 of the New York Insurance Law, which authorizes the superintendent to require authorized insurers to submit special reports, every domestic insurer that is exempt from Article 15 of the New York Insurance Law should furnish the Superintendent with a report at least 30 days in advance of entering into any of the following transactions:

D. Management agreements, service contracts, contracts of guarantee or surety, and all cost-sharing arrangements.

F. Medical Malpractice Insurance Pool

MLMIC administers the operation of the Medical Malpractice Insurance Pool ("MMIP" or the "Pool") pursuant to a management agreement between MLMIC and each member of the Pool. Member companies or participants of MMIP include all insurers licensed in New York writing

medical malpractice insurance. The Pool is a joint underwriting facility that was created after the dissolution of Medical Malpractice Insurance Association ("MMIA") effective July 1, 2000.

MLMIC's participation percentage in MMIP of 45.41% as of December 31, 2011 was the highest participation among all member companies. Annually, all members of the pool have to execute a participation agreement. This agreement supplements the plan of operations of the Pool and specifies the participation of members as to premiums and loss payments expressed as a percentage based on the net direct medical malpractice insurance written by member companies in New York State. In addition, this agreement indicates that a management agreement is entered into with a servicing company (such being MLMIC) selected by the members' committee of MMIP.

MLMIC maintains a working fund account on behalf of the Pool. It is noted that these funds are reported as part of invested assets in MLMIC's financial statements. However, an offsetting liability is recorded; hence, there is no effect on MLMIC's surplus.

#### G. Significant Operating Ratios

The following ratios have been computed as of December 31, 2011, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	47%
Adjusted liabilities to liquid assets (cash and invested assets less investments in affiliates)	80%
Gross agents' balances (in course of collection) to Policyholders' surplus	0%

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	\$3,270,109,267	104.81%
Other underwriting expenses incurred	216,080,153	6.93
Net underwriting loss	<u>(366,259,913)</u>	<u>(11.74)</u>
Premiums earned	<u>\$3,119,929,507</u>	<u>100.00%</u>

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2011 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	\$4,575,193,005	\$ 0	\$4,575,193,005
Common stocks (stocks)	67,346,596	285,072	67,061,524
Properties occupied by the company	4,658,739	0	4,658,739
Cash, cash equivalents and short-term investments	816,641,447	0	816,641,447
Other invested assets	44,511,763	0	44,511,763
Investment income due and accrued	49,127,153	0	49,127,153
Uncollected premiums and agents' balances in the course of collection	4,995,363	1,655,524	3,339,839
Deferred premiums, agents' balances and installments booked but deferred and not yet due	297,417,522	490,697	296,926,825
Amounts recoverable from reinsurers	6,510,040	0	6,510,040
Funds held by or deposited with reinsured companies	23,965,914	0	23,965,914
Current federal and foreign income tax recoverable and interest thereon	88,006	88,006	0
Net deferred tax asset	139,902,552	139,902,552	0
Guaranty funds receivable or on deposit	0	0	0
Electronic data processing equipment and software	572,796	0	572,796
Furniture and equipment, including health care delivery assets	402,899	402,899	0
Aggregate write-ins for other than invested assets	<u>6,638,631</u>	<u>6,147,182</u>	<u>491,449</u>
Totals	<u>\$6,037,972,426</u>	<u>\$148,971,932</u>	<u>\$5,889,000,494</u>



Liabilities, Surplus and Other FundsLiabilities

Losses and Loss Adjustment Expenses	\$3,707,195,880
Reinsurance payable on paid losses and loss adjustment expenses	166,855
Commissions payable, contingent commissions and other similar charges	37,181
Other expenses (excluding taxes, licenses and fees)	2,583,223
Taxes, licenses and fees (excluding federal and foreign income taxes)	(853,608)
Current federal and foreign income taxes	120,368
Unearned premiums	311,038,449
Ceded reinsurance premiums payable (net of ceding commissions)	2,143,313
Funds held by company under reinsurance treaties	34,753,864
Amounts withheld or retained by company for account of others	221,812,354
Drafts outstanding	9,893
Payable for securities	440,470,307
Premium deficiency reserve	3,760,000
Retroactive reinsurance assumed payable	<u>1,162,574</u>
Total liabilities	<u>\$4,724,400,653</u>

Surplus and Other Funds

Special contingency surplus	\$ 1,650,000
Unassigned funds (surplus)	<u>1,162,949,841</u>
Surplus as regards policyholders	<u>\$1,164,599,841</u>
Totals	<u>\$5,889,000,494</u>

Note: The Internal Revenue Service has not yet begun to audit tax returns covering tax years 2007 through 2011. 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. Statement of Income

Surplus as regards policyholders increased \$758,653,856 during the five-year examination period January 1, 2007 through December 31, 2011, detailed as follows:

Underwriting Income

Premiums earned		\$3,119,929,507
Deductions:		
Losses and loss adjustment expenses incurred	\$3,270,109,267	
Other underwriting expenses incurred	254,320,153	
Change in premium deficiency reserve	<u>(38,240,000)</u>	
Total underwriting deductions		<u>3,486,189,420</u>
Net underwriting gain or (loss)		\$ (366,259,913)

Investment Income

Net investment income earned	\$ 875,299,793	
Net realized capital gain	<u>451,271,664</u>	
Net investment gain or (loss)		1,326,571,457

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ (3,526,413)	
Finance and service charges not included in premiums	1,260,741	
Change in anticipated future investment earnings	(272,763,063)	
Securities lending income	2,817,315	
Other income	<u>51,781,300</u>	
Total other income		<u>(220,430,120)</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$739,881,424
Dividends to policyholders		<u>2,024,623</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$737,856,801
Federal and foreign income taxes incurred		<u>(59,330,270)</u>
Net Income		<u>\$797,187,071</u>

Surplus as regards policyholders per report on examination as of December 31, 2006			\$405,945,985
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$797,187,071		
Net unrealized capital gains or (losses)		71,455,845	
Change in net deferred income tax		324,274,408	
Change in nonadmitted assets	335,731,927		
Change in provision for reinsurance	544,000		
Cumulative effect of changes in accounting principles	<u>20,921,111</u>		
Net increase (decrease) in surplus	<u>\$1,154,384,109</u>	<u>\$395,730,253</u>	<u>\$ 758,653,856</u>
Surplus as regards policyholders per report on examination as of December 31, 2011			<u>\$1,164,599,841</u>

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$3,707,195,880 is the same as reported by the Company as of December 31, 2011. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

## 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Management</u>	
	It is recommended that the Company ensure that the conflict of interest statements completed by the board of directors are properly dated to ascertain that such statements are completed on a regular basis.	7
	The Company has complied with this recommendation.	
B.	<u>Reinsurance</u>	
i.	It is recommended that the offset provision of the “tail” quota share reinsurance agreement with Princeton be amended to state that in the event of insolvency of either party to this agreement then offsets shall only be allowed to the extent permitted by the provision of Section 7427 of the New York Insurance Law. It is further recommended that all future reinsurance agreements with an offset provision entered into by the Company include such required language.	12
	This recommendation is no longer applicable as the agreement was terminated.	
ii.	It is recommended that the Company include an arbitration clause in all of its reinsurance agreements.	15
	The Company has complied with this recommendation.	
iii.	It is recommended that all reinsurance agreements entered into by the Company include an errors and omissions clause.	15
	The Company has complied with this recommendation.	
C.	<u>Account and Records</u>	
i.	It is recommended that the Company ensure that the contract with its CPA firm comply with the requirements of Department Regulation 118.	21
	The Company has complied with this recommendation.	
ii.	It is recommended that the Company revise their signatory requirement on cash disbursement to at least two signatories over a certain threshold as this is a good business practice.	21
	The Company has complied with this recommendation.	

**6. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

This report contains no comments or recommendations.

Respectfully submitted,

\_\_\_\_\_  
Dilbrina Belgrave, AFE  
Senior Insurance Examiner

STATE OF NEW YORK    )  
  )ss:  
COUNTY OF NEW YORK )

Dilbrina Belgrave, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_  
Dilbrina Belgrave

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**APPOINTMENT NO. 30838**

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

*I, **BENJAMIN M. LAWSKY**, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:*

***Dilbrina Belgrave***

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

***MEDICAL LIABILITY MUTUAL INSURANCE COMPANY***

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

***COMPANY***

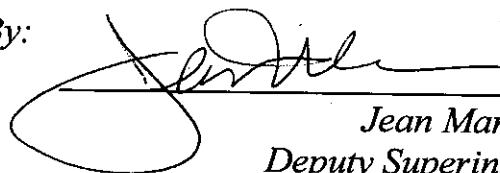
*with such other information as she shall deem requisite.*

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

*this 24th day of February, 2012*

***BENJAMIN M. LAWSKY***  
*Superintendent of Financial Services*

By:



***Jean Marie Cho***  
*Deputy Superintendent*

