

REPORT ON EXAMINATION

OF

ICM INSURANCE COMPANY

AS OF

DECEMBER 31, 2006

DATE OF REPORT

MAY 14, 2007

EXAMINER

JAMES MURPHY

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

May 14, 2007

Mr. Eric R. Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 22594 dated February 16, 2007 attached hereto, I have made an examination into the condition and affairs of ICM Insurance Company as of December 31, 2006, and submit the following report thereon.

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

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

The examination was conducted at the Company's administrative offices located at 100 Commons Way, Suite 210, Holmdel, NJ 07733.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 2001. This examination covered the five-year period from January 1, 2002 through December 31, 2006. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

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

- History of Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- 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 was incorporated under the laws of the State of New York on May 1, 1981 as Baltica-Skandinavia Reinsurance Company of America, Inc. It became licensed and commenced business on September 23, 1981.

In 1994 the Company ceased writing or accepting any new business. On July 18, 1995, pursuant to the provisions of Section 1104(c) of the New York Insurance Law, the Department issued a stipulation restricting the Company from writing any new or renewal business. On September 27, 2005, the Department rescinded the stipulation thereby allowing the Company to resume underwriting business. The Company resumed underwriting direct business in late 2005.

On December 22, 2000, Insurance Capital Management, Inc. (a Delaware corporation) purchased all of the outstanding shares of the Company from Tryg-Baltica Forsikring A/S and changed the Company's name to ICM Insurance Company on February 3, 2001. The acquisition included a quasi-reorganization allowing the Company to transfer its unassigned funds, which were reported at \$(39.3) million at September 30, 2000, to gross paid in and contributed surplus. The Department approved the acquisition and quasi-reorganization.

Capital paid in is \$5,000,000 consisting of 50,000 shares of common stock at \$100 par value per share. Gross paid in and contributed surplus is \$5,592,077. Gross paid in and contributed surplus did not change since the last examination.

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 thirteen nor more than seventeen members. The board meets four times during each calendar year. At December 31, 2006, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Barrett Wissman St. Croix, US Virgin Islands	President, Shoreline Management Group, LLLP
Robert J. Hall Haverford, PA	Senior Vice President, UBS Financial Services, Inc.
Clark K. Hunt St. Croix, US Virgin Islands	Chief Executive Officer, Shoreline Management Group, LLLP
Loic de Kertanguy New York, NY	JB Martin & Company
John McNiff Plymouth Meeting, PA	President, Discovery Capital Management

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Gerhard T. Van Arkel Haverford, PA	Managing Director, US Trust/Radnor Capital
Mark R. Graham New York , NY	Chairman/President, ICM Insurance Company
Joseph G. Grasso, Esq. Philadelphia, PA	Associate, Thacher, Proffitt & Wood
Jonathan Kline, Esq. Flushing, NY	Associate, Herrick, Feinstein LLP
Elliott M. Kroll, Esq. Bedford, NY	Partner, Herrick, Feinstein LLP
Julius A, Rousseau III New York, NY	Partner, Herrick, Feinstein LLP
Jeffrey M. Fuhrman New Canaan, CT	President and Chief Operating Officer, IMG Artists LLC
David L. Tohir New Canaan, CT	Executive Vice President, K Road Power, Inc.

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member has an acceptable record of attendance.

As of December 31, 2006, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Mark R. Graham	President
Elliott M. Kroll, Esq.	Vice President and Secretary
Bart L. Frazzita	Treasurer
William H. Beikes	Vice President, Claims

Effective March 1, 2000, the Company entered into a service agreement with Chiltington International, Inc. ("Chiltington"), an insurance and reinsurance consulting firm, whereby Chiltington manages the day-to-day operations of the Company. The Company pays Chiltington a flat annual fee plus any documented expenses incurred relating to the Company.

Effective December 1, 2001, the Company entered into an investment services agreement with Chartwell Investment Partners, LP (“Chartwell”), an investment advisory firm, whereby Chartwell provides investment services for the Company. The services include investment advisory services, purchases and sales of securities, and providing the information necessary to enable the Company to prepare the investment schedules in its annual and quarterly statements. The Company pays Chartwell a flat annual fee for these services.

The provisions of the above service contracts were reviewed and found to be in compliance with Department guidelines.

B. Territory and Plan of Operation

As of December 31, 2006, the Company was licensed to write business in sixteen states.

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 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
15	Worker’s compensation and employer’s liability
16	Fidelity and surety
17	Credit
18	Title
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

The Company is also authorized 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, 69th Congress as amended; 33 USC Section 901 et seq. as amended).

The Company writes substandard automobile insurance in the states of Colorado, Utah and Wisconsin through a network of independent insurance agents.

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, the Company is required to maintain a minimum surplus to policyholders in the amount of \$2,200,000.

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 State</u>	<u>Total United States</u>	<u>Premiums Written in New York State as a percentage of United States Premium</u>
2002	\$0	\$0	0.00%
2003	\$0	\$0	0.00%
2004	\$0	\$0	0.00%
2005	\$0	\$440	0.00%
2006	\$0	\$2,317,684	0.00%

C. Reinsurance

The Company has not entered into any new reinsurance agreements since 1994.

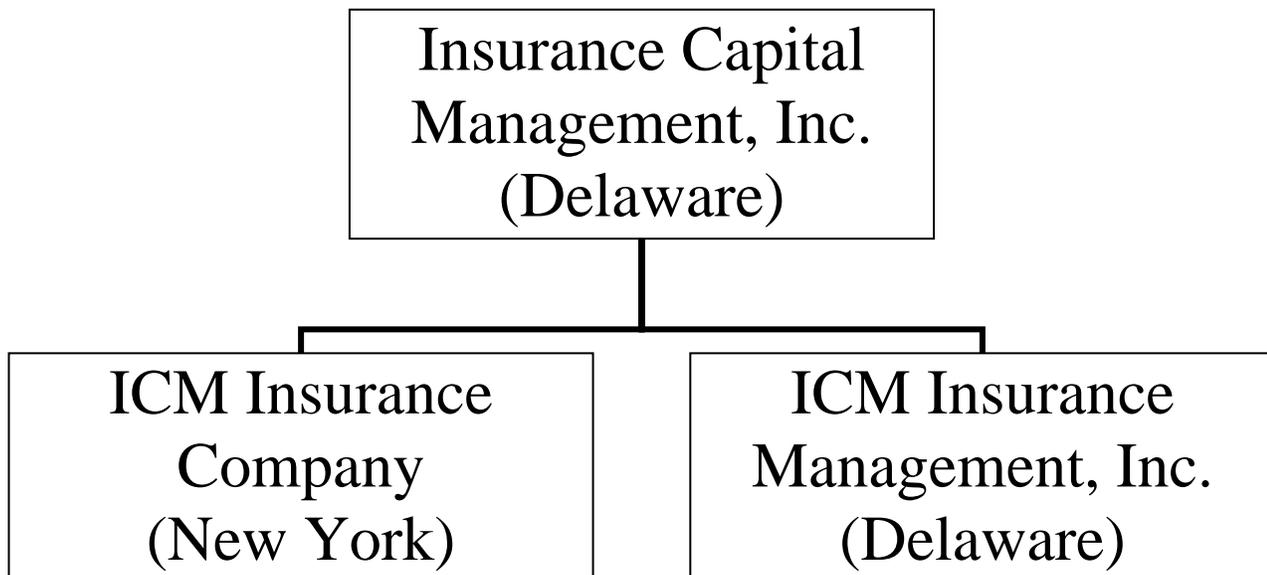
Effective October 1, 2000, the Company entered into a loss portfolio transfer agreement whereby it ceded 100% of its outstanding losses and loss adjustment expenses, net of other reinsurance, to Max Reinsurance Company ("Max Re"), a Bermuda insurer. The Company paid Max Re \$22,659,000, which was equal to the outstanding losses and loss adjustment expense reserves (including reinsurance payable on paid losses) reported by the Company as of September 30, 2000. The agreement provides coverage for up to \$30,000,000 of losses and loss adjustment expenses. The Company obtained a letter of credit from Max Re equal to the reserves transferred. The agreements were accounted for pursuant to the requirements of Department Regulation 108.

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

Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in NAIC Accounting Practices and Procedures Manual, Statements of Statutory Accounting Principles (“SSAP”) No. 62. 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). 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

The Company is wholly-owned by Insurance Capital Management, Inc., a Delaware corporation. The following chart illustrates the chain of ownership in the holding company system at December 31, 2006:



E. Significant Operating Ratios

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

Net premiums written to surplus as regards policyholders	26%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	26%
Premiums in course of collection to surplus as regards policyholders	8%

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	\$3,972,942	312.20%
Other underwriting expenses incurred	3,398,085	267.03
Net underwriting loss	<u>(6,098,457)</u>	<u>(479.22)</u>
Premiums earned	<u>\$1,272,570</u>	<u>100.00%</u>

F. Accounts and Records

(i) Annual Statement Reporting, Organizational Structure

The Company incorrectly reported ICM Insurance Management, Inc. instead of ICM Capital Management, Inc as its immediate parent on Schedule Y of its filed 2006 annual statement.

It is recommended that the Company exercise care in the preparation of its filed annual statement and correctly report information concerning its parent, subsidiaries, and affiliates in Schedule Y - Part 1.

(ii) Custodial Agreements

The Company has three custodial accounts. The custodial agreements for each of these accounts do not contain any of the safeguards and controls recommended by the NAIC Financial Condition Examiner's Handbook.

It is recommended that the Company enter into updated custodial agreements that comply with Part 1 Section IV(J) of the NAIC's Financial Condition Examiner's Handbook by revising its custodial agreements to include all of the requisite safeguards and controls.

(iii) Certified Public Accountants ("CPA") Contract

The Company entered into a contract with BDO Seidman, LLP. This examination has determined that this contract does not meet the requirements of Department Regulation No. 118. The contract does not contain the following provisions:

1. Part 89.2(a) of Department Regulation 118 requires that "on or before May 31st, the CPA shall provide an audited financial statement of such insurer and of any subsidiary required by section 307(b)(1) of the Insurance Law together with an opinion on the financial statements of such insurer and any such subsidiary for the prior calendar year and an evaluation of the insurer's and any such subsidiary's accounting procedures and internal control systems as are necessary to the furnishing of the opinion." The Company's engagement letter is silent regarding the requirement to provide an audited financial statements and an opinion thereon by May 31st. Regarding the requirement to furnish an opinion on the Company's accounting procedures and internal control, the Company's engagement letter states on page 2 that "an audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting."
2. Part 89.2(b) of Department Regulation 118 requires that "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 or surplus to policyholder 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." The Company's engagement letter is silent regarding this requirement.
3. Part 89.2(c) of Department Regulation 118 requires that "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 in accordance with the provisions of Part 243 of this Title (Regulation 152). More specifically, such workpapers and communications must be retained by the CPA for the period specified in sections 243.2(b)(7) and (c) of this Title. For purposes of this subdivision, the workpapers and communications shall be deemed to have been created on the date the filing required by section 89.2(a) of this Part was submitted to the superintendent." The Company's contract states "Access to the requested working papers will be provided to the State insurance department examiners under the supervision of BDO Seidman, LLP audit personnel and at a location designated by our firm."

It is recommended that the Company amend its contract with its CPA's to include the terms and provisions required by Department Regulation 118.

(iv) Annual Statement Reporting

The Company reported an investment in "Tri Party Repo Gov Agency 6018" with a book/adjusted carrying value of \$694,837 on Schedule DA - Part 1 of its filed 2006 annual statement. This item was also reported by the Company in Schedule F Part 1 of its annual statement in column 15, "Amount of assets pledged or collateral held in trust." According to the NAIC Annual Statement Instructions, this investment should be reported as cash on Schedule E – Part 3 Columns 5 and 6 under the caption "All Other Special Deposits" as "Deposits to secure reinsurance obligations" per the Annual Statement Instructions.

It is recommended that the Company comply with the NAIC Annual Statement Instructions and properly report its investment in "Tri Party Repo Gov Agency 6018" in Schedule E – Part 3 Columns 5 and 6 under the caption "All Other Special Deposits" as "Deposits to secure reinsurance obligations" per the Annual Statement Instructions on future filed financial statements.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2006 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	\$ 4,079,296	\$ 0	\$ 4,079,296
Cash, cash equivalents and short-term investments	4,512,599		4,512,599
Investment income due and accrued	107,976		107,976
Uncollected premiums and agents' balances in the course of collection	891,667	172,821	718,846
Amounts recoverable from reinsurers	118,268		118,268
Funds held by or deposited with reinsured companies	323,644	203,632	120,012
Deposit	13,663	13,663	0
Retroactive reinsurance recoverable	<u>1,125,876</u>	<u>0</u>	<u>1,125,876</u>
Total assets	<u>\$11,172,989</u>	<u>\$390,116</u>	<u>\$10,782,873</u>

Liabilities, Surplus and Other FundsLiabilities

Losses		\$5,908,109
Reinsurance payable on paid losses and loss adjustment expenses		953,427
Loss adjustment expenses		2,730,409
Commissions payable, contingent commissions and other similar charges		43,270
Other expenses (excluding taxes, licenses and fees)		231,322
Taxes, licenses and fees (excluding federal and foreign income taxes)		44,873
Unearned premiums		939,925
Ceded reinsurance premiums payable (net of ceding commissions)		29,665
Funds held by company under reinsurance treaties		125,260
Provision for reinsurance		221,647
Retroactive reinsurance ceded		<u>(8,938,771)</u>
Total liabilities		\$2,289,138

Surplus and Other Funds

Segregated surplus – retroactive reinsurance	\$3,027,456	
Common capital stock	5,000,000	
Gross paid in and contributed surplus	5,592,077	
Unassigned funds (surplus)	<u>(5,125,797)</u>	
Surplus as regards policyholders		<u>8,493,733</u>
Total liabilities surplus and other funds		<u>\$10,782,873</u>

B. Underwriting and Investment Exhibit

Surplus as regards policyholders decreased \$2,593,917 during the five-year examination period January 1, 2002 through December 31, 2006, detailed as follows:

Statement of Income

Underwriting Income

Premiums earned		\$ 1,272,570
Deductions:		
Losses incurred	\$1,031,502	
Loss adjustment expenses incurred	2,941,440	
Other underwriting expenses incurred	<u>3,398,085</u>	
Total underwriting deductions		<u>7,371,027</u>
Net underwriting gain or (loss)		\$(6,098,457)

Investment Income

Net investment income earned	\$ 806,229	
Net realized capital gain	<u>50,880</u>	
Net investment gain or (loss)		857,109

Other Income

Finance and service charges not included in premiums	\$ 230,445	
Ceded to retroactive reinsurance	<u>2,482,729</u>	
Total other income		<u>2,713,174</u>
Net income before dividends to policyholders and before federal		\$(2,528,168)
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$(2,528,168)
Federal and foreign income taxes incurred		<u>0</u>
Net income		<u>\$(2,528,168)</u>

Capital and Surplus

Surplus as regards policyholders per report on examination as of December 31, 2001			\$11,087,650
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income		\$2,528,168	
Change in non-admitted assets		376,450	
Change in provision for reinsurance	\$ 7,130		
Aggregate write-ins for gains in surplus	303,574		
Total gains and losses	<u>\$310,704</u>	<u>\$2,904,624</u>	
Net decrease in surplus			<u>(2,593,917)</u>
Surplus as regards policyholders per report on examination as of December 31, 2006			<u>\$ 8,493,733</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$8,638,518 is the same as reported by the Company as of December 31, 2006. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Companies internal records and in its filed annual statements.

5. MARKET CONDUCT ACTIVITIES

The Company did not begin operating as a direct writer until late 2005, and none of its business was written in the state of New York. Based on the foregoing a Market Conduct review was not performed.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Common Stocks and Short-Term Investments</u>	
It was recommended that the Company refrain from investing in excess of 10% of its reported admitted assets in any one institution pursuant to the provisions of Section 1409 of the New York Insurance Law.	14
The Company has complied with this recommendation.	
B. <u>Cash</u>	
It was recommended that the Company report its investments in the proper annual statement categories in accordance with the Annual Statement Instructions.	15
The Company has complied with this recommendation.	
C. <u>Losses and Loss Adjustment Expenses</u>	
i. It was recommended that the Company's open claim files be reviewed and updated at least semi-annually and that status reports documenting such reviews be kept in the claim files.	17
ii. It is recommended that the Company take more care in properly distinguishing between losses and loss adjustment expenses when recording them on its system.	
The Company has complied with these recommendations.	
D. <u>Payable to Loss Portfolio Transfer Reinsurer</u>	
It was recommended that the Company properly bill and account for its loss portfolio transfer in the future.	17
The Company has complied with this recommendation.	

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
i. <u>Annual Statement Reporting – Schedule Y</u>	
It is recommended that the Company exercise care in the preparation of its filed annual statement and correctly report information concerning parent, subsidiaries, and affiliates in Schedule Y - Part 1.	8
ii. <u>Custodial Agreements</u>	
It is recommended that the Company enter into updated custodial agreements that comply with Part 1 Section IV(J) of the NAIC's Financial Condition Examiner's Handbook by revising its custodial agreements to include all of the requisite safeguards and controls.	9
iii. <u>CPA Engagement Letter</u>	
It is recommended that the Company amend its contract with its CPA to include the terms and provisions required by Department Regulation 118.	10
iv. <u>Annual Statement Reporting – Cash</u>	
It is recommended that the Company comply with the NAIC Annual Statement Instructions and properly report its investment in "Tri Party Repo Gov Agency 6018" in Schedule E – Part 3 Columns 5 and 6 under the caption "All Other Special Deposits" as "Deposits to secure reinsurance obligations" per the Annual Statement Instructions on future filed financial statements.	10

Respectfully submitted,

_____/S/
James Murphy
Associate Insurance Examiner

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

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

_____/S/
James Murphy

Subscribed and sworn to before me
this _____ day of _____, 2007.

Appointment No. 22594

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, Eric R. Dinallo, Acting Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

James Murphy

as proper person to examine into the affairs of the

ICM 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 16th day of February, 2007



A handwritten signature in cursive script, reading "Eric R. Dinallo", written over a horizontal line.

ERIC R. DINALLO

Acting Superintendent of Insurance