STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

AMALGAMATED LIFE INSURANCE COMPANY

CONDITION: DECEMBER 31, 2008

DATE OF REPORT: MARCH 1, 2010

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EXAMINER: PHARES CATON

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

David A. Paterson
Governor

James J. Wrynn
Superintendent

March 31, 2010

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 30268, dated November 3, 2008 and annexed hereto, an examination has been made into the condition and affairs of Amalgamated Life Insurance Company, hereinafter referred to as "the Company" or "ALICO" at its home office located at 333 Westchester Avenue, White Plains, New York 10604.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The material findings, violations and recommendation contained in this report are summarized below:

- The Company violated Section 3201(b)(1) of the New York Insurance Law by utilizing policy forms which differed from those filed with and approved by the Superintendent. The examiner recommends that the Company: determine the number of group contracts and certificates that were issued using the unapproved contract form, certificate, policy living benefit rider and certificate living benefit rider, and amend all such policy forms to comply with the language approved by the Department; notify all groups and certificateholders, who were issued policies, certificates and riders from January 1, 2005 through June 8, 2009, which contained improper additions, deletions or changes from language approved by the Department for these policy forms, advise them of the amended language and give them the opportunity to file or refile claims and/or reinstate their policy/certificate; re-examine all claims received on the unapproved contracts; determine liability as a result of the claims; re-examine all terminations of certificateholders from January 1, 2005 through June 8, 2009 on group contracts using unapproved policy forms and reinstate any certificateholders who were improperly terminated; and report its findings to the Department. (See item 7B of this report)
- The Company violated Section 403(d) of the New York Insurance Law by utilizing individual life and group death claim forms that did not include the required fraud warning statement. (See item 7C of this report)
- The Company violated several sections of Department Regulation No. 64 by failing to provide timely notification to the claimant of the acceptance or rejections of a claim and failure to maintain adequate documentation in its claims files. (See item 7C o this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2004. This examination covers the period from January 1, 2005 through December 31, 2008. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2008 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2008 to determine whether the Company's 2008 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

Company history
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
Mortality and loss experience
Reinsurance
Accounts and records
Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to the violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 8 of this report.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of the State of New York on September 29, 1943, was licensed on January 10, 1944 and commenced business on February 1, 1944. Initial resources of $450,000, consisting of common capital stock of $300,000 and paid in and contributed surplus of $150,000, were provided through the sale of 3,000 shares of common stock (with a par value of $100) for $150 per share.

Changes in the capital and surplus of the Company since incorporation have resulted in capital and paid in and contributed surplus of $2,500,000 and $3,650,000, respectively, as of December 31, 2008.

The Company was organized by Amalgamated Insurance Fund ("the Fund"), a welfare fund established by the Union of Needletrades, Industrial and Textile Employees ("UNITE") (formerly known as Amalgamated Clothing Workers of America) and employers in the clothing industry. The Company was formed as a non-profit insurer to provide life and accident and health insurance for participants in the Fund and six other related funds ("the Patron Funds") on a non-profit basis. Prior to 1992, operations were restricted to selling insurance products to the seven Patron Funds, which are all Taft-Hartley plans sponsored by UNITE. In January 1992, the Department approved the Company's amended charter authorizing it to sell life, health and disability insurance outside of its traditional non-profit market.

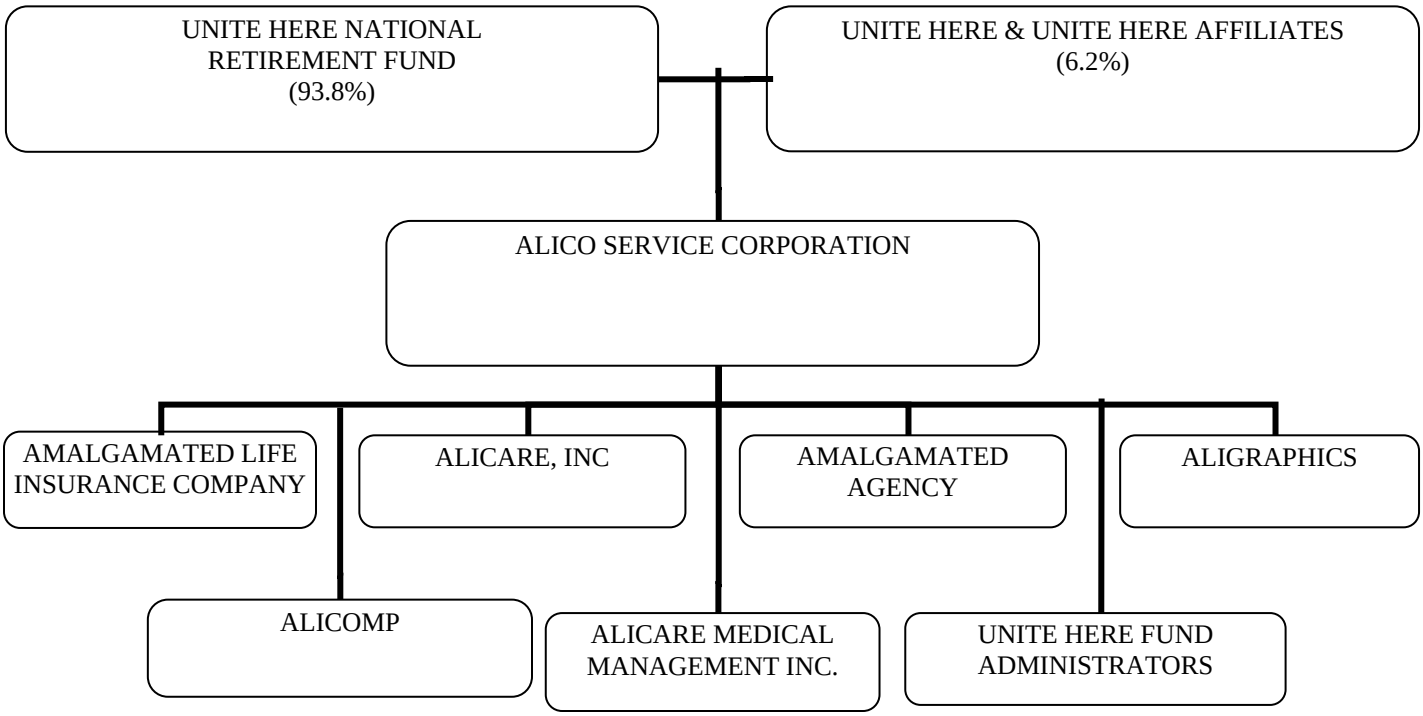
On March 26, 2001, the Department granted approval to transfer the ownership of ALICO Services Corporation ("ASC"), the Company's parent, from the Amalgamated Insurance Fund ("the Fund") to the Amalgamated Cotton Garment & Allied Industries Pension Fund ("the Cotton Fund"). As part of its reorganization, the Company, although still wholly owned by ASC, became part of a newly formed holding company, the Cotton Fund.

In November 2003, the Cotton Fund merged with the ILGWU National Retirement Fund ("the NRF Fund") to form the UNITE National Retirement Fund ("UNITE Retirement").

B. Holding Company

As of December 31, 2008, the Company is a wholly owned subsidiary of ASC, which in turn was owned by Unite Here National Retirement Fund and Unite Here and Unite Here Affiliates.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2008 follows:



The Company had three service agreements in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Services and Cost Sharing Agreement File No. 23152 Amended File # 33621	4/1/1996 Amended 3/1/2005	ALICO	Alicare, Inc., Amalgamated Medical Management, and Unite Here Fund Administrators ("UHFA")	General Administration Services	2005 – $53,224,053 2006 – $54,064,281 2007 – $55,956,025 2008 – $59,092,998
Services and Cost Sharing Agreement File No. 33622	4/1/2005	Alicare, Inc.	ALICO	Data Processing	2005 - $ (127,000) 2006 - $ (127,000) 2007 - $ (127,000) 2008 - $ (127,000)
Sublease Agreement File No. 40573	8/29/2008	ASC	ALICO	Rent**	2008 - $ 0

* Amount of Income or (Expense) Incurred by the Company

** As part of the new lease arrangement, ASC did not pay any rent as there is a period of rent abatement from September 2008 through May 2009.

The Company also participates in a tax allocation agreement with its immediate parent, ASC.

Section 1505(b) of the New York Insurance Law states:

> "The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties."

The Company's Services and Cost Sharing agreement dated June 9, 2005 states in part:

> '2. The charges to be paid to ALICO for services rendered pursuant to this Agreement are intended to represent the actual cost incurred by ALICO so that it shall not receive a profit nor suffer a loss thereby. Whenever estimates are used to determine the charges to be paid under this Agreement, such estimates will be adjusted quarterly to reflect payment on the actual cost basis….
> 4. Following each calendar month, ALICO shall furnish the recipient party with a detailed invoice setting forth the monthly share of expenses allocated pursuant to this Agreement. All payments are due no later than thirty (30) days after the close of each calendar month, based on the monthly invoice….
> 5. Adequate and properly documented work papers shall be maintained by the parties hereto in sufficient detail to enable each party to allocate expenses according to the regulatory requirements which such party may, from time to time, be subject. The work papers shall be open to inspection by any party to this Agreement.'

The examiner requested copies of invoices furnished to affiliates and the settlement of the same for the months of October, November and December of 2008. The Company's response to the examiner's request reads:

> "There is no formal invoice generated by Alico and provided to the recipient party detailing the monthly share of expenses allocated to that party/affiliate. However, each month its affiliate, UHFA, the largest purchaser of Alico services, pays in advance an estimated fee for those services, which are used in our calculation of "Due from affiliates" as an offset to their charges which are run on a quarterly basis, through the company's cost allocation system..."

The Company was unable to provide the examiners with copies of detailed invoices or supporting documentation setting forth the monthly share of expenses allocated to its affiliates. The Company was also unable to provide supporting documentation for the charges which are run on a quarterly basis, through the Company's cost allocation system.

The examiner recommends that the Company develop and maintain an allocation procedure that is in compliance with Section 1505(b) of the New York Insurance Law and which adheres to the terms of the services and cost sharing agreement approved by the Department.

C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 25 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in June of each year. As of December 31, 2008, the board of directors consisted of 25 members. Meetings of the board are held three times each year.

The 25 board members and their principal business affiliation, as of December 31, 2008, were as follows:

Name and Residence	Principal Business Affiliation	Year First Elected
Noel Beasley* Oak Park, IL	Vice President Chicago Midwest Regional Joint Board	2007
Harold Bock* Parkersburg, WV	Internal Vice President Labor Organization	2002
Gary Bonadonna Webster, NY	Internal Vice President UNITE HERE Rochester Regional Board	2005
James Brubaker* Bridgewater, NJ	Chief Financial Officer Tom James Company	1998
Alexandra Dagg Toronto, Ontario	National Director UNITE HERE Ontario Council	2007
Mark Fleischman Hudson, NY	Executive Vice President UNITE HERE	2000
Lynne Fox Dreshner, PA	Vice President UNITE HERE Philadelphia Joint Board	2001
Richard Gilbert* Mahwah, NJ	President Ardwyn Binding Product Co.	2001
John Gillis Harbor, NJ	Vice President UNITE HERE NY Joint Board	2000

Name and Residence	Principal Business Affiliation	Year First Elected
Christine Kerber East Rutherford, NJ	Vice President UNITE HERE	2002
Peter Lindenmeyer* Franklin, MA	Senior Vice President Chief Logistics Officer TJX Companies	2008
Stephen Masket* Westfield, NJ	Senior Vice President Chief Counsel Maiden Form, Inc.	2003
Desmond Massey* West Orange, NJ	Principle Gotto/Glassman & Hoffman	2001
David Melman Hopewell, NJ	Vice President UNITE HERE Pennsylvania	2002
Gail E. Meyer Allentown, PA	Associate Manager; Vice President UNITE HERE Predecessor Union	2004
Homi Patel* Lake Forest, IL	President Hartmarx, Corporation	1996
Warren Pepicelli Marshfield, MA	Vice President UNITE HERE	2007
Bruce Raynor Nyack, NY	Chairman and President UNITE HERE	1996
Harris Raynor Decatur, GA	Vice President UNITE HERE Labor Union	2002
Edgar Romney Bayside, NY	Secretary, Treasurer UNITE HERE	2000
Richard Rumelt* Greenfield, MA	Vice President Airport, Racetrack & Allied Workers Joint Board	2002
Richard Rumelt* Greenfield, MA	Vice President Airport, Racetrack & Allied Workers Joint Board	2002
Steven Thomas* Moriches, NY	Executive Director National Association of Blouse Manufacturers	2003

Name and Residence	Principal Business Affiliation	Year First Elected
Christina Vazquez Los Angeles, CA	Regional Director ILGWU/UNITE/UNITE HERE	2008
David Walsh Carmel, NY	President and Chief Executive Officer Amalgamated Life Insurance Company	2008
Steve Weiner* Cliffside Park, NY	Group President HMX Tailored	2002

* Not affiliated with the Company or any other company in the holding company system

The Company notified the Department on February 3, 2009 that it will be expanding its board to 28 members. On February 3, 2009, the Department approved the Company's restated charter and bylaws which were amended to increase the maximum number of directors to 28. The expansion was effectuated in June 2009 by adding Tim Luebbert, John Fowler and Ray Rykunyk.

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2008:

Name	Title
David J. Walsh	President and Chief Executive Officer
Mark Schwartz*	Treasurer and Secretary
Paul Mallen	Executive Vice President & Chief Financial Officer
Michael Hirsch	Executive Vice President
Richard Rust	Executive Vice President
John Thornton	Executive Vice President
Martin Cohen	Vice President & Chief Actuary

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

D. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law. The Company has never written any annuity business.

The Company is licensed to transact business in 35 states and the District of Columbia as of December 31, 2008. In 2008, 77% of life premiums and 70.7% of accident and health premiums were received from New York. Policies are written on a non-participating basis. The Company writes two lines of business, namely: group life and group accident and health.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2008:

Life Insurance Premiums	
New York	77.2%
Illinois	11.3
Subtotal	88.5%
All others	11.5
Total	100.0%

Accident and Health Insurance Premiums	
New York	71.1%
Illinois	15.2
New Jersey	10.1
Subtotal	96.4%
All others	3.6
Total	100.0%

The Company's agency operations are conducted on a general agency and direct response basis.

Most sales in the Company's target labor market are accomplished through direct contact with trade union groups, although brokers and consultants are also utilized. The Company maintains a salaried sales force of approximately ten experienced insurance professionals and former trade union officials who make these contacts. Direct mailings are sent to labor leaders and fund administrators to keep them informed of the Company's insurance products and services.

The sales force also benefits from referrals from a network of benefit consultants, law, actuarial and accounting firms, Blue Cross plans and HMOs, which also serve the Taft-Hartley market.

The Company has been diversifying its revenue stream, primarily through obtaining licenses in additional states in regions that also have a strong labor market presence. The Company's customers are primarily trade union members covered under Taft-Hartley health and welfare and pension plans, or under endorsed voluntary arrangements through their unions. In addition to its core, clothing and textile workers, clients include bricklayers, carpenters, firefighters, hospital workers, hotel workers, janitors, police officers, social service employees, steelworkers, theatrical stagehands, teamsters, etal.

E. Reinsurance

As of December 31, 2008, the Company had reinsurance treaties in effect with 7 companies, all of which were authorized or accredited. The Company’s life business is reinsured on a coinsurance, and/or yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is $100,000. The total face amount of life insurance ceded as of December 31, 2008, was $5,711,695,678, which represents 54% of the total face amount of life insurance in force.

The total face amount of life insurance assumed as of December 31, 2008, was $4,752,031,681.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth during the period under review:

	December 31, 2004	December 31, 2008	Increase
Admitted assets	$50,840,381	$62,441,254	$11,600,873
Liabilities	$30,527,597	$31,579,840	$ 1,052,243
Common capital stock	$ 2,500,000	$ 2,500,000	$ 0
Gross paid in and contributed surplus	3,650,000	3,650,000	0
Unassigned funds (surplus)	14,162,784	24,711,414	10,548,630
Total capital and surplus	$20,312,784	$30,861,414	$10,548,630
Total liabilities, capital and surplus	$50,840,381	$62,441,254	$11,600,873

The Company's invested assets as of December 31, 2008, were mainly comprised of bonds (82%) and cash and short-term investments (17%).

The majority (99.96%) of the Company's bond portfolio, as of December 31, 2008, was comprised of investment grade obligations.

The following indicates, for each of the years listed below, the amount of life insurance issued and in force by type (in thousands of dollars):

	Individual Whole Life		Group Life	
Year	Issued	In Force	Issued & Increases	In Force
2005	$ 6,435	$20,081	$ 189,932	$ 9,203,259
2006	$19,307	$34,055	$ 683,736	$ 9,602,666
2007	$29,508	$55,646	$2,912,658	$11,555,340
2008	$30,078	$72,018	$1,087,236	$11,522,407

The ordinary lapse ratio for the years under examination was 22.1% in 2008, 17.6% in 2007, 21.4% in 2006 and 15.6% in 2005.

The Company explained that they are required by law to offer the individual policies to persons who have lost their group coverage. The high lapse ratios are due to the fact that many policyholders only use the Company's life insurance product as a bridge to new employment related coverage and drop their conversion when they obtain new employer provided coverage.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	2005	2006	2007	2008
Ordinary:				
Life insurance	$ 48,706	$ 56,401	$ 67,479	$ 280,156
Total ordinary	$ 48,706	$ 56,401	$ 67,479	$ 280,156
Group:				
Life	$2,266,364	$2,837,285	$3,746,551	$2,231,144
Total group	$2,266,364	$2,837,285	$3,746,551	$2,231,144
Accident and health:				
Group	$ 406,484	$ 150,321	$ 322,266	$ 90,363
Total accident and health	$ 406,484	$ 150,321	$ 322,266	$ 90,363
All other lines	$ (74,135)	$ (2,445)	$ (1,769)	$ (45,615)
Total	$2,647,419	$3,041,562	$4,134,527	$2,556,048

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2008, as contained in the Company's 2008 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2008 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2008

Admitted Assets

Bonds	$42,678,413
Stocks	421,250
Cash, cash equivalents and short term investments	8,825,562
Contract loans	58,390
Investment income due and accrued	491,410
Premiums and considerations:	
Uncollected premiums and agents' balances in the course of collection	1,577,218
Deferred premiums, agents' balances and installments booked but deferred and not yet due	91,222
Accrued retrospective premiums	137,452
Reinsurance:	
Amounts recoverable from reinsurers	1,059,088
Funds held by or deposited with reinsured companies	1,153,627
Other amounts receivable under reinsurance contracts	1,965,776
Net deferred tax asset	89,668
Receivables from parent, subsidiaries and affiliates	3,386,138
Other Assets	506,040
Total admitted assets	$62,441,254

Liabilities, Capital and Surplus

Aggregate reserve for life policies and contracts	$ 5,541,189
Aggregate reserve for accident and health contracts	243,158
Contract claims:	
Life	7,736,922
Accident and health	917,246
Premiums and annuity considerations for life and accident and health contracts received in advance	34,615
Contract liabilities not included elsewhere:	
Provision for experience rating refunds	1,436,252
Other amounts payable on reinsurance	1,590,330
Commissions to agents due or accrued	39,527
Commissions and expense allowances payable on reinsurance assumed	3,563
General expenses due or accrued	6,146,075
Taxes, licenses and fees due or accrued, excluding federal income taxes	292,877
Current federal and foreign income taxes	132,714
Amounts withheld or retained by company as agent or trustee	374,261
Miscellaneous liabilities:	
Payable to parent, subsidiaries and affiliates	2,403,718
Funds held under coinsurance	1,153,628
Contingency reserve for claims experience fluctuation	3,189,176
Other liabilities	344,589
Total liabilities	$31,579,840
Common capital stock	$ 2,500,000
Gross paid in and contributed surplus	3,650,000
Unassigned funds (surplus)	24,711,414
Surplus	$28,361,414
Total capital and surplus	$30,861,414
Total liabilities, capital and surplus	$62,441,254

B. CONDENSED SUMMARY OF OPERATIONS

	2005	2006	2007	2008
Premiums and considerations	$33,154,114	$33,247,755	$36,698,235	$38,092,500
Investment income	2,003,739	2,184,505	2,222,441	2,393,846
Miscellaneous income	53,204,639	54,062,264	55,957,180	59,160,256
Total income	$88,362,492	$89,494,524	$94,877,856	$99,646,602
Benefit payments	$26,580,703	$26,750,268	$30,773,426	$31,933,001
Increase in reserves	157,966	162,360	151,989	148,614
Commissions	1,596,986	1,504,672	1,427,408	1,583,874
General expenses and taxes	5,205,671	6,429,914	6,441,237	7,028,328
Increase in loading on deferred and uncollected premiums	2,479	(1,504)	3,414	17,811
Miscellaneous deductions	51,748,177	50,933,681	50,934,855	55,721,926
Total deductions	$85,291,982	$85,779,391	$89,732,329	$96,433,554
Net gain (loss)	$ 3,070,510	$ 3,715,133	$ 5,145,527	$ 3,213,048
Federal and foreign income taxes incurred	423,091	673,570	1,011,000	657,000
Net gain (loss) from operations before net realized capital gains	$ 2,647,419	$ 3,041,563	$ 4,134,527	$ 2,556,048
Net realized capital gains (losses)	0	30	0	(430,524)
Net income	$ 2,647,419	$ 3,041,593	$ 4,134,527	$ 2,125,524

C. CAPITAL AND SURPLUS ACCOUNT

	2005	2006	2007	2008
Capital and surplus, December 31, prior year	$20,312,784	$22,931,694	$25,665,132	$30,019,310
Net income	$ 2,647,419	$ 3,041,593	$ 4,134,527	$ 2,125,524
Change in net deferred income tax	10,990	(18,924)	(125,472)	244,571
Change in non-admitted assets and related items	135,222	(275,635)	363,052	(1,651,406)
Change in reserve valuation basis	(163,660)	0	0	0
Change in asset valuation reserve	(11,061)	(13,596)	(17,929)	123,415
Net change in capital and surplus for the year	$ 2,618,910	$ 2,733,438	$ 4,354,178	$ 842,104
Capital and surplus, December 31, current year	$22,931,694	$25,665,132	$30,019,310	$30,861,414

6. ANNUAL STATEMENT REPORTING

It was determined that during the examination period that the Company had been incorrectly reporting reinsurance assumed on Line 2 'Issued during the year' of the Exhibit of Life Insurance, instead of Line 3 'Reinsurance assumed' of the exhibit, for column 3 'No. of policies' and column 4 'Amount of insurance'. This error resulted in an overstatement of policies issued during the year and an understatement of reinsurance assumed.

The Company also failed to report the number of group certificates issued in the Exhibit of Accident and Health Insurance for the years 2005 through 2008. The examiner requested but the Company was unable to provide the figures to complete the exhibit.

The examiner recommends that the Company exercise greater care in the preparation of its filed annual statements and properly complete all applicable annual statement exhibits in the future.

7. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Based upon the sample reviewed, no significant findings were noted.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Section 3201 of the New York Insurance Law states, in part:

> "(a) In this article, "policy form" means any policy, contract, certificate, or evidence of insurance and any application therefor, or rider or endorsement thereto . . . "
>
> "(b)(1) No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law . . . "

The examiner's review of certain policy forms as part of the group underwriting review, revealed that the Company used unapproved group life policy form ALGP-92-1, certificate ALGC-92-1, policy living benefit rider AMADBP-00 and certificate living benefit rider AMADBC-00 for four group policies during the examination period. These policy forms were altered after they were approved by the Department and the altered forms were not submitted to the Department for review during the period under examination.

The Company stated that an additional 24 group contracts, issued to New York policyholders during the examination period used these unapproved forms. Altogether these 28 group policies had approximately 34,797 certificateholders.

The alterations to the above policy forms were less favorable to the insured in some instances than the version of the policy form that was approved by the Department since the alterations broadened exclusions or restricted eligibility. In some instances the Department would not have objected to the alterations to the forms had they been submitted for approval.

The Company subsequently filed revisions to these forms with the Department which were approved on June 8, 2009.

The Company violated Section 3201(b)(1) of the New York Insurance Law by utilizing policy forms which differed from those filed with and approved by the Superintendent.

The examiner recommends that the Company determine the number of group contracts and certificates that were issued using the unapproved contract form, certificate, policy living benefit rider and certificate living benefit rider and:

1. amend all such policy forms to comply with the language approved by the Department;
2. notify all groups and certificateholders, who were issued policies, certificates and riders from January 1, 2005 through June 8, 2009, which contained improper additions, deletions or changes from language approved by the Department for these policy forms. The groups and certificateholders should be advised of the amended language and be given the opportunity to file or refile claims and/or reinstate their policy/certificate;
3. re-examine all claims received from January 1, 2005 through June 8, 2009 on contracts issued under the unapproved policy forms, and pay any claims in accordance with the language that was approved by the Department for those policy forms at the time the claims were filed;
4. re-examine all terminations of certificateholders from January 1, 2005 through June 8, 2009 on group contracts using unapproved policy forms and reinstate any certificateholders who were improperly terminated; and
5. report to the Department its findings, which should include the number of policies, certificates and riders amended, the number of claim denial decisions reversed, along with the dollar amount paid to claimants (which should include the death benefit, living benefit, accelerated death benefit, AD&D and any applicable interest thereon), and the number of certificateholders who were reinstated due to being improperly terminated.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

Section 403(d) of the New York Insurance Law states, in part:

" . . . all claim forms . . . shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

'Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.'"

The examiner reviewed a sample of 35 individual death claims and noted that in 25 cases the Company utilized death claim forms which did not include the fraud warning statement. The examiner also reviewed 38 group death claims and noted that in 15 cases the Company utilized death claim forms which did not include the fraud warning statement.

The Company violated Section 403(d) of the New York Insurance Law by utilizing individual life and group death claim forms that did not include the required fraud warning statement.

Section 216.5(a) of Department Regulation No. 64 states, in part:

"Every insurer shall establish procedures to commence an investigation of any claim filed by a claimant, or by a claimant's authorized representative, within 15 days of receipt of notice of claim. An insurer shall furnish to every claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 days of receiving notice of the claim . . . "

The examiner reviewed 35 individual death claim files and found that in eight instances (22%) the Company failed to provide the claimant or claimant's authorized representative, with a notification of all items, statements and forms, which the insurer reasonably believes will be required of the claimant within 15 days of receipt of notice of the claim.

The Company violated Section 216.5(a) of Department Regulation No. 64 when it failed to provide the claimants or claimant's authorized representative with, a notification of all items, statements and forms, which the insurer reasonably believes will be required of the claimant, within 15 days of receiving notice of the claim.

Section 216.6(c) of Department Regulation No. 64 states, in part:

> "Within 15 business days after receipt by the insurer of a properly executed proof of loss and/or receipt of all items, statements and forms which the insurer requested from the claimant, the claimant, or the claimant's authorized representative, shall be advised in writing of the acceptance or rejection of the claim by the insurer . . . "

The examiner reviewed 35 individual death claim files and found that in 14 cases the Company failed to notify the claimant, or the claimant's representative, in writing within 15 business days after receipt by the Company of a properly executed proof of loss and/or receipt of all items, statements and forms which the insurer requested from the claimant, of the Company's acceptance or rejection of the claim.

The Company violated Section 216.6(c) of Department Regulation No. 64 when it failed to notify the claimant, or the claimant's authorized representative, in writing of the acceptance or rejection of the claim within 15 business days after receipt by the insurer of a properly executed proof of loss.

Section 216.11 of Department Regulation No. 64 states in part:

> " . . . To enable department personnel to reconstruct an insurer's activities, all insurers subject to the provisions of this Part must maintain within each claim file all communications, transactions, notes and work papers relating to the claim. All communications and transactions, whether written or oral, emanating from or received by the insurer shall be dated by the insurer. Claim files must be so maintained that all events relating to a claim can be reconstructed by the Insurance Department examiners. Insurers shall either make a notation in the file or retain a copy of all forms mailed to claimants."

The examiner's review of sample of 38 group life death claims revealed that the Company did not properly maintain its claim files. In 14 instances, the Company could not provide a copy of the policy or certificate. In 20 instances, the Company could not provide the date that the Company was notified of the claim. In 17 instances, the Company did not record the date that the Company acknowledged notification of the claim to the claimant. In 23 instances, there was no payment letter on file. In 19 instances, the claim forms were not date

stamped, or the date stamp was not legible. In 9 instances, the application forms were not provided. In one instance, the death certificate was not in the file.

The examiner's review of a sample of 35 individual life death claims revealed that the Company did not properly maintain its claim files. In five instances, the examiner was not able to determine either the date the claim forms were sent to the claimant or the date the completed claim forms were received by the Company, because the forms were not date stamped.

The Company violated Section 216.11 of Department Regulation No. 64 by failing to maintain within each claim file all communications, transactions, notes and work papers relating to the claim, and failing to date all communications, which prevented the examiner from reconstructing all events relating to the claims.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendation contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

Item	Description
A	The examiner recommends that the Board replace any board member who consistently fails to attend board and/or committee meetings. The examiner's review of the board of director meeting minutes indicated that meetings were well attended and that each director attended a majority of meetings.
B	The Company violated Section 215.13(a) of Department Regulation No. 34 by failing to identify the policy form number in an advertisement for disability insurance. The examiner did not note any instances where the Company failed to identify the policy form number in its advertisements.
C	The Company violated Section 3201(b)(1) of the New York Insurance Law by utilizing policy forms that were not filed with and approved by the Department. This is a repeat violation. The Company explained that they were relying on the work of an independent contractor whom has since been terminated.
D	The Company violated Section 243.2(e) of Department Regulation No. 152 when it failed to maintain its disability claim forms in a readable form. The Company now maintains legible claim forms in accordance with Department Regulation No. 152.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

Item	Description	Page No(s).
A	The examiner recommends that the Company develop and maintain an allocation procedure that is in compliance with Section 1505(b) of the New York Insurance Law and which adheres to the terms of the services and cost sharing agreement approved by the Department.	7
B	The examiner recommends that the Company exercise greater care in the preparation of its filed annual statements and properly complete all applicable annual statement exhibits in the future.	20
C	The Company violated Section 3201(b)(1) of the New York Insurance Law by utilizing policy forms which differed from those filed with and approved by the Superintendent.	21
D	The examiner recommends that the Company: determine the number of group contracts and certificates that were issued using the unapproved contract form, certificate, policy living benefit rider and certificate living benefit rider; amend all such policy forms to comply with the language approved by the Department; notify all groups and certificateholders, who were issued policies, certificates and riders from January 1, 2005 through June 8, 2009, which contained improper additions, deletions or changes from language approved by the Department for these policy forms, advise them of the amended language and give them the opportunity to file or refile claims and/or reinstate their policy/certificate; re-examine all claims received on the unapproved contracts; determine liability as a result of the claims; re-examine all terminations of certifcateholders from January 1, 2005 through June 8, 2009 on group contracts using unapproved policy forms and reinstate any certificateholders who were improperly terminated; and report its findings to the Department.	21 – 22
E	The Company violated Section 403(d) of the New York Insurance Law by utilizing individual life and group death claim forms that did not include the required fraud warning statement.	23
F	The Company violated Section 216.5(a) of Department Regulation No. 64 when it failed to provide the claimants or claimant's authorized representative, with a notification of all items, statements and forms, which the insurer reasonably believes will be required of the claimant,	23

within 15 days of receipt of notice of the claim.

G	The Company violated Section 216.6(c) of Department Regulation No. 64 when it failed to notify the claimant, or the claimant's authorized representative, in writing of the acceptance or rejection of the claim within 15 business days after receipt by the insurer of a properly executed proof of loss.	24
H	The Company violated Section 216.11 of Department Regulation No. 64 by failing to maintain within each claim file all communications, transactions, notes and work papers relating to the claim, and failing to date all communications, which prevented the examiner from reconstructing all events relating to the claims.	24 – 25

Respectfully submitted,

/s/
Phares Caton
Associate Insurance Examiner

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

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

/s/
Phares Caton

Subscribed and sworn to before me

this_____ day of _____

APPOINTMENT NO. 30268

STATE OF NEW YORK

INSURANCE DEPARTMENT

I, ERIC R. DINALLO, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

PHARES CATON

as a proper person to examine into the affairs of the

AMALGAMATED LIFE 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 name and affixed the official Seal of the Department at the City of New York

this 3rd day of November, 2008

ERIC R. DINALLO
Superintendent of Insurance

Superintendent