

REPORT ON EXAMINATION  
OF THE  
MONROE TITLE INSURANCE CORPORATION  
AS OF  
DECEMBER 31, 2001

DATE OF REPORT

MAY 15, 2003

EXAMINER

ROBERT A. VARGAS

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

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

May 15, 2003

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

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment No. 21954 dated November 18, 2002, attached hereto, I have made an examination into the condition and affairs of the Monroe Title Insurance Corporation as of December 31, 2001 and submit the following report thereon.

The examination was conducted at the Company's home office located at 47 West Main Street, Rochester, New York 14614.

Whenever the term "Company" appears herein, it should be understood to indicate the Monroe Title Insurance Corporation.

Whenever the term "Department" appears herein, it should be understood to indicate the New York Insurance Department.

## 1. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 1996. The current examination covers the five-year period from January 1, 1997 through December 31, 2001. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2001, a review of income and disbursements and company records deemed necessary to accomplish such analysis or verification and utilized to the extent deemed appropriate, work performed by the Company's independent certified public accountants. A review or audit of the following items was conducted as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of Company
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Territory and plan of operation
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements
- Market conduct activities

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 organized in 1922 as the Central New York Title Guaranty Company with an authorized capital of \$150,000. On August 31, 1939, the corporate name was changed to Monroe Abstract and Title Corporation. Effective January 1, 1993, the corporate name was changed to Monroe Title Insurance Corporation.

The Company's authorized capital stock consists of 3,000,000 shares of common stock with a par value of \$1.25 per share and 250,000 shares of preferred stock with a par value of \$5 per share. At December 31, 2001, paid in capital totaled \$1,500,000 consisting of 1,200,000 shares of common stock issued, of which 1,163,418 shares are outstanding. The balance of 36,582 shares represents treasury stock.

### A. Management

Pursuant to the Company's charter and by-laws, the management of the Company is vested in a board of directors consisting of not less than thirteen nor more than thirty members. As of the examination date, the board of directors was comprised of twenty-one members. As provided for in the by-laws of the Company, the board held its annual meetings in May or June and schedules regular meetings at such times as the board determines.

The directors as of December 31, 2001, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Barry C. Balonek Rochester, NY	Vice President, Monroe Title Insurance Corporation
G. Gary Berner Buffalo, NY	Senior Vice President, First Niagara Bank
Richard B. Dopkins Buffalo, NY	Partner, Hodgson, Russ, Andrews, Woods & Goodyear
Mark R. Foerster Pittsford, NY	Attorney, Wilmore, Inc.
Bernard A. Frank Rochester, NY	Partner, Forsyth, Howe, O'Dwyer, Kalb & Murphy, PC
James W. Fulmer LeRoy, NY	President, Tompkins Trustco, Inc.
Fred C. Goodwin, III Rochester, NY	Attorney and Counsel, Nixon, Peabody Law Firm
Charles R. Greiner Bridgeport, NY	Attorney
Stephen L. Johnson Fayetteville, NY	Partner, Bond, Schoeneck & King
Maureen P. Lamb Rochester, NY	Attorney
David A. Lee DeWitt, NY	Attorney, Hiscock & Barclay
William J. Magavern, Jr. Eden, NY	Attorney, Magavern, Kanaley, Rich & Bencini, LLP
Douglas W. Marky East Aurora, NY	Attorney, Hall, Ricketts, Marky & Gurbaki

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Thomas P. Moonan Pittsford, NY	Chairman of the Board and President, Monroe Title Insurance Corp.
Thomas A. Podsiadlo Penn Yan, NY	Vice President-Finance and Treasurer, Monroe Title Insurance Corp.
C. Daniel Shulman Fayetteville	President, Shulman, Curtin, Grunder & Regan, PC
Leland B. Taylor Cortland, NY	Partner, Pomeroy, Armstrong, Baranello & Casullo
Samuel O. Tilton Rochester, NY	Partner, Woods, Oviatt, Gilman, Sturman & Clarke
Alan S. Wexler East Amherst, NY	Partner, Lippes, Silverstein, Mathias & Wexler
Mitchell T. Williams Rochester, NY	Partner, Williams and Williams
Frederick A. Wolf East Aurora, NY	Partner, Saperston and Day

The minutes of all meetings of the board of directors and committees thereof held during the examination period were reviewed. All board meetings held during the examination period were well attended.

At December 31, 2001, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Thomas P. Moonan	Chairman of the Board/President
Barry C. Balonek	Vice President, Underwriting/Secretary
Thomas A. Podsiadlo	Vice President, Finance/Treasurer

B. Territory and Plan of Operation

The Company is organized pursuant to Article 64 of the New York Insurance Law. Based upon the line of business for which the Company is licensed, its current capital structure, and pursuant to the requirements of Article 64 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$1,500,000. The Company operates exclusively in the state of New York and maintains branch offices in several upstate New York locations.

Title Insurance

The Company issues title insurance policies guaranteeing marketable title both to purchasers of real estate and to lending institutions providing mortgages on real estate. Such policies guarantee that at the time of the transaction, the real estate is free and clear from any encumbrances that would prohibit the conveyance of title. If any possible lien might exist, usually on the part of the seller, the amount in question is required to be placed in escrow until the lien is cleared. The Company acts as escrow agent for such funds.

Attorneys request title insurance policies for clients purchasing real estate. The insurance becomes effective upon the closing of the transaction. The Company has agents and examining counsel authorized to bind the Company to risks.

Abstract Operations

The Company's title officers perform title, tax and court searches as requested by customers. Such searches provide the basis for determining whether or not title to real estate is clear and may be conveyed. Searches are performed in connection with the issuance of the Company's title insurance policies or as a service when no Company policy is issued. The Company charges customers for the specific types of searches performed distinct from any premium charges related to title insurance policies.

C. Reinsurance

The Company assumes business from other title insurers and it cedes portions of risks written directly by it to authorized title insurers, both on a facultative basis. It uses the standard American Land Title Association (“ALTA”) facultative reinsurance agreement. The maximum amount assumed or retained is \$5,000,000.

The ALTA contracts were reviewed and were found to contain the required standard clauses including insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.

A review of all ceded contracts in effect as of December 31, 2001, indicated that 100% of the reinsurance was with authorized reinsurance companies.

The Schedule F data contained in the Company’s annual statements for the years within the examination period was found to accurately reflect its reinsurance transactions.

D. Holding Company System

The Company is not part of a holding company system as such term is defined in Article 15 of the New York Insurance Law and is therefore not required to make any filings required by Department Regulation No. 52. However, pursuant to Section 6406(b)(6) of the New York Insurance Law, the Company controlled the following subsidiaries at December 31, 2001:

Monroe-Allegany Title Agency, Inc. (“MAT”), was incorporated as a for-profit corporation under the Business Corporation Law of New York State in 1996. The Company contributed \$40,000 in capital and has a 51% ownership in this corporation. MAT operates as the exclusive agent of the Company in Allegany and Cattaraugus counties.

Monroe-Tompkins-Watson Title Agency, LLC (“MTW”), was formed by the Company in January 1997. The Company contributed \$18,000 in capital and has a 60% ownership in this corporation. MTW operates as a non-exclusive agent of the Company in Tompkins county.

Monroe-Madison Title Agency, LLC (“MMTA”), was formed by the Company in July 1997. The Company contributed \$430,000 in capital and has a 100% ownership in this corporation. MMTA operates as a non-exclusive agent of the Company in Madison and Oneida counties.

Monroe-Genesee Country Title Agency, LLC (“MGC”), was formed by the Company in October 1997. The Company contributed \$200,000 in capital and has a 100% ownership in this corporation. MGC operates as a non-exclusive agent of the Company in Genesee and Orleans counties.

Monroe-Gorman Title Agency, LLC (“MGT”), was formed by the Company on September 1, 2000. The Company contributed \$13,150 in capital and has a 60% ownership in this Corporation. MGT operates as a non-exclusive agent of MTIC.

The Company performs administrative services for its subsidiaries in accordance with formal operating agreements.

E. Significant Operating Ratios

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 related loss expenses incurred	\$ 716,512	0.87%
Operating expenses incurred	78,542,615	95.23
Operating gain (loss)	<u>3,220,402</u>	<u>3.90</u>
Total operating income earned	<u>\$82,479,529</u>	<u>100.00%</u>

F. Segregated Funds Held for Others

As of December 31, 2001, the Company segregated \$2,824,776, as custodial funds in a special account, excluded from the Company's assets and liabilities.

At title closings, the Company takes escrow funds whenever there exists unpaid or accrued amounts such as real estate taxes, judgements, or liens against the insured property.

In regard to the Company's fiduciary responsibility for such funds, a review was made of the underlying escrow agreements to ascertain if the Company was fulfilling its contractual obligations. This review revealed that timely action is being taken by the Company to dispose of title objections and refund balances.

G. Abandoned Property Law

During the period covered by this examination, the Company has made the appropriate filings as required by Section 1316 of the New York Abandoned Property Law.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the Company's assets, liabilities and surplus as determined by this examination as of December 31, 2001 and is the same as that reported by the Company in its filed Annual Statement as of December 31, 2001:

<u>Assets</u>	<u>Assets</u>	Not-Admitted <u>Assets</u>	Net-Admitted <u>Assets</u>
Bonds	\$8,394,256	\$	\$8,394,256
Common stocks	5,291,601		5,291,601
Real estate	1,363,149		1,363,149
Cash and Short-term investments	2,385,139		2,385,139
Other invested assets	639,065		639,065
Title plants	391,240		391,240
Title insurance premiums and fees receivable	1,134,247	335,626	798,621
Federal income taxes recoverable	187,000	187,000	
Electronic data processing equipment	218,147	36,403	181,744
Interest, dividends and real estate income due and accrued	126,013		126,013
Receivable from parent, subsidiaries and Affiliates	58,205		58,205
Other assets non admitted	160,960	160,960	
Aggregate write-ins for other than invested assets	<u>166,151</u>	<u>166,151</u>	<u>                    </u>
Total assets	<u>\$20,515,173</u>	<u>\$886,140</u>	<u>\$19,629,033</u>

<u>Liabilities</u>	<u>Amount</u>
Known claims reserve	\$321,100
Statutory premium reserve	4,881,049
Other expenses	2,006,136
Taxes, licenses and fees	20,657
Federal and foreign income taxes (excluding deferred taxes)	127,751
Borrowed money	407,539
Dividends declared and unpaid	698,051
Premiums and other consideration received in advance	379,849
Amounts withheld or retained by company for account of others	<u>48,683</u>
 Total liabilities	
 <u>Surplus and Other Funds</u>	 \$8,890,815
Receivable from ESOP	\$(55,650)
Unearned compensation	(381,279)
Common capital stock	1,500,000
Unassigned funds (surplus)	10,092,668
Less treasury stock, at cost	<u>(417,521)</u>
 Surplus as regards policyholders	 <u>10,738,218</u>
 Total liabilities and surplus	 <u>\$19,629,033</u>

Note: The Internal Revenue Service has examined the Company for the period ending December 31, 1996. The examiner is unaware of any potential exposure of the Company to any further federal tax assessment and no liability has been established herein relative to such contingency.

B. Operations and Investment Exhibit

Surplus as regards policyholders increased \$976,457 during the five-year period, January 1, 1997 to December 31, 2001 detailed as follows:

Statement of Income

Operating Income

Title insurance premiums earned	\$51,454,247	
Other title fees and service charges	30,099,486	
Other operating income	<u>925,796</u>	
Total operating income		\$82,479,529
Deductions:		
Losses and loss adjustment expenses incurred	\$ 716,512	
Operating expenses incurred	<u>78,542,615</u>	
Total operating deductions		<u>79,259,127</u>
Net operating gain		\$3,220,402

Investment Income

Net investment income earned	\$2,562,182	
Net realized capital gains	<u>3,513,870</u>	
Net investment gain		<u>6,076,052</u>
Net income before federal income taxes		\$9,296,454
Federal income taxes incurred		<u>2,194,918</u>
Net income		<u>\$7,101,536</u>

Capital and Surplus Account

Surplus as regards policyholders, as of December 31, 1996, per report on examination			\$9,761,761
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$7,101,536	\$	
Net unrealized capital losses		712,502	
Change in non-admitted assets		207,784	
Dividends to stockholders		5,030,367	
Change in treasury stock		347,626	
Receivable from employee stock option plan	303,544		
Unearned compensation	<u>                    </u>	<u>130,344</u>	
Total gains and losses	<u>\$7,405,080</u>	<u>\$6,428,623</u>	
Net increase in surplus as regards policyholders			<u>976,457</u>
Surplus as regards policyholders as of December 31, 2001, per report on examination			<u>\$10,738,218</u>

#### **4. KNOWN CLAIMS RESERVE**

The examination liability of \$321,100 is the same as the amount reported by the Company as of the examination date. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based upon statistical information contained in the Company's internal records and in its filed annual statements. The Company's reserve as of December 31, 2001 was found to be adequate.

#### **5. STATUTORY PREMIUM RESERVE**

The examination reserve of \$4,881,049 is the same as the amount reported by the Company in its December 31, 2001 annual statement. The reserve was calculated based on a formula pursuant to Section 6405(a) of the New York Insurance Law.

#### **6. MARKET CONDUCT ACTIVITIES**

In the course of this examination, a review was made of the manner in which the Company conducts its business practices and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the generally more precise scope of a market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau.

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

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

No problem areas were encountered.

## 7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report contained four comments and recommendation as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Custodial Agreements</u>	9
<p>It was commented that the Company's custodial agreements lacked many of the protective covenants and safeguards that are deemed necessary.</p> <p>The Company has amended the custodial agreements to include the protective covenants and safeguards deemed necessary.</p>	
B. <u>Accounts and Records</u>	10-11
<p>It was recommended that the Company comply with the annual statement instructions in the preparation of its future filed financial statements.</p> <p>The Company complied with this recommendation.</p>	
C. <u>Home Office Rent</u>	11
<p>It was recommended that the Company charge itself an adequate amount of rent for the occupancy of its real estate.</p> <p>The Company complied with this recommendation.</p>	
D. <u>Federal Income Taxes</u>	12
<p>The Company should abide by the provisions of Circular Letter No. 33(1979) if the Company files consolidated taxes in the future.</p> <p>The Company did not file consolidated federal income taxes during the period of this examination.</p>	

## 8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

There are no comments or recommendations.

Respectfully submitted,

\_\_\_\_\_/S/\_\_\_\_\_  
Robert A. Vargas  
Senior Insurance Examiner

STATE OF NEW YORK)  
                                  )SS.  
                                  )  
COUNTY OF              )

ROBERT A. VARGAS, being duly sworn, deposes and says that the foregoing report submitted by him is true to the best of his knowledge and belief.

\_\_\_\_\_/S/\_\_\_\_\_  
Robert A. Vargas

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

Appointment No. 21954

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Robert Vargas**

as proper person to examine into the affairs of the

**MONROE TITLE INSURANCE CORPORATION**

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

**Corporation**

with such other information as she 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 18<sup>th</sup> day of November, 2002



  
GREGORY V. SERIO  
Superintendent of Insurance