

**REPORT ON EXAMINATION**

**OF**

**PECONIC LANDING AT SOUTHOLD, INC.**

**AS OF**

**DECEMBER 31, 2008**

**DATE OF REPORT**

**NOVEMBER 16, 2010**

**EXAMINER**

**EDOUARD MEDINA**

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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

November 16, 2010

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

Sir:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 30388, dated October 8, 2009, attached hereto, I have made an examination into the condition and affairs of Peconic Landing at Southold, Inc., a not-for-profit Continuing Care Retirement Community licensed pursuant to the provisions of Article 46 of the New York Public Health Law, as of December 31, 2008, and respectfully submit the following report thereon.

The examination was conducted at the home office of Peconic Landing at Southold, Inc., located at 1500 Brecknock Road, Greenport, NY.

Wherever the designations, the “Community” or “Peconic Landing” appear herein, without qualification, they should be understood to indicate Peconic Landing at Southold, Inc.

Wherever the designation, the “Department” appears herein, without qualification, it should be understood to indicate the New York State Insurance Department.

### **1. SCOPE OF THE EXAMINATION**

The previous examination was conducted as of December 31, 2005. This examination covers the three-year period from January 1, 2006 through December 31, 2008. 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, 2008, in accordance with generally accepted accounting principles (GAAP), as modified by the Department pursuant to Department Regulation No. 140 (11 NYCRR 350), a verification of assets and liabilities as of December 31, 2007 the latest actuarial balance sheet available as of December 31, 2008, as modified by the Department pursuant to Department Regulation No. 140, a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Community’s independent certified public accountants.

A review was also made of the following items:

- Community documents
- Compliance with by-laws
- Board of directors' meeting minutes
- Financial documents
- Occupancy levels

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.

A review was also made to ascertain what actions were taken by the Community with regard to comments and recommendations contained in the prior report on examination.

## **2. DESCRIPTION OF THE COMMUNITY**

Peconic Landing is a Continuing Care Retirement Community (CCRC) as defined in Article 46 of the New York Public Health Law. The Community received a Certificate of Authority from the New York State Continuing Care Retirement Council effective July 31, 1998. The Community commenced operations on August 15, 2002.

Peconic Landing is organized as a cooperative life care community and offers a range of services including: independent living, enriched housing (assisted living) and full-time skilled nursing units.

Residents of the independent living units pay an entrance health care reserve fee, purchase shares in Peconic Landing Housing Association Cooperative, Inc. (the “Co-operative”) and enter into a Care Agreement Contract (life care contract), under which such residents have the right to occupy an independent living unit for the remainder of their life, or until such time as they need to be transferred to enriched housing units or to the skilled nursing units. The enriched housing units and skilled nursing units may be occupied by individuals who are not residents with life care contracts and who make payments on a per-diem basis. However, life care contract residents have priority access to enriched housing units and the skilled nursing unit facilities.

Residents pay monthly fees related to their occupancy of an independent living unit, enriched housing unit, or a skilled nursing unit, according to a care and subscription agreement entered into by Peconic Landing, the Co-operative and the residents. If the care and subscription agreement is terminated within the first 90 days of occupancy, the health care reserve fee is fully refundable. Subsequent to 90 days, the amount of the refundable health care reserve fee is reduced by a four percent (4%) processing fee, and an additional two percent (2%) fee per month of occupancy. No refunds are made after 48 months of occupancy.

The Community consists of 250 independent living units, 26 enriched housing beds, 44 nursing beds, dining rooms, common areas and a kitchen area that supports the operation of the dining services.

It was noted that the Community, in April 2010, implemented on a limited basis, an alternative to its residents' meal plan as outlined in the Community's Care Agreement, without the prior approval of the Superintendent of Insurance.

Section 4608 of the New York Public Health Law states in part:

“...A continuing care retirement contract shall contain all of the following information in no less than twelve point type and in plain language, in addition to any other terms or matter as may be required by regulations adopted by the council and issued by the superintendent...

15. A statement that any amendment to the contract and any change in fees or charges, other than those within the guidelines of an approved rating system, must be approved by the superintendent of insurance...”

The current residents' agreement which was approved by the Department of Health in August 1998 provides for the Community to provide each resident with one meal for each day of the month. A new plan, implemented in the first quarter of 2010, entitled, “Choice Dining Program”, provides, among other changes to the established meal plan, for monetary “credits” to be issued to each resident's account that can be used for meals at any meal period during a day or month, including use by a guest of the member. According to this meal plan, if all credits are used prior to the end of a month, the member will be billed for meals not covered by this meal plan.

It is recommended that the Community comply with the requirements of Section 4608 of the New York Public Health Law and refrain from implementing changes to the Community's contract (e.g., an alternative meal plan) with its residents prior to the Community receiving approval for such change to its resident care contract from the Superintendent of Insurance.

The Community subsequently submitted the alternative meal plan to the New York State Departments of Health and Insurance on March 25, 2010. Such alternative meal plan was approved by both Departments on April 5, 2010.

A. Management and Controls

Pursuant to the Community's charter and by-laws, management of the Community is to be vested in a board of directors composed of no less than seven members. As of December 31, 2008, the Community's board of directors was comprised of the following ten (10) members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Luke Babcock Sag Harbor, NY	Employee, Saybrook Capital, LLC
Paul J. Connor III Mattituck, NY	President & CEO, Eastern Long Island Hospital
Thomas B. Doolan Southold, NY	President & CEO, Southampton Hospital
Gregory N. Ferraris Sag Harbor, NY	Co-Chair Finance Committee, Banducci, Katz & Ferraris, LLP
Robert T. Goldman New Suffolk, NY	Employee, Capital Cities/ABC, Inc.
Alice Hussie Southold, NY	Owner, Alice Hussie Real Estate
Rev. Peter M. Larsen Southampton, NY	Member of the Clergy, St. John Episcopal Church
John M. May Southold, NY	Chairman/Treasurer/Consultant, Peconic Landing at Southold, Inc.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Sandra Novick Southold, NY	Employee, Bridgehampton National Bank
Rosamond Phelps-Baiz Southold, NY	Owner, The Old Fields Vineyards

In 2009, Thomas McCarthy and Edward W. Webb II were elected to the Community's board. Such elections brought the number of board members to twelve (12) members.

Pursuant to its by-laws, the Community's board is required to meet once each year for an annual meeting, but may hold special meetings as desired. At least four (4) meetings were held during each year of the examination period. A review of the minutes of board meetings of the Community held during the examination period indicated that three (3) board members, attended less than 50% of the board meetings that they were eligible to attend. It is noted that the three board members were active with regard to board committee meetings and other Community activities during the examination period.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the Community. Members who fail to attend at least one-half of the board's regular meetings that they were eligible to attend, unless appropriately excused, do not fulfill such criteria.

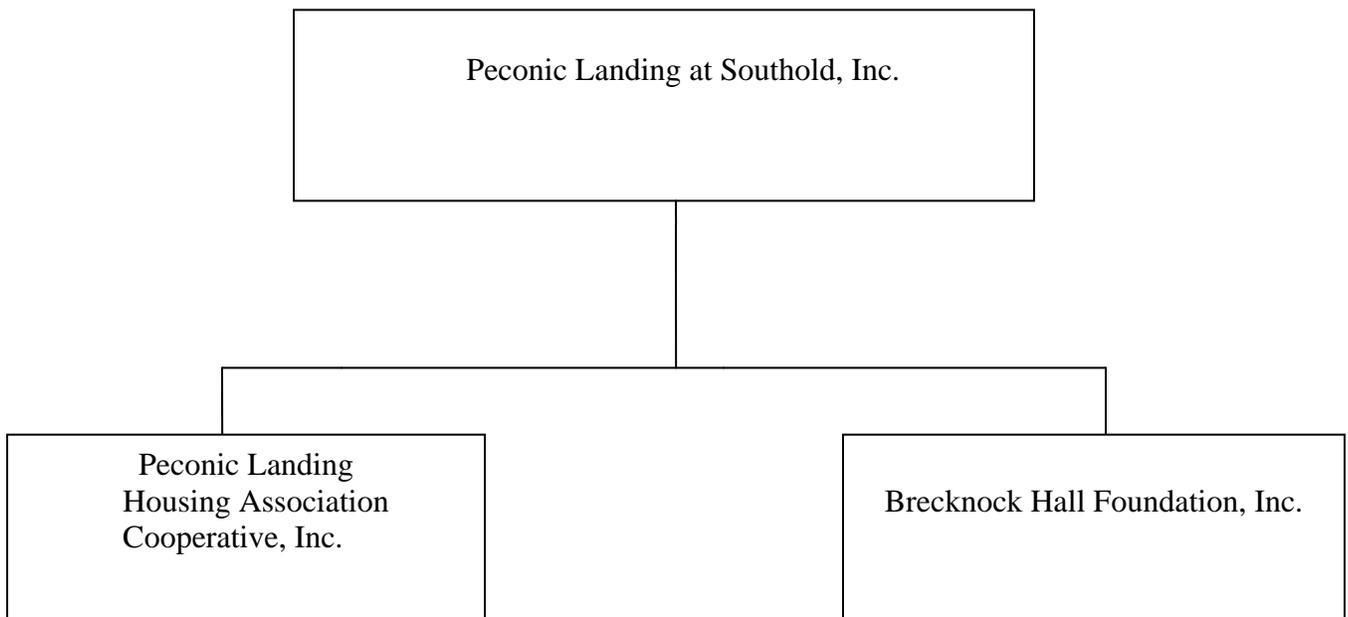
It is recommended that board members attend board meetings consistently to set forth their views on relevant matters so that appropriate policy decisions may be reached by the board.

The principal officers of the Community as of December 31, 2008, were as follows:

<u>Name</u>	<u>Title</u>
Robert Syron	Chief Executive Officer
Steven Carroll	Chief Financial Officer
John May	President and Treasurer

B. Holding Company System

The following is a chart of the Community's holding company system as of December 31, 2008:



Peconic Landing Housing Association Cooperative, Inc. (the “Cooperative”) is a co-operative corporation formed by the members of the Peconic Landing board of directors pursuant to the provisions of the New York Cooperative Corporations Law, to provide cooperative housing units to Community members who purchase shares in the Cooperative and enter into Care Agreements with Peconic Landing at Southold, Inc. As such, the independent living units are owned as cooperative housing by the Community’s residents.

Peconic Landing, pursuant to a long term lease agreement (the “Agreement”), leases a portion of its real property to the Co-operative for the cooperative residential portion of the Community. The Cooperative owns the improvements on the leased premises, which include cooperative housing units used for the independent housing component of the Community.

Pursuant to the Agreement, upon commencement of the lease term, the Cooperative has agreed to pay, before delinquency, all charges for utilities, including, but not limited to: gas, electricity, light, heat, water, power and telephone or other communication service used, rendered or supplied, upon or in connection with the leased premises and the residential improvements. The Agreement was included as part of the initial Peconic Landing Disclosure Statement and Plan of Organization and was approved by the Department of Health in August 1998.

According to the terms of the Agreement, the residential improvements, as mentioned previously in this report on examination, are the property of the Cooperative, and Peconic Landing shall not have the right to remove said residential improvements from the leased properties without the Cooperative's prior written consent.

Also according to the Agreement, the Cooperative is responsible for the payment of all real property taxes and all necessary repairs and replacements to keep the residential area, the parking area, the sidewalks and the curbs maintained.

Brecknock Hall Foundation, Inc. (the "Foundation")

Under the previous Stewardship Agreement made between Peconic Landing at Southold, Inc. ("Licensor") and the Brecknock Hall Foundation, Inc. ("Steward"), effective July 1, 2005, Peconic Landing granted to the Steward a license for the purpose of maintaining, repairing, improving and operating the historic structure of Brecknock Hall, which is a 19<sup>th</sup> century stone architecture located on the grounds of Peconic Landing at Southold, Inc. However, it was noted that according to the agreement, the facilities, including Brecknock Hall, remain the property of Peconic Landing at Southold, Inc.

The Brecknock Hall Foundation, Inc. is financed by outside donations and loans from Peconic Landing. The initial loan in the amount of \$200,000, was made by Peconic Landing to the Foundation on December 1, 2007, in accordance with a promissory note for such amount. The total aggregate loan amount due to Peconic Landing from the

Foundation was \$215,500 and \$365,232 as of December 31, 2008 and May 7, 2010, respectively.

In August 2009, subsequent to the examination period, the Stewardship Agreement was revised. The revised agreement establishes a framework within which Brecknock Hall will be maintained and promoted as a historic landmark, while being used for activities that will benefit Peconic Landing and the North Fork, Long Island area of New York State community, while generating funds to contribute to the preservation, protection and operation of Brecknock Hall.

Under this revised agreement, Peconic Landing will own, operate, and take full responsibility for promoting, marketing, operating, financing and maintaining Brecknock Hall.

According to the revised agreement, the Chairperson of Peconic Landing's board maintains approval of the appointment of the Brecknock Hall Foundation, Inc. board Chairperson. The CEO of Peconic Landing is also appointed as a voting member of the Brecknock Hall Foundation, Inc. board. Brecknock Hall has been designated as a site for community and private activities, for cultural events, for offices and for lodging.

The Community did not submit the revised Stewardship Agreement to the New York Department of Health for review, as required by Part 901.10(d) (10 NYCRR 901.10(d)) of the Administrative Rules and Regulations of the New York Department of Health, which states in part:

“(d) A governing body wishing to enter into a management contract shall submit a proposed written contract to the department upon submission of a Certificate of Authority application in accordance with section 900.3(c)(13) or a governing body entering a new management contract or revising a management contract subsequent to the issuance of a certificate of authority shall submit a copy of the contract with the submission of the disclosure statement in accordance with section 901.9(a)(2)...”

It is recommended that the Community submit its revised Stewardship Agreement with the Brecknock Hall Foundation, Inc. to the New York Department of Health for review, as required by Part 901.10(d) (10 NYCRR 901.10(d)) of the Administrative Rules and Regulations of the New York Department of Health.

C. Occupancy Rates

The occupancy rates for the years covered by the examination and the first three quarters of 2009 were as follows:

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009 (first three quarters)</u>
Independent Living	96.0%	98.0%	98.0%	97.0%
Enriched Housing	96.2%	96.2%	88.1%	72.5%
Skilled Nursing	95.1%	90.3%	94.0%	96.6%

The Community’s most recent actuarial report for the period ending December 31, 2007 states in part:

“...In order for the Community to remain an on-going concern an assumption is made that it be able to market and maintain a 95% occupancy level in the Independent Living Units, 96.2% in Enriched Housing, and 93.2% occupancy in the Skilled Nursing Facility over the next 10 years..”.

With reported occupancy levels of 88.1% and 72.5% for the years 2008 and 2009, respectively, the table above indicates that the Enriched Housing component is significantly below the recommended occupancy rate level, determined by the Community's actuary.

It is recommended that the Community continue to strive to increase its occupancy rates in accordance with its actuarial consultant's recommendations, particularly with regard to its Enriched Housing Units.

D. Disaster Recovery Plan

It was noted that the transportation procedures for the evacuation of residents were not included in the Community's Emergency Procedures Manual.

It is recommended that the Community include specific transportation procedures for the evacuation of its residents within its Emergency Procedures Manual.

E. Custodial Agreement

The Community does not maintain custodial agreements that safeguard its investments that are held in banking institutions. The Department is cognizant of the fact that certain Company investments are held with an existing bank trustee approved pursuant to the Community's bond indenture. Therefore, the Community is limited in its

ability to retroactively amend the bank trustee documents that were established under the initial bond financing arrangement. However, for its other investments that are not held in bank trustee accounts established pursuant to the bond indenture and where the Community's investments are held via regular depository agreements directly with the banks, the Community does not have the same restrictions as with the bank trustee accounts. Therefore, relative to the Community's non-trustee accounts, the Department recommends that the Community enter into Custodial Agreements with any applicable banking institution, which contain, at the minimum, the following protective covenants and provisions, (as indicative of a prudent business practice):

1. The bank shall have in force, for its own protection, Bankers Blanket Bond Insurance of the broadest form available for commercial banks and will continue to maintain such insurance. The bank will give the Community 60 days written notice of any material change in the form or amount of such insurance or termination of this coverage.
2. The bank shall at all times give the securities held by the bank the same care the bank gives its own property of a similar nature.
3. The bank shall furnish the Community (at least quarterly) with a list of such securities showing a complete description of each issue, which shall include the number of shares or par value of bonds so held at the end of each quarter.
4. The bank shall maintain records sufficient to verify information the Community is required to report in the annual statement blanks of the Insurance and Health Departments of the State of New York.
5. The bank shall furnish the Community with the appropriate affidavits in an acceptable form in order for the securities referred to in such affidavits to be recognized as assets of the Community.
6. Access shall be during the bank's regular hours. Those persons who shall be entitled to examine, on the bank's premises, securities held by the bank and the bank records related to those securities, shall be specified. An authorized officer shall furnish the bank with written instructions to that effect.
7. Written instructions hereunder shall be signed by any two of the Community's authorized officers specified in a separate list for this purpose which will be furnished to the bank from time to time signed by an officer and certified under the corporate seal by

an officer.

8. In connection with any situation involving registration of securities in the name of a nominee of a bank custodian, the custodian agreement should empower the bank to take such action.

9. There should be a provision in the agreement that would give the Community the opportunity to secure the most recent report on the review of the custodian's system of internal controls, pertaining to custodian record keeping, issued by internal control (and/or) pertaining to custodian record keeping, issued by internal or independent auditors.

It is recommended that with regard to the Community's investments that are not held pursuant to a bond indenture, the Community establish custodial agreements with the financial institutions that safeguard its investments and include the above enumerated protective covenants and provisions in those agreements.

F. Accounts and Records

During the course of the examination, it was noted that the Community's treatment of certain items was not in accordance with statutory accounting principles or annual statement instructions. A description of such items is as follows:

1. Minimum Liquid Assets Requirement

Although the Community did perform appropriate annual testing relative to Part 350.6(a)(4) of Department Regulation 140, the Community's quarterly testing, made to

ensure that it maintained adequate liquid assets to conform with the requirements of its bond covenants, did not fully comply with the minimum liquid testing requirements of Part 350.6(a)(4) of Department Regulation No. 140 (11 NYCRR 350.6(a)(4)), which states in part:

“... (4) A continuing care retirement community shall, within 30 days of the end of each fiscal quarter, test whether it meets the requirements of paragraphs (1) and (2) of this subdivision. Documentation of the testing and results shall be maintained with the community's business records. The continuing care retirement community shall immediately notify the superintendent if the requirements of paragraphs (1) and (2) of this subdivision are not met. Within 30 days following such notification, the continuing care retirement community shall submit to the superintendent a report setting forth in detail, the reasons for not meeting the requirements and the specific action steps to be adopted to achieve the requirements of paragraphs (1) and (2) of this subdivision.”

It is recommended that the Community comply with the quarterly testing and documentation requirements relative to the minimum liquid assets requirements of Part 350.6(a)(4) of Department Regulation No. 140.

## 2. Accounts Receivable

The Community reported as an admitted asset on its actuarial balance sheet, an amount receivable, applicable to a Medicaid account in the amount of \$18,021, which was due for more than 365 days as of the examination date.

Furthermore, the Community reported as an admitted asset on its actuarial balance sheet, amounts receivable for skilled nursing fees from various residents in the amount of \$89,360. This amount was noted as due in excess of 90 days as of the examination date.

Section 350.6(c)(7) of Department Regulation No. 140 (11 NYCRR 350) states in part:

“accounts receivable subject to the restrictions that they are expected to be paid and not more than: (i) 90 days overdue when the payor is not a government agency;and (ii) 12 months overdue when the payor is a government agency;”

It is recommended that the Community comply with the requirements of Part 350.6(c)(7) of Department Regulation No. 140 and report on its actuarial balance sheet, as admitted assets, government receivables that are due within 365 days and non-government receivables that are due within 90 days of the examination date.

G. Conflict of Interest

A review of the Community’s Code of Ethics and its Conflict of Interest Statements that are required to be prepared by the Community’s board members and officers revealed that the Community did not receive Conflict of Interest Statements from three of its board members and two of its officers in 2008.

It is not sufficient merely to adopt a conflict of interest program, since to be effective and to avert occurrences of conflict, the Community must adopt procedures to ensure compliance with the established program.

It is recommended that, as a prudent business practice, the Community follow its formal conflict of interest reporting procedures relative to its directors, officers and employees.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and actuarial surplus as determined by this examination as of December 31, 2007. It is the same as the actuarial balance sheet filed by the Community, presented on a statutory accounting basis, pursuant to Department Regulation No. 140 (11 NYCRR 350).

<u>Assets</u>	<u>Examination</u>	<u>Community</u>
Cash and invested assets	\$18,224,882	\$18,224,882
Accounts receivable	3,716,354	3,716,354
Real estate related to the Community	123,202,055	123,202,055
Deferred financing costs	3,587,578	3,587,578
Deferred marketing costs	2,435,928	2,435,928
Escrow account	<u>4,034,498</u>	<u>4,034,498</u>
Total assets	<u>\$155,201,295</u>	<u>\$155,201,295</u>
<u>Liabilities</u>		
Loans	\$ 38,026,601	\$ 38,026,601
Actuarial reserve liabilities	<u>115,423,530</u>	<u>115,423,530</u>
Total liabilities	<u>\$153,450,131</u>	<u>\$ 153,450,131</u>
Actuarial surplus	<u>\$ 1,751,165</u>	<u>\$ 1,751,165</u>
Total liabilities and surplus	<u>\$155,201,296</u>	<u>\$155,201,296</u>

**Note:** It is noted that the asset values herein are reported on a statutory/actuarial basis. As such, the values differ from the certified financial statements prepared by the Community's certified public accountants.

B. Statement of Revenue and Expenses and Change in Actuarial Surplus

The statement of revenue and expenses is presented on a GAAP basis, as modified pursuant to Department Regulation No. 140, for the three-year period, January 1, 2005 through December 31, 2007:

Revenue

Residents' services	\$37,657,871	
Health care services	11,739,804	
Resident option upgrades	53,760	
Remarketing fee revenue	1,347,206	
Investment income	2,726,572	
Contributions	121,477	
Net assets released from restrictions	462,392	
Other miscellaneous revenue	<u>985,778</u>	
Total revenue		\$55,094,860

Operating expenses

Health care	\$11,278,393	
Dietary	7,594,085	
Administration and general	13,478,230	
Maintenance and security	7,032,306	
Housekeeping and laundry	2,114,559	
Depreciation and amortization	13,390,682	
Interest on loans	7,528,052	
Interest on resale of units	<u>752,515</u>	
Total operating expenses		\$ <u>65,168,822</u>
Operating loss		<u>\$(10,073,962)</u>

Changes in Actuarial Surplus

Surplus increased \$3,118,408 during the three-year period, January 1, 2005 through December 31, 2007, detailed as follows:

Surplus per report on examination, as of December 31, 2004			\$ (1,367,243)
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
GAAP basis net loss		\$ 10,073,962	
Statutory adjustment as per examination	<u>\$ 13,192,370</u>	<u>0</u>	
Net increase in surplus			<u>3,118,408</u>
Surplus per report on examination, as of December 31, 2007			<u>\$ 1,751,165</u>

#### 4. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

There were nine (9) comments and recommendations made in the prior report on examination as of December 31, 2005 (page numbers refer to the prior report on examination):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<p>1. As of December 31, 2004, the Community's required actuarial surplus, as determined using generally accepted actuarial standards and applying statutory requirements, was impaired in the amount of \$1,367,243. The Community is currently operating under a Plan of Restoration ("Plan") that was accepted by the New York Insurance Department on October 12, 2006.</p> <p><i>As of December 31, 2007 the Community was in satisfactory actuarial balance in compliance with New York Insurance Department Regulation 140.</i></p>	1,3,16,18
<p>2. It is recommended that the Community seek the New York Department of Health's approval for its Stewardship Agreement.</p> <p><i>The Community has complied with this recommendation.</i></p>	8
<p>3. It is recommended that the Community comply with Section 4609 of the New York Public Health Law relative to the issuance of refund proceeds within the time period prescribed by such section of the New York Public Health Law.</p> <p><i>The Community has complied with this recommendation.</i></p>	9
<p>4. It is recommended that the Community include specific transportation procedures for the evacuation of its residents within its Emergency Procedures Manual.</p> <p><i>The Community has not complied with this recommendation. A similar recommendation is included within this report on examination.</i></p>	10

<u>ITEM NO.</u>		<u>PAGE NO.</u>
5.	It is recommended that, as a prudent business practice, the management agreement be revised so as to state that, if insolvency of the Community (sponsor) shall occur, and in respect to all existing insolvency laws and regulations, the Manager can terminate the Management Agreement only after, at least, a ninety day notice is given to the Community.  <i>This agreement has been terminated.</i>	10
6.	It is recommended that the Community continue to put a system in place that will provide for the monitoring of the residents' Medicare and Medicare Supplement coverages on a more frequent basis.  <i>The Community has complied with this recommendation.</i>	11
7.	It is recommended that, as a prudent business practice, the Community amend its custodial agreement to include the listed safeguards and controls.  <i>The Community has not complied with this recommendation. A similar recommendation is included within this report on examination.</i>	11
8.	It is recommended that the Community exercise better care in the future, when allocating the utility expenses to the books of the Cooperative.  <i>The Community has complied with this recommendation.</i>	13
9.	It is recommended that the Community file its annual statement within the time period prescribed by Section 4607.1 of the New York Public Health Law.  <i>The Community has complied with this recommendation.</i>	13

## 5. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Resident Contract - Meal Plan</u></p> <p>It is recommended that the Community comply with Section 4608 of the New York Public Health Law and refrain from implementing changes to the Community’s contract (e.g., an alternative meal plan) with its residents prior to the Community receiving approval for such change to its resident care contract from the Superintendent of Insurance.</p> <p>The Community subsequently submitted the alternative meal plan to the New York State Departments of Health and Insurance on March 25, 2010. Such alternative meal plan was approved by both Departments on April 5, 2010.</p>	<p>5</p>
<p>B. <u>Management and Controls</u></p> <p>It is recommended that board members attend meetings consistently to set forth their views on relevant matters so that appropriate policy decisions may be reached by the board.</p>	<p>8</p>
<p>C. <u>Brecknock Hall Foundation, Inc. (the “Foundation”)</u></p> <p>It is recommended that the Community submit its revised Stewardship Agreement with the Brecknock Hall Foundation, Inc. to the New York Department of Health for review as required by Part 901.10(d) (10 NYCRR 901.10(d)) of the Administrative Rules and Regulations of the New York Department of Health.</p>	<p>12</p>
<p>D. <u>Occupancy Rates</u></p> <p>It is recommended that the Community continue to strive to increase its occupancy rates in accordance with its actuarial consultant’s recommendations, particularly with regard to its Enriched Housing Units.</p>	<p>13</p>

<u>ITEM</u>	<u>PAGE NO.</u>
E. <u>Disaster Recovery Plan</u>	
It is recommended that the Community include specific transportation procedures for the evacuation of its residents within its Emergency Procedures Manual.	14
F. <u>Custodial Agreement</u>	
It is recommended that with regard to the Community's investments that are not held pursuant to a bond indenture, the Community establish custodial agreements with the financial institutions that safeguard its investments and include the above enumerated protective covenants and provisions in those agreements.	15
G. <u>Minimum Liquid Assets Requirement</u>	
It is recommended that the Community comply with the quarterly testing and documentation requirements relative to the minimum liquid assets requirements of Part 360.6(a)(4) of Department Regulation No. 140.	16
I. <u>Accounts Receivable</u>	
It is recommended that the Community comply with the requirements of Part 350.6(c)(7) of Department Regulation No. 140 and report on its actuarial balance sheet, as admitted assets, government receivables that are due within 365 days and non-government receivables that are due within 90 days of the examination date.	17
J. <u>Conflict of Interest</u>	
It is recommended that, as a prudent business practice, the Community follow its formal conflict of interest reporting procedures relative to its directors, officers, and employees.	18

Appointment No. 30388

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, James J. Wrynn, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

**Edouard Medina**

as a proper person to examine into the affairs of the

**Peconic Landing at Southold, Inc.**

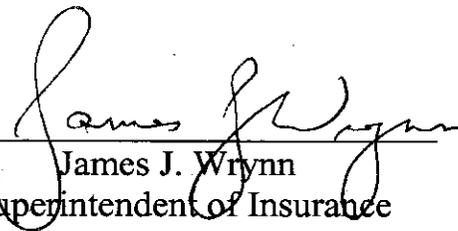
and to make a report to me in writing of the condition of the said

**CCRC**

with such other information as he shall deem requisite.

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

this 8<sup>th</sup> day of October, 2009

  
James J. Wrynn  
Superintendent of Insurance

