

REPORT ON EXAMINATION
OF THE
NATIONS TITLE INSURANCE OF NEW YORK INC.
AS OF
DECEMBER 31, 1998

DATE OF REPORT

MAY 11, 2000

EXAMINER

BERNARD LOTT

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Scope of examination	2
2. Description of Company	3
A. Management	3
B. Territory and plan of operation	6
C. Reinsurance	8
D. Holding company system	9
E. Custodian agreement	12
F. Audit engagement contracts	13
G. Conflict of interest	13
H. Abandoned Property Law	14
I. Accounts and records	14
J. Significant operating ratios	18
3. Financial statements	19
A. Balance sheet	19
B. Operations and investment exhibit	21
4. Federal income tax recoverable	22
5. Known claims reserve	22
6. Compliance with prior report on examination	23
7. Summary of comments and recommendations	25



GEORGE E. PATAKI
Governor

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

NEIL D. LEVIN
Superintendent of Insurance

May 11, 2000

Honorable Neil D. Levin
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 21442 dated July 29, 1999, attached hereto, I have made an examination into the condition and affairs of the Nations Title Insurance of New York Inc. as of December 31, 1998 and respectfully submit the following report thereon.

The examination was conducted at the administrative office of Nations Title Insurance of New York Inc., located at 15661 Redhill Avenue, Tustin, California 92780.

Wherever the designation "the Company" appears herein without qualification, it should be understood to indicate the Nations Title Insurance of New York Inc. Wherever the designation "FNFI" appears herein without qualification, it should be understood to indicate the Fidelity National Financial, Inc. Wherever the designation "Fidelity-New York" appears herein without qualification, it should be understood to indicate the Fidelity National Title Insurance Company of New York. Wherever the designation, "the Department" appears herein, without qualification, it should be understood to indicate the New York State Insurance Department.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1991. During 1997, this Department commenced an examination of the Company as of December 31, 1996. That examination found that the Company lacked certain key supporting documentation to substantiate amounts reported in its filed annual statement. This is discussed more fully in item 2I herein, "Accounts and Records". Subsequently, the examination was updated to cover the seven-year period from January 1, 1992 through December 31, 1998. Transactions subsequent to that date were reviewed where deemed appropriate by the examiner.

This examination comprised a complete verification of assets and liabilities as of December 31, 1998, a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountants. A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of the Company
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Officers' and employees' welfare and pension plans
- Territory and plan of operation
- Growth of the Company
- Business in force
- Loss experience
- Reinsurance
- Market conduct activities
- Accounts and records
- Financial statements

A review was also made to ascertain what actions were taken by the Company with regard to comments and recommendations 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

From 1989 to 1993, the Company, then named New York TRW Title Insurance of New York Inc., was a wholly-owned subsidiary of TRW Title Inc. Pursuant to a stock purchase agreement consummated January 10, 1994, Nations Holding Group purchased all of the issued and outstanding shares of TRW Title Inc. The Company subsequently changed its name to Nations Title Insurance of New York Inc.

On April 1, 1996, Fidelity New York, a wholly-owned subsidiary of FNFI, purchased 100% of the issued and outstanding common shares of the Company. This acquisition was approved by the Department.

A. Management

Pursuant to the Company's charter and by-laws, as amended, management of the Company is vested in a board of directors consisting of not less than seven (7) nor more than fifteen (15) members. As of the examination date, the board of directors was comprised of seven (7) members. The directors as of December 31, 1998, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
William P. Foley, II Santa Barbara, California	Chairman and Chief Executive Officer, Fidelity National Financial, Inc.
Joseph N. Friedman New York, New York	Senior Vice President, Nations Title Insurance of New York Inc.
Allen D. Meadows Woodland Hills, California	Chief Financial Officer and Treasurer, Nations Title Insurance of New York Inc.
Christopher J. Quintero Lynbrook, New York	Vice President, Nations Title Insurance of New York Inc.
Jonathan A. Richards New York, New York	Senior Vice President and Senior Counsel, Nations Title Insurance of New York Inc.
Frank P. Willey Corona del Mar, California	Executive Vice President, Fidelity National Financial, Inc.
Charles H. Wimer New York, New York	Executive Vice President, Nations Title Insurance of New York Inc.

The minutes of all meetings of the board of directors and committees thereof held during the examination period were reviewed. The meetings were generally well attended, however there were only three actual meetings of the board of directors, with the last held on May 16, 1995. All other board of directors' resolutions were effectuated through the unanimous written consent of directors, in place of actual board meetings.

The Company indicated that the by-laws specifically allowed it to take action by unanimous written consent in lieu of a meeting.

Section 7, ("Informal action by directors") of the Company's by-laws states:

"Where time is of the essence, but not in lieu of a regularly scheduled meeting of the Board of Directors or a Committee thereof, any action which may be taken at a meeting

of Directors or a Committee thereof may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the Directors or members of such Committee.”

It appears that the Company is in violation of its by-laws since almost all resolutions were carried out via unanimous written consent and no actual meetings have taken place in over three years, as of the examination date.

It is recommended that the Company abide by the provisions of its by-laws and utilize the unanimous written consent option as specified therein.

The examination determined that investment transactions were not being approved by the board of directors as specified in Section 1411(a) of the New York Insurance Law. Section 1411(a) of the New York Insurance Law states in part,

“No domestic insurer shall make any loan or investment, unless authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investment or loan...”

While the Company did elect an investment committee during the period covered by the current examination, a review of the board of directors' minutes did not find any reports submitted from the investment committee to the entire board for its approval.

It is recommended that the Company adhere to the provisions of Section 1411(a) of the New York Insurance Law with regard to the board of directors' approval of investment transactions.

The principal officers of the Company as of December 31, 1998, were as follows:

<u>Name</u>	<u>Title</u>
William P. Foley, II	Chairman of the Board
Patrick Stone	President
Allen D. Meadows	Chief Financial Officer and Treasurer
Ronald R. Maudsley	Executive Vice President
Andrew F. Puzder	Executive Vice President
Carl A. Strunk	Executive Vice President
Frank P. Willey	Executive Vice President
Charles H. Wimer	Executive Vice President
M'Liss Jones Kane	Senior Vice President and Secretary
Donald E. Partington	Senior Vice President and General Counsel
Jonathan A. Richards	Senior Vice President and Senior Counsel

B. Territory and Plan of Operation

At December 31, 1998, Nations Title Insurance of New York Inc. was licensed to transact the business of title insurance, as defined in paragraph 18 of Section 1113(a) of the New York Insurance Law. As of the examination date, the Company was licensed in twenty-two (22) states and one (1) additional jurisdiction as detailed below:

Connecticut	New Hampshire	Tennessee
Delaware	New Jersey	Texas
Illinois	New York	Vermont
Indiana	North Carolina	Virginia
Kentucky	Ohio	West Virginia
Maryland	Pennsylvania	Wisconsin
Massachusetts	Rhode Island	District of Columbia
Minnesota	South Carolina	

Note: On November 14, 1997 Nations Title Insurance of New York Inc. voluntarily surrendered its certificate of authority in the State of Florida.

A comparison between direct premiums written in New York and nationwide during the examination period is detailed below:

DIRECT PREMIUMS WRITTEN

<u>Year</u>	<u>New York State</u>	<u>Nationwide</u>	<u>Premiums Written in New York State as a Percentage of Nationwide Premiums</u>
1992	\$29,454,001	\$57,325,334	51.38%
1993	34,726,096	72,226,593	48.08%
1994	\$39,657,364	\$84,923,796	46.70%
1995	33,304,803	75,440,931	44.15%
1996	17,448,574	33,739,010	51.72%
1997	(2,828,792)	(6,587,999)	42.94%
1998	<u>(369,254)</u>	<u>(65,862)</u>	<u>560.65%</u>
Totals	<u>\$151,392,792</u>	<u>\$317,001,803</u>	<u>47.75%</u>

Based upon the lines of business for which the Company is licensed, the Company's 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 \$250,000.

The Company is engaged primarily in the business of issuing title insurance policies and secondarily in performing other title-related services such as escrow, collection and trust activities in connection with real estate transactions. These secondary services are provided through the Company's independent agents who issue policies on the Company's behalf.

During the period under examination, the Company maintained full service underwriting and claims regional offices located in Irvine, CA; Walnut Creek, CA; New York, NY; and Dallas, TX. In addition, business is produced through approximately two thousand six hundred (2,600) independent

agents and brokers. One hundred percent (100%) of the Company's premium income was derived from agency operations as of December 31, 1998.

C. Reinsurance

The Company assumes a relatively minor volume of business from other insurers compared to its direct writings (less than one percent). The majority of these assumptions are on a facultative basis and are non-obligatory.

All ceded reinsurance contracts effected during the examination period were reviewed. These contracts all contained an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

As of December 31, 1998, the Company had the following ceded excess of loss reinsurance program in place:

<u>Contract</u>	<u>Cession</u>
First Layer 100% authorized	\$1,000,000 excess \$1,000,000 each risk, each occurrence
Second Layer 100% authorized	\$18,000,000 excess \$2,000,000 each risk, each occurrence

The underwriting files for the aforementioned contracts were requested but never provided. The Company could not demonstrate that it kept any formal documentation of its assessment of transfer of risk related to the contracts.

It is recommended that the Company maintain documentation of its evaluation of transfer of risk for all ceded reinsurance contracts to support management's accounting positions related to these contracts in accordance with Chapter 22 of the NAIC Accounting Practices and Procedures Manual.

D. Holding Company System

FNFI is the ultimate parent in the holding company system. Members of the holding company system are detailed in Exhibit 1, appended to this report. FNFI owns 100% of the authorized, issued and outstanding shares of Fidelity-New York Inc., which in turn owns 100% of the authorized, issued and outstanding shares of the Company. William P. Foley, II is the stockholder of record for approximately 20.5% of the presently issued and outstanding shares of FNFI; no other person owns more than 5% of these shares.

Nations Title Insurance of New York Inc. (formerly known as TRW Title Insurance of New York Inc.) became a controlled insurer of Fidelity National Title Insurance Company of New York upon acquisition on April 1, 1996. Control was acquired by a stock purchase agreement with Nations Title Inc., under which FNFI agreed to purchase 100% of the stock of Nations Title Insurance of New York Inc. The acquisition was approved by the Insurance Department.

A review determined that the company made the required annual filings, as registrant, pursuant to Article 15 of the New York Insurance Law and Department Regulation 52.

Inter-company Transactions

A review of inter-company transactions noted that it was not always possible to determine if settlements between affiliates were completed in a timely manner. The Company's inter-company

account summarized its activities with affiliates. When a manual journal entry involving more than one affiliate was posted, the Company's general ledger software package created an "automatic entry" to the inter-company account. This automatic entry served to create a receivable or payable for all affiliates involved, counter-balancing the manual entry. Settlement of these inter-company transactions could occur in one of, or a combination of, three ways: either journal entry (offsets), wire transfer or by check. The Company settled "balances" and not necessarily specific invoices or transactions. Since there were no procedures in place to ensure that the inter-company account was zeroed-out at any specific time, inter-company balances or portions thereof, could remain unsettled indefinitely.

It is recommended that the Company maintain documentation to ensure that inter-company account balances are settled in a timely manner.

In addition, it is recommended that the Company modify its general ledger system to track and accumulate affiliate transactions by each affiliated company on a rolling twelve-month basis. This would enable the Company to determine if transactions exceed the reporting and prior approval thresholds as set forth in Section 1505(d) of the New York Insurance Law.

Cost Reimbursement Agreements

At December 31, 1998 the Company was a party to several "Cost Reimbursement Agreements" with affiliated entities. These agreements provided that various members of the holding company system would provide services on behalf of, or pay for services to other affiliated entities. Upon review it was disclosed that the agreements lacked certain clauses and provisions that should be added for the protection of the Company. It was noted that the agreements did not contain duration and termination clauses or a provision that shared expenses were to be allocated in a manner consistent with Department

Regulation 30. The agreements did not include provisions that services were to be provided at cost and that an inspection of records was available. Also, clear and complete reporting and settlement requirements should be included in the agreements.

Subsequent to the examination the Company revised the agreements to include some of the aforementioned provisions. These agreements, however, have not been submitted to the New York Insurance Department pursuant to Section 1505(d) of the New York Insurance Law.

It is recommended that the Company file its cost reimbursement agreements with the Insurance Department pursuant to the provisions of Section 1505(d) of the New York Insurance Law.

Expense Allocation

A review was made into the Company's overhead expense allocation procedures. Overhead expenses including those related to the aforementioned Cost Reimbursement Agreements were categorized into various cost centers and allocated, with the exception of legal expenses, based on each insurer's percentage of the combined direct premiums written for all insurers in the holding company system for the prior year. Legal expenses were allocated based on each insurer's percentage of the combined outstanding claims for all insurers in the holding company system for the prior year. Overhead expenses sampled confirmed the above allocation. All other inter-company expenses were allocated based on the particular circumstances of each individual expense. The Company had no written guidelines for the allocation of non-overhead expenses.

It is recommended that the Company prepare written guidelines for the allocation of non-overhead expenses in accordance with Regulation 30.

Tax Allocation Agreement

On March 1, 1993, the Company entered into a Tax Allocation Agreement with its parent, FNFI. Upon review it was determined that the agreement did not comply with the minimum guidelines set forth in New York's Circular Letter 33 (1979).

It is recommended that the Company amend its Tax Allocation Agreement to comply with the guidelines set forth in New York's Circular Letter 33 (1979) and submit it to the Insurance Department pursuant to Section 1505(d) of the New York Insurance Law.

Subsequent to the examination date, a revised Tax Allocation Agreement between FNFI and its subsidiaries was initiated. The Company indicated that the agreement when finalized, would be submitted to the board of directors for ratification and then submitted to the Department for approval.

E. Custodian Agreement

As of December 31, 1998, the Company's custodian agreement with United Missouri Bank lacked certain necessary safeguards, controls and protective covenants prescribed by the Insurance Department, for the custody and safekeeping of securities.

Subsequent to the examination date the Company amended the agreement and provided executed copies that included the missing safeguards, controls and protective covenants.

F. Audited Engagement Contracts

Section 89.2 of Insurance Department Regulation 118 states,

“Every insurer subject to this part shall retain an independent Certified Public Accountant (CPA) who agrees by written contract with such insurer to comply with the provisions of Section 307(b) of the New York Insurance Law, this Part and the Code of Ethics and Professional Standards adopted by the American Institute of Certified Public Accountants (AICPA)...”

The Regulation continues to list the requirements that must be specified in a contract between an insurer and its certified public accountant.

A review of the audit engagement contracts entered into between the Company and its certified public accountants, for the period covered under this examination, revealed that the contracts were not in compliance with Department Regulation 118.

It is recommended that the Company comply with the provisions of Section 89.2 Department’s Regulation 118.

G. Conflict of Interest

Nations Title Insurance of New York Inc. has a procedure to distribute conflict of interest questionnaires annually, to all officers (assistant vice-president and above) and the board of directors. The procedure requires the corporate secretary to bring any conflicts to the attention of the board. It was noted, pursuant to this examination, that the Company has not established written procedures that would permit the board to properly oversee and handle any conflicts of interest that may arise.

The Company has a fiduciary responsibility to ensure that its directors, officers and responsible employees do not use their official positions to promote any interest that is distinct from that of the Company.

It is recommended that the Company establish written procedures that detail the specific actions to be taken by the board of directors if conflicts of interest arise.

It is recommended that the Company maintain complete minutes of its proceedings on such matters.

H. Abandoned Property Law

An examination review indicated that the Company was complying with Section 1317 of the New York State Abandoned Property Law with regard to the filing of such reports.

I. Accounts and Records

As noted in Item 1, "Scope of Examination", of this report in 1997, this Department commenced an examination of the Company as of December 31, 1996. During the course of the examination, Company management was unable to provide key supporting documentation that would enable verification of certain assets reported in both the Company's filed annual statement as well as the filed annual statements of its immediate parent, Fidelity-New York and an affiliate, National Title Insurance of New York. Management's inability to provide this documentation resulted in credit being disallowed for certain assets and a determination that each of the three entities was insolvent, as follows:

<u>Company</u>	<u>Surplus to policyholders, per Draft report on examination</u>
Fidelity National Title Insurance Company of New York	\$(13,814,019)
Nations Title Insurance of New York Inc.	\$(6,472,879)
National Title Insurance of New York Inc.	\$(1,205,333)

The draft report on examination was transmitted to the Company during 1999. Company management, in its response to the draft report, stated that they could provide supporting documentation for amounts reported in its most recent annual statement. Based on management's response, the examination was updated to December 31, 1998.

The circumstances described above resulted in unnecessary cost to the Company and a strain on the Department's resources. It is recommended that in the future the Company maintain adequate documentation for all amounts reported in every statement filed with the Department.

Capital Contribution

In 1997 the Company received a \$3,000,000 capital contribution from its immediate parent, Fidelity-New York. The contribution was made in the form of a bond that had been held by Fidelity-New York as an investment. The Department approved the transaction, however, Fidelity-New York transferred the bond at the incorrect value. The Company used the bond's amortized value. Pursuant to the Department's guidelines the transaction should have been performed at the bond's current market value.

It is recommended that all future capital contributions, via the transfer of securities, be transacted at the securities' current market value. The difference between the bonds amortized value and current market value was not material to either Company's financial statement.

Cash

A review of the Company's cash noted reconciling items on bank reconciliations dated as far back as 1995, which had not been booked to the general ledger. Additionally, numerous outstanding checks, at least a year old at the examination date, had not been cashed, voided, or otherwise resolved and booked at December 31, 1998. It should also be noted that in some cases documentation supporting account balances was either inadequate or not provided. It is recommended that the Company book its cash adjustments to the general ledger in a timely manner. It is recommended that the Company research and resolve all "stale" outstanding checks. It is recommended that the Company maintain accurate and complete workpapers supporting amounts reported in its filed annual statements. It is recommended that the Company refrain from conducting business through a bank account that is not in its name and claiming the funds in this account as an admitted asset.

Agency Agreements

Agency agreements and audit reports of agents doing an insurance business on behalf of the Company in New York State were reviewed to determine whether the Company was following the contractual provisions of the agency agreements. The following exceptions were noted:

- (i) The audit reports revealed that some agents failed to maintain escrow deposits in accordance with the terms of the agency agreements.
- (ii) In some instances agents commingled escrow deposits, which were held on behalf of the Company.
- (iii) Some agents commingled funds with the escrow of other title insurers.
- (iv) The review of the audit reports also indicated that several agents failed to maintain accurate records of escrow deposits held.

With regards to premium remittances, agents routinely disregarded a clause requiring remittance of premiums on a monthly basis, and remitted premiums late.

It is recommended that the Company adhere strictly to the standard provisions of the agreements with its agents, as regards to the maintenance of escrow accounts.

It is recommended that the Company seek to ensure that the agents maintain accurate records of all escrow deposits held and that the Company seek to obtain timely remittances of escrow deposits and premiums from its agents.

Statutory Premium Reserve

While the Company did establish a reinsurance reserve, pursuant to the provisions of Section 6405(a) of the New York Insurance Law, it failed to segregate admitted assets in a manner consistent with Section 6405(c). Section 6405(c) states in pertinent part,

“The reinsurance reserve required by subsection (a) of this section shall be maintained as follows: Admitted assets of a value at least equal to the amount required for such reserve shall be continuously held by the corporation as a segregated reserve fund at all times distinct and separate from all its other assets...Securities which are part of such fund shall be kept separate from all other securities and shall be clearly identified as securities belonging to such fund...”

It is recommended that the Company separate admitted assets of a value at least equal to the amount required for the statutory premium reserve as a segregated reserve fund, pursuant to the provisions of Section 6405(c) of the New York Insurance Law.

J. Significant Operating Ratios

The operating ratios presented below are on an earned-incurred basis and encompass the seven-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses incurred	\$ 35,139,951	11%
Operating expenses incurred	310,398,435	95
Net underwriting gain(loss)	<u>(18,173,886)</u>	<u>(6)</u>
Premiums and fees earned	<u>\$327,364,500</u>	<u>100%</u>

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>EXAMINATION</u>			<u>COMPANY</u>		<u>Surplus Increase (Decrease)</u>
	<u>Ledger Assets</u>	<u>Non-Ledger Assets</u>	<u>Assets Not Admitted</u>	<u>Admitted Assets</u>	<u>Admitted Assets</u>	
Bonds	\$15,495,626	\$	\$	\$15,495,626	\$15,495,626	\$
Common stocks	50,002		2	50,000	50,000	
Mortgage loans:						
First liens	2,163,117		84,050	2,079,067	2,079,067	
Real estate	4,936,462			4,936,462	4,936,462	
Cash and short-term investments	(340,947)			(340,947)	(340,947)	
Other invested assets	12,966			12,966	12,966	
Title plants	2,756,857		1,187,965	1,568,892	1,568,892	
Title insurance premiums and fees receivable	166,199			166,199	166,199	
Federal income tax recoverable	908,596		762,669	145,927	908,596	(762,669)
Electronic data processing equipment	25,000			25,000	25,000	
Interest, dividends and real estate income due and accrued	295,796			295,796	295,796	
Receivable from parent, subsidiaries and affiliates	5,267,034		34,065	5,232,969	5,323,969	
Other assets	747,771		747,771	0		
Prepaid expenses	<u>785,810</u>		<u>785,810</u>	<u>0</u>		
Total assets	<u>\$33,270,289</u>	<u>\$ 0</u>	<u>\$3,602,332</u>	<u>\$29,667,957</u>	<u>\$30,430,626</u>	<u>\$(762,669)</u>

<u>Liabilities</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase (Decrease)</u>
Known claim reserves	\$7,451,767	\$7,451,767	\$
Statutory premium reserve	15,496,974	15,496,974	
Commissions	1,223	1,223	
Other expenses	394,052	394,052	
Taxes, licenses and fees	(184,069)	(184,069)	
Payable to parent, subsidiaries and affiliates	<u>3,325,437</u>	<u>3,325,437</u>	<u> </u>
Total liabilities	<u>\$26,485,384</u>	<u>\$26,485,384</u>	<u>\$ 0</u>
 <u>Surplus and Other Funds</u>			
Common capital stock	\$1,268,162	\$1,268,162	\$
Gross paid in and contributed surplus	14,650,005	14,650,005	
Unassigned funds (surplus)	<u>(12,735,594)</u>	<u>(11,972,925)</u>	<u>(762,669)</u>
Surplus as regards policyholders	<u>\$3,182,573</u>	<u>\$3,945,242</u>	<u>\$(762,669)</u>
Total liabilities and surplus	<u>\$29,667,957</u>	<u>\$30,430,626</u>	

NOTE:

The Internal Revenue Service has completed its audits of the consolidated tax returns filed on behalf of the Company through tax year 1994. All material adjustments, if any, made subsequent to the date of examination and arising from said audits, are reflected in the financial statements included in this report. Audits covering tax years 1995 and 1996 commenced on March 26, 1999. Except for any impact which might result from the examination changes contained in this report, the examiner is unaware of any potential exposure of the Company to any further tax assessment and no liability has been established herein relative to such contingency.

B. Operations and Investment Exhibit

Surplus as regards policyholders decreased \$4,303,399 during the seven-year examination period, (January 1, 1992, through December 31, 1998) which is detailed as follows:

Statement of Income

Underwriting Income

Premiums and fees earned		\$327,364,500
Deductions:		
Losses and loss adjustment expenses incurred	\$35,139,951	
Operating expenses incurred	<u>310,398,435</u>	
Total operating deductions		<u>345,538,386</u>
Net operating gain (loss)		\$ (18,173,886)

Investment Income

Net investment income earned	\$ 7,595,540	
Net realized capital gains	<u>770,606</u>	
Net investment gain		<u>8,366,146</u>
Net income before federal income taxes		\$ (9,807,740)
Federal income taxes incurred		<u>(5,847,134)</u>
Net income (loss)		<u>\$ (3,960,606)</u>

Capital and Surplus Account

Surplus as regards policyholders, December 31, 1991, per report on examination			\$ 7,485,972
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income or loss	\$	\$3,960,606	
Net unrealized capital gains (losses)		84,050	
Change in non-admitted assets		2,291,496	
Paid in capital	3,000,000		
Other surplus adjustments	<u> </u>	<u>967,247</u>	
Total gains and losses	<u>\$3,000,000</u>	<u>\$7,303,399</u>	
Net decrease in surplus as regards policyholders			<u>4,303,399</u>
Surplus as regards policyholders, December 31, 1998, per report on examination			<u>\$ 3,182,573</u>

4. FEDERAL INCOME TAX RECOVERABLE

The examination admitted asset of \$145,927 is \$762,669 less than the \$908,596 reported by the Company as of the examination date. The difference is due to the replacement of the receivable with the actual settlement amount received.

5. KNOWN CLAIMS RESERVE

The examination liability of \$7,451,767 is the same as that reported by the Company as of December 31, 1998. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statement.

The Company's reserve for unpaid losses and claims are based on individual case estimates for losses on claims reported to the Company as of December 31, 1998, and estimates for unreported losses based upon past experience.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

A review was made into the actions taken by the Company with regards to the comments and recommendations contained in the prior report on examination. The item letters and page numbers shown below refer to that of the prior report:

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Transfer of Assets</u>	
It is recommended that in the future the Company adhere to the provisions of Section 1505(c) of the New York Insurance Law.	9
The Company has complied with this recommendation. The Company currently obtains prior approval on the transfer of any salvage assets as required by the provisions of Section 1505(c) of the New York Insurance Law.	
B. <u>Federal Income Taxes</u>	
It is recommended that the Company submit a Federal income tax allocation agreement pursuant to Section 1505 of the New York Insurance Law and Department Circular Letter No. 33 (1979).	9
The Company has not complied with this recommendation. The Company never filed its tax allocation agreement with the Insurance Department. A similar recommendation is contained in this report.	
C. <u>Abandoned Property</u>	
It is recommended that the Company comply with the requirements of Section 1316 of the Abandoned Property Law.	11
The Company has complied with this recommendation. The Company has filed abandoned property reports in accordance with Section 1316 of the Abandoned	

<u>ITEM</u>	<u>PAGE NO.</u>
Property Law. It is noted that the requirement of title insurers filing abandoned property reports is now set forth in Section 1317 of the Abandoned Property Law, which became effective on April 15, 1993.	
D. <u>Title Plants</u>	
It was brought to the Company's attention that the value of title plants must be depreciated in accordance with Section 6404 (a) of the New York Insurance Law.	17
The Company has indicated that it would commence depreciating its title plants according to the provisions of Section 6404 (a) of the New York Insurance Law.	
E. <u>Agency Contracts</u>	
It is recommended that the Company require agents to adhere to the requirements of the agency contracts.	18
The Company has not complied with this recommendation. Although, the Company conducts audits of its agents to enforce adherence to the agency contracts with respect to the submission of monthly remittances, some agents routinely ignore the remittance provisions of the agency contracts and this results in the establishment of a premium accrual based on an estimation of agency premiums due and outstanding. A similar recommendation is contained in this report.	
F. <u>Premiums</u>	
It is recommended that the Company review its method of reporting premiums and fees receivable and calculating overdue premiums and fees, to comply with the provisions of Section 6404 (b) of the New York Insurance Law.	18
The Company has not fully complied with this recommendation. A similar recommendation is contained in this report.	
G. <u>Losses</u>	
It is recommended that the Company review its loss reserving methods.	20
The Company has complied with this recommendation. The Company indicated that the method for reserving for unpaid title losses has undergone continual improvement in documenting and setting of such reserves. They have an advanced title claim system and management feels that its approach to the setting of reserves is both diligent and proper.	

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that the Company abide by the provisions of its by-laws and utilize the unanimous written consent option as specified therein.	5
ii. It is recommended that the Company adhere to the provisions of Section 1411(a) of the New York Insurance Law with regard to the board of directors' approval of investment transactions.	5
B. <u>Reinsurance</u>	
i. It is recommended that the Company maintain documentation of its evaluation of transfer of risk for all ceded reinsurance contracts to support management's accounting positions relative to these contracts in accordance with Chapter 22 of the NAIC Accounting Practices and Procedures Manual.	9
C. <u>Holding Company System</u>	
i. It is recommended that the Company maintain documentation to ensure that inter-company account balances are settled in a timely manner.	10
ii. It is recommended that the Company modify its general ledger system to track and accumulate affiliate transactions by each affiliated company on a rolling twelve-month basis. This will enable the Company to determine if they exceed the reporting and prior approval thresholds as set forth in Section 1505(d) of the New York Insurance Law.	10
iii. It is recommended that the Company file its cost reimbursement agreements with the Department pursuant to the provisions of Section 1505(d) of the New York Insurance Law.	11
iv. It is recommended that the Company prepare written guidelines for the allocation of non-overhead expenses, which are in accordance with Regulation 30.	12
v. It is recommended that the Company amend its tax allocation agreement to comply With the guidelines set forth in New York's Circular Letter 33 (1979) and submit It to the Insurance Department pursuant to Section 1505(d) of the New York Insurance Law.	12

<u>ITEM</u>	<u>PAGE NO.</u>
D. <u>Audit Engagement Contract</u>	
It is recommended that the Company comply with the provisions of Section 89.2 of the Department’s Regulation 118.	13
E. <u>Conflict of Interest</u>	
i. It is recommended that the Company establish written procedures that detail the specific actions to be taken by the board of directors if conflicts of interest arise.	14
ii. It is recommended that the board of directors maintain complete minutes of its proceedings on such matters.	14
F. <u>Accounts and Records</u>	
i. It is recommended that in future the Company maintain adequate documentation for all amounts reported in every statement filed with the Department	15
ii. It is recommended that all future capital contributions, via the transfer of securities, be transacted at the securities’ current market value.	16
iii. It is recommended that the Company book its cash adjustments to the general ledger in a timely manner.	16
iv. It is recommended that the Company research and resolve all “stale” outstanding checks.	16
v. It is recommended that the Company maintain accurate and complete workpapers supporting amounts reported in its filed annual statements.	16
vi. It is recommended that the Company refrain from conducting business through a bank account that is not its name and claiming the funds in this account as an admitted asset.	16
vii. It is recommended that the Company adhere strictly to the standard provisions of the agreements with its agents, as regards to the maintenance of escrow accounts.	17
viii. It is recommended that the Company seek to ensure that the agents maintain accurate records of all escrow deposits held and that the Company seek to obtain timely remittances of escrow deposits and premiums from its agents.	17

ITEMPAGE NO.

- ix. It is recommended that the Company separate admitted assets of a value at least equal to the amount required for the statutory premium reserve as a segregated reserve fund, pursuant to the provisions of Section 6405(c) of the New York Insurance Law.

18

Appointment No 21443

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, NEIL D. LEVIN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Bernard Lott

as proper person to examine into the affairs of the

National Title Insurance of New York Inc.

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

Corporation

with such other information as he shall deem requisite.

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

this 29th day of July, 1999




NEIL D. LEVIN
Superintendent of Insurance