

REPORT ON EXAMINATION

OF THE

NEW YORK PROPERTY INSURANCE UNDERWRITING ASSOCIATION

AS OF

DECEMBER 31, 2002

DATE OF REPORT

APRIL 2, 2004

EXAMINER

JOSEPH REVERS

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

April 2, 2004

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 Number 22109 dated November 28, 2003 attached hereto, I have made an examination into the condition and affairs of New York Property Insurance Underwriting Association as of December 31, 2002, and submit the following report thereon.

The examination was conducted at the Association's home office located at 100 William Street, New York, New York 10016.

Wherever the designation "the Association" appears herein without qualification, it should be understood to indicate New York Property Insurance Underwriting Association.

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

## 1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1997. This examination covered the five-year period from January 1, 1998 through December 31, 2002. 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, 2002. The examination included a review of income, disbursements and association records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Association's independent 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 Association
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Association
- Business in force
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Association 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 ASSOCIATION

The New York Property Insurance Underwriting Association was organized in 1968 pursuant to the laws of the State of New York. The Association was created to provide basic property insurance (fire, extended coverage, vandalism and malicious mischief, loss of rents and business interruption) to those consumers who were unable to obtain such coverage in the voluntary market. All licensed companies, except assessment co-operatives, are required to join and accept participation on the basis of their respective shares of direct fire and extended coverage premiums written in this state, including the fire and extended coverage components of homeowners' and commercial multiple peril package policies, as computed by the superintendent. In addition, all licensed insurers shall be and remain a member of the Association as a condition of its authority to continue to transact fire and extended coverage insurance in this State. The duration of the Association is determined by Section 5402 of the New York Insurance Law and has a current expiration date of April 30, 2004.

Rating procedures are subject to approval by the Superintendent. Under the statute in effect prior to August 1, 1979, the rates in effect were based on the Association's own losses and loss expense experience. On August 1, 1979, the statute was amended so that the rates would be no greater than the specified percentages of those recommended for the voluntary market by the principal rating organization, Insurance Services Offices ("I.S.O."). A surcharge of 20% to 40% is applied to the various categories ranging from owner occupied dwelling to apartment building/mercantiles with more than eight dwellings."

During August of 1979, the law was amended to provide that the Association annually estimates its deficit from operations. If the superintendent approves such estimate, the Association shall be credited with income earned from the New York Property/Casualty Insurance Security Fund. The credit shall be an amount determined by the superintendent, which in any given year shall not exceed the income earned on the fund or the sum of \$15 million dollars, whichever is less. If a deficit still exists, members may be assessed up to one percent of net direct premiums written for the last calendar year, or the Association may be granted appropriate rate increases in the respective rate classes. If the assets of the Association exceeds its liabilities on or after November 30 in any given year, the Association will be required to reimburse the New York Property/Casualty Insurance Security Fund for amounts equal to any amount paid from such fund to the Association. Such reimbursement, however, is subject to the provisions of Article 76 and Section 5405 of the New York Insurance Law.

#### Coastal Market Assistance Program (“C-MAP”)

The Coastal Market Assistant Program is a mechanism that was created by the New York Insurance Department to assist homeowners living in New York State’s coastal areas to acquire insurance coverage. This program commenced operations on March 18, 1996. The program is scheduled for a three-year duration, and should have ended in March 1999. On March 10, 1999, C-MAP received approval from the Department to continue its operation for an additional year. The expected expiration of the current program is March 2004. C-MAP represents a group of insurers and insurance producers who have agreed to give special underwriting consideration to homeowners who are unable to obtain insurance through the voluntary market.

The program is administered by the New York Property Insurance Underwriting Association with the assistance of the Professional Insurance Agents of New York State (“PIANY”), and Independent Insurance Agents Association of New York. (“IIAANY”). The C-MAP operations are also overseen by a C-MAP steering committee. The committee is comprised of representatives from the Association, PIANY, IIAANY, participating C-MAP insurers, and the superintendent or designee. The Association is required to provide monthly progress reports to the superintendent, the speaker of the assembly, and the C-MAP steering committee, showing C-MAP’s application status and dispositions. The Association is required to absorb the expenses of administering the program.

Under the terms of the C-MAP plan of operation, the insurers participating in the program have agreed to write 5,000 homeowners policies during the life of the program. The insurers have also agreed to continue with such business pursuant to Section 3425 of the New York Insurance Law and insure these policies for a full three-year policy period.

A. Management

Pursuant to statute and the Associations’ plan of operation, the business and affairs of the Association are to be governed by a board of thirteen directors, ten of whom are elected annually by cumulative voting by the members of the Association. The remaining three directors are appointed annually by the superintendent. The appointed directors should be duly licensed insurance agents or brokers, representatives of a broad segment of the public obtaining insurance through the Association. Since the inception of the Association, it has been the practice of the membership to elect member companies’ directors and then have the elected companies select various individuals to represent the elected companies at the meetings of the board of directors.

At December 31, 2002, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Barry P. Feldman New York, NY	Vice President, Travelers Insurance Company
David A. Fazioli East Greenbush, NY	Vice President, Rose and Kiernan, Inc.
Richard J. Beidleman New Hartford, NY	Senior Vice President, Utica Mutual Insurance Company
Diane T. DeSanti Madison, NJ	Assistant Vice President, Atlantic Mutual Companies
Philip G. Geyer Ridgewood, NY	Appointed Member, Philip G. Geyer & Co., Inc.
Arthur I. Golden St. Albans, NY	Appointed Member, Golden & Golden Associates
Sandra L. Horvath Parsippany, NJ	Fire Manager, State Farm Insurance Companies
William W. Martin Wethersfield, CT	Consultant, The Hartford
Victor Mingal Buffalo, NY	Vice President, One Beacon Insurance Group
Michael W. O'Malley Warren, NJ	Vice President, Chubb & Son
Sherman Sitrin, Esq. New York, NY	General Counsel, American International Group
Frederick M. Strauss Northbrook, IL	Director, Allstate Insurance Company
Vaughn R. Surprenant Elmsford, NY	Regional Vice President, Liberty Mutual Group

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

As of December 31, 2002, the principal officers of the Association were as follows:

<u>Name</u>	<u>Title</u>
Joseph A. Calvo	President
John Rusnak	Vice President
Dennis Dee	Controller
Michael Eserner	Assistant Vice President
Kenneth M. Lang	Assistant Vice President
Robin Pollack	Assistant Vice President

B. Territory and Plan of Operation

In accordance with Section 5402 of the New York Insurance Law and with the approval of the superintendent, the Association promulgated a plan of operation. The plan of operation provides for economical, fair and non-discriminatory administration and prompt and efficient provision of fire, extended coverage and vandalism insurance. The plan of operation also provides for the management of the Association, the underwriting standards, and the policy limits of insurance coverage, which shall not exceed \$1.5 million for insurable real property or personal property thereon. The plan of operation requires the Association to report the condition of its operations to its member companies not less frequently than every three months. The Association is also required to maintain and file certain types of reports with the superintendent as required by Article 54 of the New York Insurance Law.

All of the Association's business is written directly on properties located in the State of New York. The following schedule shows the direct premiums written by the Association for the period under examination:

DIRECT PREMIUM WRITTEN

<u>Year</u>	<u>Premium Written</u>
1998	\$ 32,501,376
1999	\$27,863,677
2000	\$25,902,816
2001	\$25,134,655
2002	\$28,117,804

C. Reinsurance

As of the examination date, the Association did not participate in any reinsurance programs.

D. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed to be abandoned property. Such abandoned property shall be reported to the comptroller on or before the first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report.

The Association's abandoned property reports for the period of this examination were all filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2002, based upon the results of this examination:

Net premiums written in 2002 to surplus as regards to policyholders	36.15%
Liabilities to liquid assets (cash and invested assets less investment in affiliates)	27.43%
Premiums in course of collection to surplus as regards policyholders	1.65%

All of the above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

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

	<u>Amounts</u>	<u>Ratios</u>
Losses incurred	\$ 67,473,661	48.18%
Loss adjustment expenses incurred	14,004,181	10.00
Operating expenses incurred	36,872,385	26.33
Net underwriting gain	<u>21,687,289</u>	<u>15.49</u>
Premiums earned	\$ <u>140,037,516</u>	<u>100.00%</u>

G. Accounts and Records

Custodian Service Agreement

The examiner reviewed the custodian service agreement in effect at December 31, 2002. The custodian service agreement failed to provide the necessary safeguards and controls detailed in the NAIC Financial Condition Examiners Handbook, Part 1, Section IV J, Paragraph 2.

It is, therefore, recommended that the Association amend its custodian service agreement to incorporate the appropriate covenants in accordance with the NAIC Financial Condition Examiners Handbook, Part 1, Section IV J, Paragraph 2.

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2002 and as reported by the Association:

	<u>Ledger Assets</u>	<u>Non-ledger Assets</u>	<u>Assets Not Admitted</u>	<u>Admitted Assets</u>
<u>Assets</u>				
Cash	\$ 3,071,617	\$	\$	\$ 3,071,617
Investments (at amortized cost)	103,191,589			103,191,589
Equipment, furniture & leasehold improvements.	91,065		91,065	
Accounts receivable	1,283,278			1,283,278
Interest accrued		1,071,901		1,071,901
Taxes recoverable	27,843			27,843
Cash advances	<u>300</u>		<u>300</u>	
Total assets:	<u>\$107,665,692</u>	<u>\$1,071,901</u>	<u>\$91,365</u>	<u>\$108,646,228</u>

Liabilities & Equity

Unearned premiums	\$ 15,157,012
Unpaid losses (including IBNR)	10,474,454
Unpaid loss adjustment expenses	2,518,701
Post-retirement benefit obligation	1,027,906
Unpaid operating expenses	<u>269,241</u>
Total Reserves	\$ 29,447,314
Premium Taxes	957,880
Return Premiums	285,678
Amount Withheld for Others	<u>22,251</u>
Total payable and reserves	\$ 30,713,123
Members' Equity	<u>77,933,105</u>
Total liabilities & equity	<u>\$108,646,228</u>

NOTE: The Association operates as a partnership and files a form 1065 with the Internal Revenue Service. The Internal Revenue Service has not yet audited the tax returns covering tax years 1998 through 2002. The examiner is unaware of any potential exposure of the Association to any tax assessment and no liability has been established herein relative to such contingency.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased by \$45,436,606 during the five-year examination period January 1, 1998 through December 31, 2002, detailed as follows:

Underwriting Income

Premiums earned		\$140,037,516
Deductions:		
Losses incurred	\$67,473,661	
Loss adjustment expenses incurred	14,004,181	
Operating expenses incurred	<u>36,872,385</u>	
Total underwriting deductions		<u>118,350,227</u>
Net underwriting gain		\$ 21,687,289

Investment Income

Net investment income earned	\$24,525,701	
Net realized capital gains	<u>72,439</u>	
Net investment gain		24,598,140

Other Income

Net loss from agents' balances charged	\$ (99,302)	
Miscellaneous income	<u>705,082</u>	
Net gain from other income		<u>605,780</u>

Net income before N.Y.C unincorporated business taxes incurred		\$ 46,891,209
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N.Y.C unincorporated business taxes incurred		<u>1,751,352</u>
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Net Income		<u>\$ 45,139,857</u>
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C. Equity Account

Members' equity as of December 31, 1997, per report on examination		\$32,496,499
	<u>Gain in Equity</u>	
Net income	45,139,857	
Change in non-admitted assets	296,749	
	_____	
Total gains and losses	<u>\$45,436,606</u>	
Net change in equity		<u>45,436,606</u>
Members' equity as of December 31, 2002, per report on examination		<u>\$77,933,105</u>

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$12,993,155 is the same as reported by the Association as of December 31, 2002. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Association's internal records and in its financial statements.

#### 5. MARKET CONDUCT ACTIVITIES

The Market Conduct Unit of the Property Bureau concurrently with this examination conducted a review of the manner in which the Association fulfills its contractual obligations to policyholders and claimants. The Property Bureau Market Conduct Unit will issue a separate report of its findings.

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

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

<u>ITEM</u>	<u>PAGE NO.</u>
A	7
<p>It was recommended that the Association amend its conflict of interest statement to provide an explanation as to what type of business an individual may have with the Association, thereby giving the Association the option of determining whether or not a conflict of interest exists.</p>	

The Company has complied with this recommendation.

**7. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>		<u>PAGE NO.</u>
A	<u>Accounts and Records</u>	
	It is recommended that the Association revise its custodian agreement to incorporate the necessary safeguards and controls in accordance with the NAIC , Financial Condition Examiners Handbook, Part 1, Section IV-J; Paragraph 2.	10



Appointment No 22109

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:

**Joseph Revers**

*as proper person to examine into the affairs of the*

**NEW YORK PROPERTY INSURANCE UNDERWRITERS ASSOCIATION**

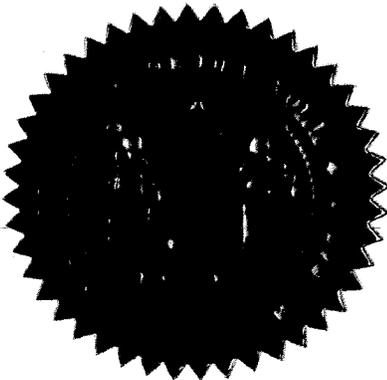
*and to make a report to me in writing of the condition of the said*

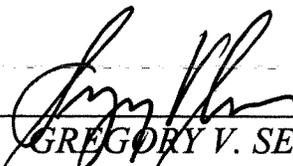
**Association**

*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 28th day of November, 2003*



  
\_\_\_\_\_  
GREGORY V. SERIO  
Superintendent of Insurance