

REPORT ON EXAMINATION

OF THE

NEW YORK PROPERTY INSURANCE UNDERWRITING ASSOCIATION

AS OF

DECEMBER 31, 2007

DATE OF REPORT

APRIL 2, 2009

EXAMINER

GILBERT DENTON

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

April 2, 2009

Honorable Eric Dinallo  
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 22810, dated August 12, 2008, attached hereto, I have made an examination into the condition and affairs of New York Property Insurance Underwriting Association as of December 31, 2007, and respectfully submit the following report thereon.

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

Whenever the term "Department" appears in this report, it should be understood to mean the New York State Insurance Department.

The examination was conducted at the Association's home office located at 100 William Street, New York, New York 10038.

## **1. SCOPE OF EXAMINATION**

The prior examination was conducted as of December 31, 2002. The current examination covers the five year period from January 1, 2003 through December 31, 2007. Transactions occurring subsequent to this period were reviewed where deemed appropriate.

The examination comprised a complete verification of assets and liabilities as of December 31, 2007. The examination included a review of income, disbursement 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 accountant. A review or audit was also made of the following items as called for in the Examination Handbook of the National Association of Insurance Commissioners ("NAIC"):

- History of Association
- Management and control
- Association 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 recommendation contained in the prior report on examination.

This report on examination is confirmed 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.

Rating procedures are subject to approval by the superintendent. Pursuant to statute in effect prior to August 1, 1979, the rates in effect were based on the Association's own losses and loss adjustment 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 Officers ("ISO"). A surcharge of 20% to 40% is applied to the various categories ranging from owner-occupied dwelling to apartment building 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 estimates, 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 asset 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 assistance program is a mechanism that was created by the Department to assist homeowners living in New York State's coastal areas to acquire insurance coverage. This program commenced operations on March 18, 1996. 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, the Senate Majority Leader 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 Association’s 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 shall 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 as directors and then have the elected companies select various individuals to represent the elected companies at the meeting of the board of directors.

At December 31, 2007, the board of directors was comprised of the following thirteen members:

<u>Name and Location</u>	<u>Represented Member Companies</u>
Dane R. Austin New Hartford, NY	Vice President, Utica Mutual Insurance Company
Diane T. DeSanti Madison, NJ	Vice President, Atlantic Mutual Insurance Company
David A. Fazioli East Greenbush, NY	Appointed Member, Rose and Kiernan, Inc.

<u>Name and Location</u>	<u>Represented Member Companies</u>
Philip .G. Geyer Ridgewood, NY	Appointed Member, Philip G. Geyer & Co. Inc.
Arthur I. Golden St. Albans, NY	Appointed Member, Golden & Golden Association
Sandra L. Horvath Ballston Spa, NY	Manager, State Farm Insurance Companies
Scott Kwiker Boston, MA	Director, Liberty Mutual Personal Market
Richard L. Liber Hebron, CT	Second Vice President, Travelers Companies, Inc.
William W. Martin Wethersfield, CT	Consultant The Hartford
Terry Moore Buffalo, NY	Vice President, OneBeacon Insurance Group
Michael W. O'Malley Warren, NJ	Vice President, Chubb & Son
Sherman Sitrin, Esq. New York, NY	Deputy General Counsel, American International Group
Frederick M. Strauss Northbrook, IL	Prod Ops Director, Shared Market Governance, Allstate Insurance Company

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, 2007, the principal officers of the Association were as follows:

<u>Name</u>	<u>Title</u>
Joseph A. Calvo	President
John Rusnak	Senior Vice President
Dennis Dee	Vice President and Comptroller
Michael Eserner	Vice President
Kenneth Lang	Vice President

<u>Name</u>	<u>Title</u>
Robin Pollack	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>Premiums Written</u>
2003	\$30,929,394
2004	\$33,598,885
2005	\$35,175,412
2006	\$35,853,195
2007	\$35,771,001

C. Reinsurance

The Association assumes no reinsurance.

As of December 31, 2007, the Association had the following catastrophe excess of loss reinsurance program in effect: first property catastrophe excess of loss reinsurance and second property catastrophe excess of loss reinsurance. Under the first property excess of loss reinsurance the cession is \$50,000,000 excess of \$85,000,000, any one loss Occurrence. The reinsurer's limits of

liability under this program for all loss occurrences during the term on this contract shall not exceed \$100,000,000. Under the second property catastrophe excess of loss reinsurance the cession is \$100,000,000 excess of \$135,000,000, any one loss occurrence. The reinsurer's limits of liability under this program for all loss occurrences during the term on this contract shall not exceed \$200,000,000.

The above contracts contained the required standard clauses, including the insolvency clauses required by Section 1308 of the New York Insurance Law.

D. Significant Operating Ratios

The following ratios have been computed as of December 31, 2007, based upon the results of this examination:

Net premiums written in 2007 to Members' equity	47.91%
Liabilities to liquid assets (cash and invested assets)	32.62%
Premiums in course of collection to Members' equity	1.64%

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	\$ 74,010,001	46.76%
Loss adjustment expenses incurred	13,608,220	8.60
Other expenses incurred	45,671,386	28.85
Net underwriting gain	<u>24,989,409</u>	<u>15.79</u>
Premiums earned	<u>\$158,279,016</u>	<u>100.00%</u>

E. Account and Records

Custodial Agreement

The examiner reviewed the custodian agreement in effect at December 31, 2007. The agreement contains all but one of the safeguards and controls recommended in the NAIC Financial Condition Examiners Handbook for the security and safekeeping of the Association's securities. The

custodian agreement did not include the provision of Section 3(III)(H) paragraph 2e, of the Financial Condition Examiners Handbook.

It is recommended that the Association amend its custodian agreement to incorporate the necessary safeguard and control in accordance with Section 3(III)(H) paragraph 2e, of the NAIC Financial Condition Examiners Handbook.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and members' equity as determined by this examination as of December 31, 2007 and as reported by the Association:

<u>Assets</u>	<u>Ledger Assets</u>	<u>Non-Ledger Assets</u>	<u>Assets Not Admitted</u>	<u>Admitted Assets</u>
Cash	\$ 1,951,313	\$ 0	\$ 0	\$ 1,951,313
Investments (at amortized cost)	105,437,825			105,437,825
Equipment, furniture and leasehold improvement	208,571		208,571	
Accounts receivables	1,226,996			1,226,996
Interest accrued		1,010,638		1,010,638
Taxes recoverable	74,031			74,031
Cash advances	<u>300</u>	<u>          </u>	<u>300</u>	<u>          </u>
Total assets	<u>\$108,899,036</u>	<u>\$1,010,638</u>	<u>\$208,871</u>	<u>\$109,700,803</u>
<u>Liabilities, &amp; Equity</u>				
Unpaid losses (including IBNR)			\$ 10,168,515	
Unpaid loss adjustment expenses			1,635,340	
Unearned premiums			15,151,202	
Post-retirement benefits obligation			2,003,798	
Unpaid operating expenses			<u>262,393</u>	
Total reserves			\$29,221,248	
Ceded premiums			2,993,750	
Advanced premiums			1,207,137	
Premium taxes			1,199,400	
Return premiums			188,861	
Deferred rent			214,918	
Amount withheld for others			<u>9,330</u>	
Total reserves and payable			\$35,034,644	
Members' equity			74,666,159	
Total liabilities and equity			<u>\$109,700,803</u>	

NOTE: The Association is not obligated to file any 1120 tax return with the Internal Revenue Service ("IRS"). 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 Income and Investment Exhibit

Members' equity decreased by \$3,266,946 during the five-year examination period January 1, 2003 through December 31, 2007, detailed as follows:

### Statement of Income

#### Underwriting Income

Premiums earned		\$158,279,016
Deductions:		
Losses incurred	\$74,010,001	
Loss adjustment expenses incurred	13,608,220	
Operating expenses incurred	<u>45,671,386</u>	
Total underwriting deductions		<u>133,289,607</u>
Net underwriting gain		\$ 24,989,409

#### Investment Income

Net investment income earned	\$25,169,865	
Net realized capital losses	<u>(650,092)</u>	
Net investment gain		24,519,773

#### Other Income

Net loss from agents' balances charge off	\$ (147,033)	
Net loss from grant program	(541,356)	
Policy installment fees	<u>708,220</u>	
Net gain form other income		<u>19,831</u>
Net income before NYC unincorporated business taxes incurred		\$ 49,529,013
NYC unincorporated business taxes incurred		<u>1,938,380</u>
Net income		\$ <u>47,590,633</u>

C. Change in Equity Account

Members' equity as of December 31, 2002 per report on examination			\$77,933,105
	<u>Gains</u>	<u>Losses</u>	
Net income	\$47,590,633		
Change in non-admitted assets		117,506	
Distribution to Members' companies	_____ -	<u>50,740,073</u>	
Total gains and losses	<u>\$47,590,633</u>	<u>\$50,857,579</u>	
Net decrease Members' equity			<u>(3,266,946)</u>
Members' equity as of December 31, 2007 per report on examination			<u>\$74,666,159</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$10,168,515 for losses and \$1,635,340 for loss adjustment expenses are the same as reported by the Association as of December 31, 2007. 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**

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

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

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

No problem areas were encountered.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The previous report on examination contained one comments and recommendations (page number refers to the prior report).

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
It was 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
The Association has partially complied with this recommendation. A similar recommendation is made in this report.	

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
<u>Custodial agreement</u>	
It is recommended that the Association amend its custodian agreement to incorporate the necessary safeguards and controls in accordance with Section 3(III)(H) paragraph 2e, of the NAIC Financial Condition Examiners Handbook.	8

Respectfully submitted,

\_\_\_\_\_/S/  
Gilbert Denton  
Senior Insurance Examiner

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

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

\_\_\_\_\_/S/  
Gilbert Denton

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Appointment No. 22810

STATE OF NEW YORK  
INSURANCE DEPARTMENT

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

**Gilbert Denton**

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

**NEW YORK PROPERTY INSURANCE UNDERWRITING 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 12th day of August, 2008*



A handwritten signature in black ink, appearing to read "Eric Dinallo".

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ERIC R. DINALLO  
Superintendent of Insurance