

REPORT ON EXAMINATION

OF THE

WASHINGTON TITLE INSURANCE COMPANY

AS OF

DECEMBER 31, 2000

DATE OF REPORT

APRIL 4, 2002

EXAMINER

ROBERT A. VARGAS

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

April 4, 2002

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 21815, dated, December 13, 2001, attached hereto, I have made an examination into the condition and affairs of Washington Title Insurance Company, as of December 31, 2000 and submit the following report thereon.

Wherever the term "Company" appears herein, it should be understood to mean the Washington Title Insurance Company.

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

## **1. SCOPE OF EXAMINATION**

The prior examination was conducted as of December 31, 1997. The current examination covers the three-year period from January 1, 1998 through December 31, 2000, and was limited in its scope to a review or audit of only those balance sheet items considered by this Department to require analysis, verification or description, including: invested assets, and loss reserves. The examination included a review of income, disbursements and Company records to the extent deemed necessary to accomplish such analysis or verification and utilized to the extent deemed appropriate, work performed by the Company's independent certified public accountants.

The examination was conducted at the Company's home office located at 31 Stewart Street, Floral Park, New York 11001.

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

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

## **2. DESCRIPTION OF THE COMPANY**

The Company was incorporated under the provisions of Article 12 of the New York Insurance Law, with an authorized capital of \$500,000 and commenced business on April 1, 1996. The declaration

of intention and charter were approved by the Attorney General of New York on October 9, 1992 and placed on file with the Department on October 14, 1992.

The Company's immediate and ultimate controlling persons are Mr. David Gelbard and Mr. Clifford Gelbard by virtue of their ownership of 1,500,000 shares each of the 5,000,000 issued and outstanding shares of the Company.

A. Management

The by-laws provide that the business affairs of the Company be managed and controlled by a board of directors, consisting of not less than seven nor more than twenty-one directors.

At December 31, 2000, the board was composed of seven members, as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Jack Bleir Bedford, NY	Attorney, Bleir & Bleir, Esqs.
Peter E. Becker Bellmore, NY	Chief Counsel, Washington Title Insurance Company
Carmine P. DiResto Oceanside, NY	Accountant, Self- Employed
Bernard Gelbard Lawrence, NY	Retired Attorney
Clifford Gelbard Roslyn, NY	President, Intracoastal Abstract Co. Inc.
David Gelbard Upper Brookville, NY	Vice President, Intracoastal Abstract Co. Inc.
Frances Gelbard Lawrence, NY	No business affiliation

As of December 31, 2000 the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
David Gelbard	President
Jack Bleir	Secretary and Treasurer
Clifford Gelbard	Vice President

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

#### Conflict of Interest Statements

The conflict of interest statements submitted to the board by David Gelbard and Clifford Gelbard did not disclose their significant ownership interest in several abstract title agencies that conduct business with the Company (See item E herein).

It is recommended that David Gelbard and Clifford Gelbard prepare conflict of interest statements disclosing their ownership interest in the affiliated abstract title agencies.

#### B. Territory and Plan of Operation

As of December 31, 2000, the Company was authorized to transact the kinds of insurance as defined in paragraph 18 of Section 1113(a) of the New York Insurance Law. The Company is licensed only in the State of New York. The amounts of direct premiums written during the period under examination were:

<u>Year</u>	<u>Direct Premiums Written</u>	<u>Percentage increase from prior year</u>
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1998	5,166,229	
1999	6,315,754	22%
2000	6,605,686	4.59%

C. Reinsurance

The Company has one reinsurance ceded contract in effect as of December 31, 2000; an excess of loss reinsurance agreement with an authorized insurer. This agreement provides that the reinsurer assumes the amount of each risk in excess of \$250,000 up to a maximum of \$10,000,000. Washington Title pays the reinsurer a premium of \$.50 per thousand dollars of risk assumed.

Reinsurance transactions placed in effect during the period under examination were reviewed. The contract contained an insolvency clause, meeting the requirements of Section 1308 of the New York State Insurance Law.

D. Holding Company System

Washington Title Insurance Company's immediate and ultimate parents are Mr. David Gelbard and Mr. Clifford Gelbard. Each owns 1,500,000, or 30% of the 5,000,000 shares issued and outstanding. The Company issued 5,000,000 shares of \$.10 par value per share common stock on September 7, 1995, for a total consideration of \$750,000.

The shares issued and outstanding are distributed as follows:

<u>Shareholder</u>	<u>Number of Shares</u>	<u>Percentage of Ownership</u>	<u>Consideration Paid</u>
Jack Bleir	1,000,000	20%	\$150,000
Ruth Bober	1,000,000	20%	150,000
Clifford Gelbard	1,500,000	30%	225,000
David Gelbard	<u>1,500,000</u>	<u>30%</u>	<u>225,000</u>
Totals	<u>5,000,000</u>	<u>100%</u>	<u>\$750,000</u>

Mr. Clifford Gelbard and Mr. David Gelbard are owners of, and President and Vice-president, respectively, of Intracoastal Abstract Co. Inc., a title insurance agent. In the year 2000, Intracoastal Abstract Co. produced 26% of the total direct premiums written by the agents of Washington Title Insurance Company.

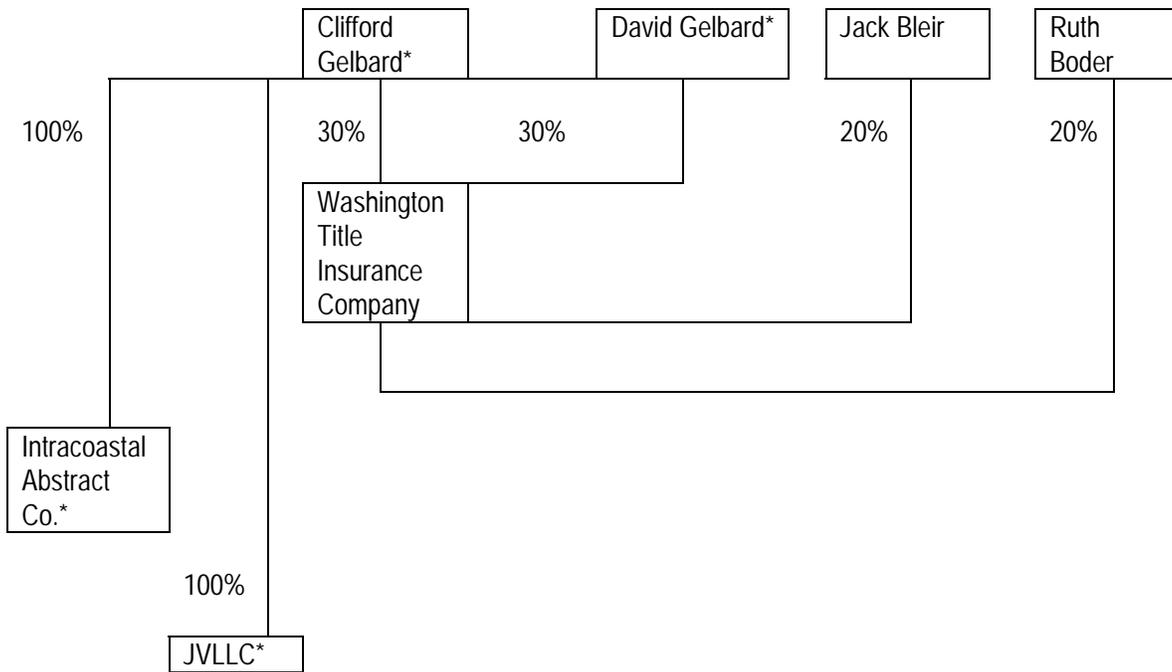
The Company has made the required annual filings pursuant to Article 15 of the New York Insurance Law and Department Regulation 52.

(i) Organizational Chart

It was noted that the Company did not complete Schedule Y, parts 1 and 2 of the filed annual statement that discloses information concerning the activities of a holding company group and transactions with affiliates.

It is recommended that the company follow the instructions of the annual statement and complete Schedule Y, parts 1 and 2, in the future.

The following chart shows the holding company system of the Company:



\*David Gelbard and Clifford Gelbard have an indirect ownership interest, through Intracoastal Abstract and through JVLLC, a limited liability company, with the following agents of Washington Title:

- All Clear Title Agency LLC
- Suburban Abstract LLC
- Islander Abstract Corp.
- Best Abstract LLC
- Allstar Abstract LLC
- Champion Abstract LLC
- Precision Abstract LLC
- Homes of New York Abstract Corp.

The agreements with All Clear Title Agency LLC, Champion Abstract LLC, and Homes of New York Abstract Corp. were executed subsequent to December 31, 2000.

(ii) Inter-Company Agreements

At December 31, 2000, the Company was party to the following inter-company agreements with several affiliations.

(a) Sublease Agreement

On May 1, 1996, Washington Title Insurance Company entered into a rental agreement with its affiliate, Intracoastal Abstract Co. Inc. Under the terms of this agreement, Intracoastal Abstract Co. Inc. subleased a portion of its premises to the Company, for a term of ten years. This agreement was not submitted to the Department for approval in accordance with Section 1505 of the New York Insurance Law.

(b) Expense Sharing Agreement

The agreement allows for allocation of salary of employees and title production expenses with Intracoastal Abstract Company. This agreement was not submitted to the Department for approval in accordance with Section 1505 of the New York Insurance Law.

(c) Operating Agreements

The owners of the Company, David Gelbard and Clifford Gelbard have entered into several agreements, joint ventures and affiliations with agents of Washington Title Insurance Company, to own and operate abstract title companies. In addition, the Company entered into underwriting agreements with the affiliated agents to produce business on behalf of Washington Title. These underwriting agreements with affiliated agents were not submitted to the Department for approval in accordance with Section 1505 of the New York Insurance Law.

Pursuant to Section 1505(d) (3) of the New York Insurance Law, a domestic controlled insurer may not enter into transactions to render services on a regular or systematic basis with any person in its holding company system. Section 1505(d)(3) states in part that:

“unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such a period.”

The Company did not submit the agreements to the Department in violation of Section 1505 of the New York Insurance Law.

It is recommended that the Company notify the Superintendent, in writing, at least thirty days prior to entering into any agreements with affiliates, in accordance with Section 1505(d)(3) of the New York Insurance Law.

E. Accounts and Records  
Custodians of Securities

The Company’s investments of U.S. treasuries, notes and cash are held in custody by the Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation, (“DLJ”), the clearinghouse of Gruntal & Co., the Company’s broker. The Department’s position, and the guidelines set forth in the NAIC Examiners Handbook require that securities held under custodial or safekeeping arrangements be in a qualified institution, such as a bank or trust company licensed by the United States or any state thereof, if such bank or trust company is regularly examined by a federal or state authority. The Company claimed that DLJ is affiliated to a qualified institution, however no confirmation or evidence was provided to the Department that a qualified institution was the custodian of the securities.

It is recommended that the Company deposit its investments with a bank or trust company that is regularly examined by a federal or state authority.

It is noted that subsequent to the examination date, the company transferred the investments to a licensed bank that is FDIC insured.

F. Significant Operating Ratios

The operating ratios presented below are on an earned/incurred basis and encompass the three-year examination period:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$180,348	1.04%
Other underwriting expenses incurred	16,933,263	97.39
Net operating gain	<u>273,450</u>	<u>1.57</u>
Total operating income	<u>\$17,387,061</u>	<u>100.00%</u>

G. Segregated Funds Held for Others

As of December 31, 2000, the Company segregated \$423,185 as custodial funds in a special account, excluded from the Company's assets and liabilities.

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

In view of the Company's fiduciary responsibility for such funds, a review was made of the underlying escrow agreements to ascertain if the Company was fulfilling its contractual obligations. This

review revealed that timely action is being taken by the Company to dispose of title objections and refund balances.

H. Abandoned Property Law

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

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as determined by this examination and is the same as that reported by the Company in its filed Annual statement as of December 31, 2000:

<u>Assets</u>	<u>Ledger Assets</u>	<u>Non-Ledger Assets</u>	<u>Assets not Admitted</u>	<u>Admitted Assets</u>
Bonds	\$624,475			\$624,475
Cash and short term investments	828,181			828,181
Title insurance premiums and fees receivable	101,860			101,860
Electronic data processing equipment	11,113			11,113
Interest, dividends and real estate income due and accrued	21,175			21,175
Note receivable	5,361			5,361
Prepaid items	<u>28,607</u>	<u>          </u>	<u>\$28,607</u>	<u>          </u>
Total assets	<u>\$1,620,772</u>	<u>\$ 0</u>	<u>\$28,607</u>	<u>\$1,592,165</u>

Liabilities, Surplus and Other Funds

Known claims reserve	\$20,511
Statutory premium reserve	290,956
Supplemental reserve	162,044
Other expenses	78,835
Taxes, licenses and fees	(9,722)
Federal income taxes	(26,269)
Ceded premiums payable	37,052
Accounts payable	<u>11,888</u>
Total liabilities	\$565,295

Surplus and Other Funds

Common capital stock	\$500,000
Gross paid in and contributed surplus	420,346
Unassigned funds	<u>106,524</u>
Surplus as regards policyholders	<u>\$1,026,870</u>
Total liabilities, surplus and other funds	<u>\$1,592,165</u>

Note: The Internal Revenue Service has not audited the Company. The examiner is unaware of any potential exposure of the Company to any tax assessment and no liability has been established herein relative to such contingency.

B. Operations and Investment Exhibit

Surplus as regards policyholders increased \$234,263 during the three-year examination period, January 1, 1998 through December 31, 2000 detailed as follows:

Statement of Income

Operating Income

Title insurance premiums earned		\$17,354,620
Escrow and settlement services		6,758
Other title fees and service charges		<u>25,683</u>
Total operating income		\$17,387,061

Deductions:

Losses incurred and loss adjustment expenses incurred	\$180,348	
Operating expenses incurred	<u>16,933,263</u>	
Total operating deductions		<u>17,113,611</u>
Net operating gain		\$273,450

Investment Income

Net investment income earned		<u>205,388</u>
Net income before federal income taxes		\$478,838
Federal income taxes incurred		<u>143,326</u>
Net Income		<u>\$335,512</u>

Capital and Surplus Account

Surplus as regards policyholder per report on examination as of December 31, 1997			\$792,607
	<u>Gains</u>	<u>Losses</u>	
Net income	\$335,512		
Change in non-admitted assets	39,391		
Change in supplemental reserves		\$140,640	
Total gains and losses	<u>\$374,903</u>	<u>\$140,640</u>	
Net increase in surplus as regards policyholders as of December 31,2000			<u>234,263</u>
Surplus as regards policyholders as of December 31, 2000			<u>\$1,026,870</u>

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

The examination reserve totaling \$20,511, is the same amount as reported by the Company in its December 31, 2000 annual statement. 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 control records and its filed annual statements as verified by the examiner.

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

The examination reserve of \$290,956 is the same as the amount reported by the Company in its December 31, 2000 annual statement. The reserve was calculated based on a formula pursuant to Section 6405(a) of the Insurance Law, which includes a provision for the application of a dollar amount for each policy written and a percentage amount for the face amount of each policy.

#### **6. SUPPLEMENTAL RESERVE**

The examination reserve of \$162,044 is the same as the amount reported by the Company in the annual statement and was maintained and reported in accordance with the requirements of Section 6405 of the New York Insurance Law.

#### **7. MARKET CONDUCT ACTIVITIES**

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

market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau.

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

1. Sales
2. Underwriting
3. Rating
4. Claims

To accomplish this review, the Company's advertising material, applications, policy forms, correspondence files and claims were examined.

No problem areas were encountered.

## **8. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The previous report on examination as of December 31, 1997, contained two comments and recommendations (page numbers refer to the prior report).

<u>ITEM.</u>	<u>PAGE NO.</u>
<p>A. It was recommended that the Company adhere to the provisions of by-laws and hold board of directors' meetings.</p> <p>The Company complied with this recommendation.</p>	4
<p>B. It was recommended that the Company request, from its officers and board of directors, completed conflict of interest statements on an annual basis.</p> <p>The Company complied with this recommendation.</p>	8

## **9. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A.     <u>Management</u></p> <p>The conflict of interest statements submitted to the board by David Gelbard and Clifford Gelbard did not disclose their significant ownership interests in several abstract title agencies that conduct business with the Company.</p> <p>It is recommended that David Gelbard and Clifford Gelbard prepare conflict of interest statements disclosing their ownership interests in the abstract title agencies.</p>	4
<p>B.     <u>Holding Company System</u></p> <p>(i)    <u>Organization Chart</u></p> <p>It is recommended that the Company follow the instructions of the annual statement and complete Schedule Y, parts 1 and 2, in the future.</p> <p>(ii)   <u>Inter-Company Agreements</u></p> <p>It is recommended that the Company notify the Superintendent, in writing, at least thirty days prior to entering into any agreements with an affiliate, in accordance with Section 1505(d)(3) of the New York Insurance Law.</p>	6
<p>C.     <u>Accounts and Records</u></p> <p>As of December 31, 2000, the Company had not adhered to the Department's position that require that securities held under custodial or safekeeping arrangements be in a bank or trust company licensed by the United States or any state thereof, if such bank or trust company is regularly examined by a United States federal or state authority.</p> <p>It is recommended that the Company deposit its investments with a bank or trust company that is regularly examined by a United States federal or state authority.</p> <p>Subsequent to the examination date, the Company transferred the investments to a licensed bank that is FDIC insured.</p>	10



Appointment No. 21815

STATE OF NEW YORK  
INSURANCE DEPARTMENT

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

**Robert Vargas**

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

**WASHINGTON TITLE INSURANCE COMPANY**

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

**Company**

*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 13th day of December, 2001*

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

