

REPORT ON EXAMINATION

OF

AMTRUST TITLE INSURANCE COMPANY

AS OF

DECEMBER 31, 2017

DATE OF REPORT

MAY 28, 2019

EXAMINER

TEENA JOSEPH

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Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

June 27, 2019

Honorable Linda A. Lacewell
Superintendent
New York State Department of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 31713 dated February 20, 2018, attached hereto, I have made an examination into the condition and affairs of AmTrust Title Insurance Company as of December 31, 2017, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate AmTrust Title Insurance Company.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

The examination was conducted at the Company’s home office located at 220 East 42nd Street, New York, New York 10017.

1. SCOPE OF EXAMINATION

The Department has performed an examination of the Company, a multi-state insurer. The previous examination was conducted as of December 31, 2012. This examination covered the five-year period from January 1, 2013 through December 31, 2017. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination was conducted in conjunction with the State of Delaware, which was the lead state of the AmTrust Group. The examination was performed concurrently with the examinations of the following insurers:

<u>Company</u>	<u>State of Domicile</u>
AmTrust Insurance Company of Kansas, Inc.	Kansas
ARI Casualty Company	New Jersey
ARI Insurance Company	Pennsylvania
Associated Industries Insurance Company, Inc.	Florida
CorePointe Insurance Company	Delaware
Developers Surety and Indemnity Company	California
First Nonprofit Insurance Company	Delaware
Heritage Indemnity Company	California
Indemnity Company of California	California
Milford Casualty Insurance Company	Delaware
Security National Insurance Company	Delaware
Sequoia Indemnity Company	Nevada
Sequoia Insurance Company	California
Southern Underwriters Insurance Company	Oklahoma
Republic Fire and Casualty Insurance Company	Oklahoma
Republic Lloyds	Texas
Republic Underwriters Insurance Company	Texas
Republic-Vanguard Insurance Company	Arizona
Rochdale Insurance Company	New York
Southern County Mutual Insurance Company	Texas
Southern Insurance Company	Texas
Technology Insurance Company, Inc.	Delaware
Wesco Insurance Company	Delaware

Other states participating in this examination were Arizona, California, Florida, Kansas, Oklahoma, Pennsylvania, Nevada, New Jersey, and Texas.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook (“Handbook”), which requires that we plan and perform the examination to evaluate the financial condition and identify current and prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with New York laws, statutory accounting principles, and annual statement instructions.

This examination report includes, but is not limited to, the following:

- Company history
- Management and control
- Territory and plan of operation
- Holding company description
- Reinsurance
- Loss review and analysis
- Financial statement presentation
- Significant subsequent events
- Summary of recommendations

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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

2. DESCRIPTION OF COMPANY

The Company was incorporated under the laws of the State of New York on November 10, 1988 under the name First Atlantic Title Insurance Corporation. The Company was organized pursuant to Article 64 of the New York Insurance Law. It became licensed on April 22, 1991 and commenced business on June 4, 1991. Effective August 6, 2014, AmTrust Financial Services, Inc. (“AFSI”), a Delaware corporation which is publicly traded on the NASDAQ global exchange, acquired First Atlantic Title Insurance Corporation. This sale was approved by the Department on July 11, 2014. The Company was relatively

dormant prior to the purchase and began writing business again in November 2014. Effective September 24, 2015, the Company was renamed AmTrust Title Insurance Company.

A. Corporate Governance

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of not less than seven nor more than 14 members. The board meets at least two times during each calendar year. At December 31, 2017, the board of directors was comprised of the following seven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Donald Thomas DeCarlo Douglaston, NY	Attorney, Self-Employed
Susan Carol Fisch San Francisco, CA	Retired
Abraham Gulkowitz Brooklyn, NY	Partner, Brookville Advisory, LLC
Stuart Hollander Monsey, NY	President – North American Special Risk Division, AmTrust Financial Services, Inc.
Steven Napolitano Rockville Centre, NY	Senior Executive Vice President, AmTrust Financial Services, Inc.
Harry Schlachter Lawrence, NY	Assistant Treasurer, AmTrust Financial Services, Inc.
Stephen Barry Ungar North Hills, NY	General Counsel and Secretary, AmTrust Financial Services, Inc.

As of December 31, 2017, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Jason Marc Gordon	President
Stephen Barry Ungar	Secretary
Harry Schlachter	Treasurer
Felice Karen Shapiro	Chief Underwriting Counsel, Senior Vice President
Jeffrey Howard Mayer	Chief Actuary
Melanie Shae Garrison	Vice President
Brian Hugh Fullerton	Executive Vice President, Systems Innovation
Barry Wolff Moses	Vice President, Regulatory Compliance and Assistant Secretary

B. Territory and Plan of Operation

As of December 31, 2017, the Company was licensed in 35 states and in the Bahamas. As of the examination date, the Company was authorized to write title insurance as defined in paragraph 18 of Section 1113(a) of the New York Insurance Law. Subsequent to the examination date, the Company became licensed in Connecticut, Illinois and New Hampshire.

Based upon the line of business for which the Company is licensed and 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 \$500,000.

The following schedule shows the direct and assumed premiums written by the Company for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>	<u>Assumed Premiums</u>	<u>Total Gross Premiums</u>
2013	\$ 14,260	\$ 0	\$ 14,260
2014	\$ 12,198	\$ 0	\$ 12,198
2015	\$ 4,080,075	\$ 0	\$ 4,080,075
2016	\$ 4,739,158	\$ 0	\$ 4,739,158
2017	\$19,292,936	\$5,000	\$19,297,936

The Company provides title insurance on residential and commercial properties through appointed agents located in the various locations where the Company is licensed. The Company's premium writings are generated by both affiliated and non-affiliated agents. The only affiliated agent is First Nationwide Title Agency, LLC. Non-affiliated agency operations accounted for 53.1% of the premiums written in 2017.

The Company assumes a minimal amount of reinsurance on a facultative basis from Old Republic National Title Insurance Company.

C. Reinsurance Ceded

The Company has structured its ceded reinsurance program as follows:

<u>Type of Coverage</u>	<u>Cession</u>
Title Insurance Excess of Loss 100% unauthorized	100% of \$523,000,000 excess of \$2,000,000 ultimate net loss for any one risk for the life of the risk. Maximum retention of \$2,000,000 in the aggregate when there is more than one risk within a policy.

On June 5, 2017, the Company entered into an excess of loss reinsurance agreement with its affiliate, AmTrust International Insurance, Ltd., an unauthorized reinsurer. The Company notified the Department of this agreement on June 5, 2017.

Section 1505(d) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into 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 with regard to reinsurance treaties or agreements, at least forty-five days prior thereto, or such shorter period as the superintendent may permit, and the superintendent has not disapproved it within such period: . . . (2) reinsurance treaties or agreements . . .”

It is recommended that the Company comply with Section 1505(d)(2) of the New York Insurance Law and notify the Department at least 45 days prior to entering into reinsurance agreements.

It is the Company's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. As of December 31, 2017, funds held by the Company under the reinsurance agreement totaled \$773,926.

All significant ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

Examination review found that the Schedule F data reported by the Company in its filed annual statement accurately reflected its reinsurance transactions. Examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in the NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principle (“SSAP”) No. 62R.

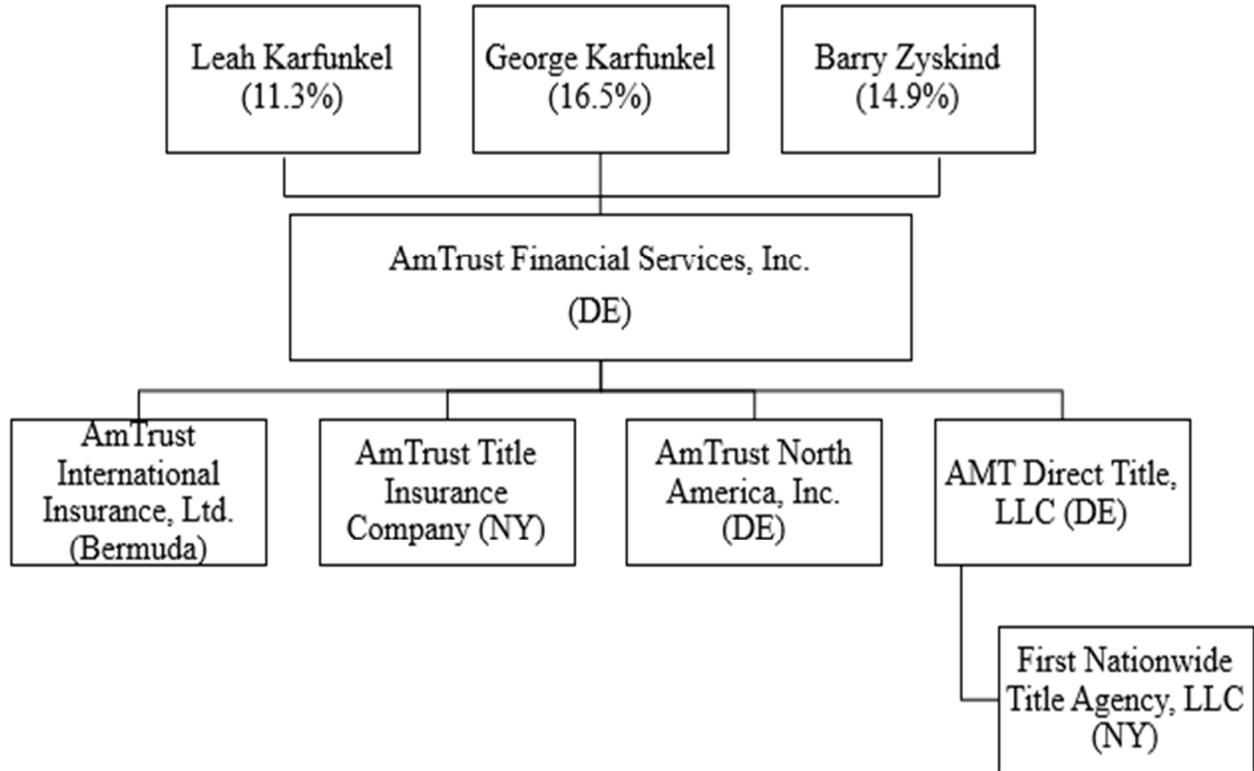
D. Holding Company System

The Company is a member of the AmTrust Group and is a wholly-owned subsidiary of AFSI, a Delaware corporation which is publicly-traded on the NASDAQ global exchange. The ultimate controlling parties of AFSI are Leah Karfunkel, George Karfunkel and Barry Zyskind, who beneficially own directly and indirectly an aggregate of 42.7% of the issued and outstanding shares of common stock of AFSI (Leah Karfunkel 11.3%, George Karfunkel 16.5% and Barry Zyskind 14.9%, collectively, the “Karfunkel-Zyskind Family”) based on 196,053,133 shares of AFSI common stock outstanding as of December 31, 2017.

In May 2016, AFSI acquired First Nationwide Title Agency, LLC (“FNTA”). FNTA is a commercial title insurance agency licensed in New York. The Company’s strategic plan includes writing to the maximum extent possible the title insurance generated by FNTA in every state where the Company is licensed to write title insurance. The Company is the only entity within the AmTrust Group that writes title insurance.

A review of the holding company registration statements filed with this Department indicated that such filings were complete and were filed in a timely manner for the years 2015 through 2017. The Company did not file their initial 2014 HC1 Registration Statement until September 26, 2014, as the Company was acquired by AFSI on August 6, 2014.

The following is an abridged chart of the holding company system at December 31, 2017:



Holding Company Agreements

At December 31, 2017, the Company was party to the following agreements with other members of its holding company system:

Intercompany Management Agreement

Effective August 6, 2014, the Company entered into an intercompany management agreement with AmTrust North America, Inc. (“ANA”). Under the terms of the agreement, ANA shall perform all required financial and accounting services, administrative services, information technology development and management services on behalf of the Company. All direct and shared expenses incurred by ANA in connection with the agreement shall be allocated to the Company in a manner consistent with Department Regulation 30. The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

Tax Allocation Agreement

Effective August 6, 2014, the Company entered into a tax allocation agreement with AFSI. The Company and AFSI are part of a consolidated tax filing group (“Group”), wherein AFSI is the common parent of the Group. AFSI is the agent for the Company for the purpose of filing the consolidated tax return on behalf of the Group. The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law and Circular Letter No. 33 (1979).

Title Insurance Underwriting Agreement

Effective February 9, 2015, the Company entered into a title insurance underwriting agreement with FNTA. Under the terms of the agreement, the Company provides FNTA all regularly issued title policy, binder, commitment, and endorsement forms necessary for the issuance of title insurance, as well as the usual form of insured closing letter to each of FNTA’s customers. In addition, the Company provides FNTA with rules and instructions involving matters of importance to the business of title insurance. This agreement was amended on February 28, 2016 to increase the limit on title insurance policy issued by FNTA and to reduce the Company’s compensation. This agreement was not filed with the Department, as the agreement was in place before FNTA became an affiliate of the Company. The Department was, however, provided with a copy of the agreement upon request.

Guaranty Agreement

Effective November 16, 2015, the Company entered into a guaranty agreement with AFSI. Under the terms of the agreement, AFSI assures that for three consecutive years from the effective date, the Company's level of statutory surplus will not fall below \$10,000,000. This agreement was submitted to the Department on October 1, 2015 pursuant to Section 1505 of the New York Insurance Law.

E. Significant Ratios

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 and loss adjustment expenses incurred	\$ 272,875	1.02%
Other underwriting expenses incurred	30,539,814	114.28
Net underwriting loss	<u>(4,089,520)</u>	<u>(15.30)</u>
Premiums earned	<u>\$26,723,169</u>	<u>100.00%</u>

F. Accounts and Records

1. Allocation of Expenses

Examination review revealed that the Company classified certain expenses to an incorrect expense line category. This method of classifying the Company's expenses on the expense exhibit of the annual statement does not conform to the classification requirements prescribed by the NAIC annual statement instructions and Department Regulation 30.

It is recommended that in future annual statements filed with the Department, the Company allocate its expenses in accordance with the NAIC annual statement instructions and Department Regulation 30.

2. Insurance Frauds Prevention

The examiner requested the Company's insurance application form and claims forms to determine compliance with Section 403(d) of the New York Insurance Law.

Section 403(d) of the New York Insurance Law states:

“All applications for commercial insurance, individual, group or blanket accident and health insurance and all claim forms, except as provided for in subsection (e) of this section, shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’”

The review revealed that insurance application and claims forms do not contain the required fraud awareness clause. Therefore, the Company did not meet the requirements of Section 403(d) of the New York Insurance Law.

It is recommended that the Company implement application and claim forms to include the requisite fraud awareness clause, as required by Section 403(d) of the New York Insurance Law.

Subsequent to the report date, the Company has implemented corrective actions to comply with Section 403(d) of the New York Insurance Law..

G. Risk Management and Internal Controls

Investments

Upon review of the Company's investment holdings as of the examination date, it was noted that approximately 14% of its admitted assets was invested in one institution.

Section 1409(a) of the New York Insurance Law states, in part:

“...no domestic insurer shall have more than ten percent of its admitted assets as shown by its last statement on file with the superintendent invested in, or loaned upon, the securities...of any one institution.”

Subsequent to the examination date and prior to the end of field work, the Company sold a portion of the specific noncompliant investment which brought down the value below the investment limit.

It is recommended that the Company implement procedures to ensure that it complies with all investment limitations of Article 14 of the New York Insurance Law.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2017, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	Nonadmitted <u>Assets</u>	Net Admitted <u>Assets</u>
Bonds	\$18,097,246	\$ 0	\$18,097,246
Cash, cash equivalents and short-term investments	3,648,455	0	3,648,455
Title Plants	46,800	0	46,800
Investment income due and accrued	148,176	0	148,176
Uncollected premiums and agents' balances in the course of collection	465,638	47,407	418,231
Net deferred tax asset	50,957	0	50,957
Miscellaneous Receivable	484,950	0	484,950
Prepays	101,909	101,909	0
Intangibles	<u>14,958</u>	<u>0</u>	<u>14,958</u>
Total assets	<u>\$23,059,089</u>	<u>\$149,316</u>	<u>\$22,909,773</u>

Liabilities, Surplus and Other FundsLiabilities

Known claims reserve	\$ 149,649
Statutory premium reserve	1,050,383
Other expenses (excluding taxes, licenses and fees)	98,569
Taxes, licenses and fees (excluding federal and foreign income taxes)	206,064
Current federal and foreign income taxes	76,706
Funds held by company under reinsurance treaties	773,926
Payable to parent, subsidiaries and affiliates	1,080,034
Surcharges payable	<u>15</u>
 Total liabilities	 \$ 3,435,346

Surplus and Other Funds

Common capital stock	\$ 3,000,000
Gross paid in and contributed surplus	18,186,225
Unassigned funds (surplus)	(1,686,798)
Treasury stock	<u>(25,000)</u>
Surplus as regards policyholders	<u>19,474,427</u>
 Total liabilities, surplus and other funds	 <u>\$22,909,773</u>

Note: The Internal Revenue Service is currently conducting audits for the Company's consolidated federal income tax returns covering tax years 2013 through 2015. 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. Statement of Income

The net loss for the examination period, as reported by the Company, was \$1,667,479 as detailed below:

Underwriting Income

Title insurance and related income		\$26,723,169
Deductions:		
Losses and loss adjustment expenses incurred	\$ 272,875	
Operating expenses incurred	30,538,790	
Other operating expenses	<u>1,024</u>	
Total underwriting deductions		<u>30,812,689</u>
Net underwriting gain or (loss)		\$(4,089,520)

Investment Income

Net investment income earned	\$ 1,336,051	
Net realized capital gain	<u>39,285</u>	
Net investment gain or (loss)		<u>1,375,336</u>
Net income (loss) after capital gains tax and before all other federal income taxes		\$(2,714,184)
Federal and foreign income taxes incurred		<u>(1,046,705)</u>
Net loss		<u>\$(1,667,479)</u>

C. Capital and Surplus Account

Surplus as regards policyholders increased \$18,631,386 during the five-year examination period January 1, 2013 through December 31, 2017, as reported by the Company, detailed as follows:

Surplus as regards policyholders, as report by the Company as of December 31, 2012			\$ 843,041
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income		\$1,667,479	
Change in net deferred income tax	\$ 50,955		
Change in nonadmitted assets		149,315	
Capital changes paid in	2,500,000		
Surplus changes paid in	17,936,225		
Dividends to stockholders	<u>0</u>	<u>39,000</u>	
Total gains and losses	\$20,487,180	\$1,855,794	
Net increase in surplus			<u>18,631,386</u>
Surplus as regards policyholders, as reported by the Company as of December 31, 2017			<u>\$19,474,427</u>

No adjustments were made to surplus as a result of this examination.

As of December 31, 2017, capital paid in was \$3,000,000 consisting of 25,000 shares of common stock Class A with a \$120 par value per share. On October 23, 2014, the Company submitted to the Department an amended charter to increase the number of shares from 200 to 2,500 and decrease the par value of its common stock from \$2,500 to \$120. The Department approved this amendment on November 24, 2014. The Company received a \$10.4 million capital contribution from AFSI in 2014, which was split between common capital stock (\$2.5 million) and gross paid in and contributed surplus (\$7.9 million) in order to satisfy the requirement for the application of approval for the acquisition of control of the Company. On March 16, 2016, the Company submitted a notice of transaction to the Department to increase the Company's gross paid in and contributed surplus by \$10,000,000. The Department approved this increase on March 31, 2016.

Gross paid in and contributed surplus is \$18,186,225 at December 31, 2017. Capital paid in and gross paid in and contributed surplus increased during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Common Capital Stock</u>	<u>Gross Paid in and contributed surplus</u>
2013	Beginning gross paid in and contributed surplus	\$ 500,000	\$ 250,000
2014	Capital and surplus contribution	\$2,500,000	\$ 7,936,225
2016	Surplus contribution	<u>0</u>	<u>10,000,000</u>
	Total capital and surplus contributions	\$2,500,000	\$17,936,225
2017	Ending common capital stock and gross paid in and contributed surplus	<u>\$3,000,000</u>	<u>\$18,186,225</u>

4. KNOWN CLAIMS RESERVE

The examination liability for the captioned item of \$149,649 is the same as reported by the Company as of December 31, 2017. The examination analysis was conducted in accordance with generally accepted actuarial principles and statutory accounting principles, including SSAP No. 55.

5. STATUTORY PREMIUM RESERVE

The examination liability for the captioned item of \$1,050,383 is the same as reported by the Company as of December 31, 2017. The reserve was calculated pursuant to the provisions of Section 6405(a) of the New York Insurance Law, which includes a provision for the application of a dollar amount for each policy written and a percentage amount of the face amount of each policy.

6. SUBSEQUENT EVENTS

At a special meeting of the stockholders of AFSI held on June 21, 2018, it was determined that AFSI would “go-private”. Effective November 29, 2018, Evergreen Parent, LP (Evergreen), an entity formed by the Karfunkel-Zyskind Family and other related parties, acquired approximately 45.0% of AFSI’s issued and outstanding common shares.

The Department approved the privatization and the application for acquisition of control of the Company pursuant to the requirements of Section 1506 of the New York Insurance Law and Department Regulation 52 on November 15, 2018.

Subsequent to the privatization, George Karfunkel, Barry Zyskind, and Leah Karfunkel remain the ultimate controlling persons of AFSI and the Company.

7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

ITEM**PAGE NO.****A. Management**

It was recommended that the Corporation maintain the minimum required number of directors pursuant to its by-laws and Section 6402(e) of the New York Insurance Law.

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The Company has complied with this recommendation.

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Reinsurance Ceded</u>	
It is recommended that the Company comply with Section 1505(d)(2) of the New York Insurance Law and notify the Department at least 45 prior to entering into reinsurance agreements.	6
B. <u>Accounts and Records</u>	
i. It is recommended that in future annual statements filed with the Department, the Company allocate expenses in accordance with the NAIC annual statement instructions and Department Regulation 30.	10
ii. It is recommended that the Company implement application and claim forms to include the requisite fraud awareness clause, as required by Section 403(d) of the New York Insurance Law. Subsequent to the report date, the Company has implemented corrective actions to comply with the above section of the law.	11
C. <u>Risk Management and Internal Controls</u>	
It is recommended that the Company implement procedures to ensure that it complies with all investment limitations of Article 14 of the New York Insurance Law.	12

Respectfully submitted,

_____/S/
Teena Joseph
Senior Insurance Examiner

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

Teena Joseph, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

_____/S/
Teena Joseph

Subscribed and sworn to before me
this _____ day of _____, 2019.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Maria T. Vullo, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Teena Joseph

as a proper person to examine the affairs of the

AmTrust Title Insurance Company

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

COMPANY

with such other information as he shall deem requisite.

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

this 20th day of February, 2018

MARIA T. VULLO
Superintendent of Financial Services



By:

Joan P. Riddell

Joan Riddell
Deputy Bureau Chief