

**REPORT ON EXAMINATION**

**OF THE**

**AMERICAN INDEPENDENT NETWORK INSURANCE COMPANY OF NEW YORK**

**AS OF**

**DECEMBER 31, 2006**

**DATE OF REPORT**

**APRIL 23, 2010**

**EXAMINER**

**JEFFREY L. USHER**

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

David A. Paterson  
Governor

James J. Wrynn  
Superintendent

April 23, 2010

Honorable James J. Wrynn  
Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 22677, dated April 2, 2010, annexed hereto, I have made an examination into the condition and affairs of the American Independent Network Insurance Company of New York, an accident and health insurance company licensed pursuant to Article 42 of the New York Insurance Law, and submit the following report thereon.

The examination was conducted at the main administrative office of American Independent Network Insurance Company of New York, located at 3440 Lehigh Street, Allentown, Pennsylvania 18103.

Wherever the designations “the Company” or “AINIC” appear herein, without qualification, they should be understood to indicate the American Independent Network 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, 2002. This examination covers the four-year period from January 1, 2003 through December 31, 2006. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a verification of assets and liabilities as of December 31, 2006, in accordance with Statutory Accounting Principles, as adopted by the Department, 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* (NAIC):

- History of the Company
- Management and controls
- Corporate records
- Territory and plan of operation
- Growth of the Company
- Business in force
- Loss experience
- Accounts and records
- Treatment of policyholders and claimants

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

## 2. DESCRIPTION OF THE COMPANY

American Independent Network Insurance Company of New York (AINIC) was incorporated on April 9, 1997. The Company is a wholly-owned subsidiary of American Network Insurance Company (ANIC). Effective May 3, 2005, pursuant to the approval of the Pennsylvania Insurance Department, Penn Treaty American Corporation (PTAC), the ultimate holding company, transferred capital stock ownership of AINIC to Penn Treaty Network America Insurance Company (PTNA), a subsidiary, which then transferred such capital stock ownership to ANIC. The ultimate controlling company of AINIC remains PTAC. The Company is licensed under Article 42 of the New York Insurance Law to write accident and health insurance in New York. Its principal lines of business are long-term health care and home health care products.

### A. Management and Controls

Pursuant to AINIC's charter and by-laws, management of the Company is to be vested in a board of directors consisting of thirteen members. The by-laws indicate that the board shall have at least four regularly scheduled (quarterly) meetings per year. It was noted from a review of the minutes of the board of directors' meetings that during the examination period the board conducted less than four meetings each year. The Company advised the examiner that the number of annual meetings were changed in the Company's by-laws during the examination period. This change was not submitted to the Department for review.

It is recommended that the Company file all changes to its by-laws with the New York Insurance Department. It is further recommended that the Company's board hold the required number of meetings (per its by-laws) each year.

At December 31, 2006, the directors of the Company were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Todd B. Armstrong Schnecksville, PA	Vice President of Underwriting, American Independent Network Insurance Company of New York
Alex Clark New York, NY	Managing Director, Sander Morris Harris, Inc.
Mark Cloutier Perkasie, PA	Senior Vice President and Chief Financial Officer, American Independent Network Insurance Company of New York
Elaine P. Fuchs Palm Springs, CA	Retired
Lawrence N. Hausman Plymouth Meeting, PA	Special Projects, Policyholder Services, American Independent Network Insurance Company of New York
James M. Heyer Schnecksville, PA	Senior Vice President, Risk Management, American Independent Network Insurance Company of New York
William W. Hunt West Chester, PA	Chairman of the Board, President and Chief Executive Officer, American Independent Network Insurance Company of New York
Matthew W. Kaplan Marina Del Rey, CA	Managing Director, Actis Assurance Segregated Portfolio Company
Kimberly R. Levit-Valuntas Orefield, PA	Insurance Agent
Patrick D. Patterson Highland, MI	President and Chief Executive Officer, United Insurance Group Agency
Joseph K. Valuntas Brooklyn, NY	Consultant, Self-employed
Cameron B. Waite Pennsburg, PA	Executive Vice President of Strategic Operations, American Independent Network Insurance Company of New York
Eugene J. Woznicki Frisco, TX	President, Southwestern Life Plans, Inc.

The minutes of all meetings of the board of directors and committees thereof held during the examination period were reviewed. All such meetings were well attended, with all members attending at least one-half of the meetings they were eligible to attend.

The Company's principal officers at December 31, 2006, were as follows:

<u>Name</u>	<u>Title</u>
William Walter Hunt	President and Chief Executive Officer
Cameron Waite	Executive Vice President, Strategic Operations
Stephen R. LaPierre	Senior Vice President, Claims, Policyholder Service and Clinical Risk Management
Mark Cloutier	Senior Vice President and Chief Financial Officer
Jane Bagley	Vice President, Corporate Counsel and Corporate Secretary

B. Territory and Plan of Operation

AINIC was licensed as of March 12, 1998, to transact accident and health insurance business as defined in Section 1113(a)(3)(i) of the New York Insurance Law. The Company is licensed under Article 42 of the New York Insurance Law to write accident and health insurance in New York. Its principal lines of business are long-term health care and home health care products.

The Company is licensed in New York State only. In 2006, the Company wrote total direct premiums of \$4,364,360.



The following chart depicts the number of policyholders at each year-end of the examination period:

Year	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Number of policyholders	1,850	1,986	2,048	1,999

Based upon the line of business for which the Company is licensed, and pursuant to the requirements of Articles 13 and 42 of the New York Insurance Law, the Company is required to maintain a minimum capital of \$300,000.

The Company used the services of independent brokers and agents during the examination period.

C. Investments

It was noted that the purchase and sale of the Company's investments were not approved by its board of directors during the examination period. 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.”

It is recommended that the Company comply with the requirements of Section 1411(a) of the New York Insurance Law by having its board of directors (or a committee thereof) approve the purchase and sale of its investments.

This recommendation was also included in the prior report on examination.

The Company, in its response to the aforementioned recommendation (to the previous report on examination), indicated in a letter dated October 18, 2004, that its board of directors would review and approve the purchase and sale of investments starting in November 2004 and each November thereafter. A review of the board of directors' minutes covering this examination period did not reveal any discussion relating to the approval of the purchase or sale of investments for the Company.

It is recommended that the Company's management provide accurate responses to the Department.

The Company stated that its investment advisor as of the examination date was U.S. Bank, however, the Company was unable to provide a copy of an executed investment advisory agreement with U.S. Bank.

It is recommended that the Company execute a formal written investment advisory agreement detailing such items as: investment limits, benchmarks, allowable investments and related data with U.S. Bank and furnish such document to the Department for review. Further, it is recommended that the Company's board or committee thereof, approve the contents of such investment advisory agreement.

D. Reinsurance

A review was conducted of the two quota share reinsurance treaties that the Company had in place during the examination period. Treaty A294-001-000 is with General Re Life Corporation, formerly Cologne Life Re Insurance of America, while

Treaty A294-002-000 is with General Re Life Corporation, formerly General & Cologne Life Re Insurance of America. General Re Life Corporation is an authorized reinsurer.. No reinsurance amounts were due AINIC as of December 31, 2006. It should be noted that both of these treaties were terminated, effective June 30, 2001, and have not been replaced. Renewal policies that were in effect prior to the termination date are still covered under both agreements. Both treaties contained the required insolvency clause required by Section 1308(a)(3) of the New York Insurance Law.

The following is a summary of the plans covered and benefits reinsured by policy type (for renewal policies only) as of December 31, 2006:

Treaty A294-001-000

Policies Reinsured – long-term care coverage.

PF2600 and related riders other than non-forfeiture options.

PPF2600 and related riders other than non-forfeiture options.

Retention Amount - The first \$250,000 of benefits paid after the elimination period of the policy has been satisfied shall be retained by the Company.

Quota Share - 100% of benefits in excess of the retention amount.

Basis of Reinsurance - The Company shall cede to Cologne Life Reinsurance of America, direct business of long-term care coverage underwritten on United States residents for automatic acceptance of health insurance, subject to the limits and conditions below:

Benefit Limits: \$300 per day

Treaty A294-002-000

Policies Reinsured – long-term care coverage.

26 Policy forms.

Retention Amount - \$350,000 retention on policies with benefit maximums in dollars.

60 month retention on policies with benefit maximums in months.

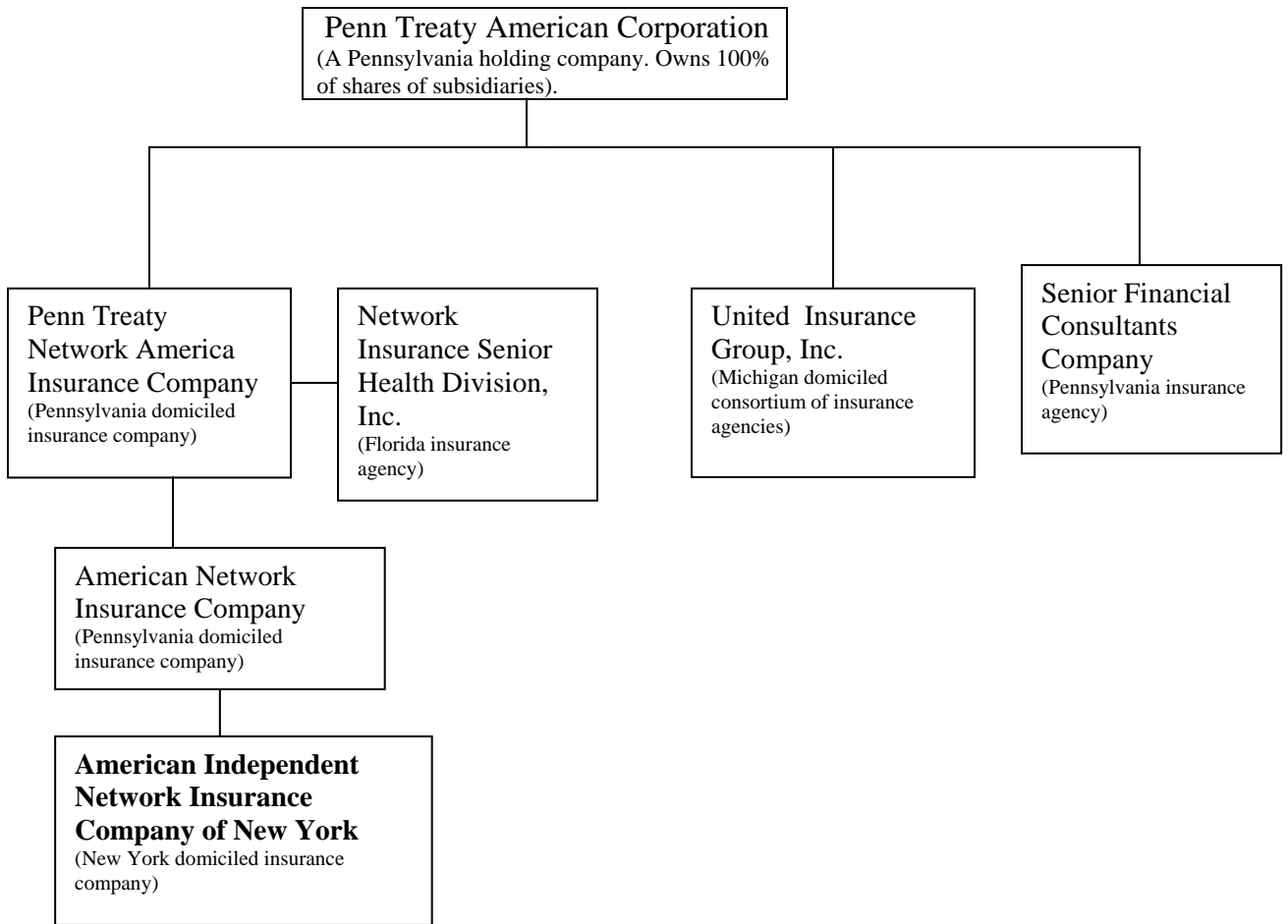
Quota Share - 100% of benefits in excess of the retention amount.

Basis of Reinsurance - The Company shall cede to General & Cologne Life Reinsurance of America direct business underwritten on United States residents for automatic acceptance of health insurance, subject to the limits and conditions below:

Benefit Limits: \$350 per day

E. Holding Company System

The following chart shows the relationship between the Company and members of its holding company system:



Penn Treaty Network America Insurance Company (PTNA) is 100% owned by Penn Treaty American Corporation (PTA), an insurance holding company. PTNA owns 100% of American Network Insurance Company (ANIC), which in turn owns 100% of American Independent Network Insurance Company of New York. Network Insurance

Senior Health Division, Inc., Senior Financial Consultants Company, and United Insurance Group, Inc. are affiliates of the Company.

The examiner reviewed the Company's filings required by Article 15 of the New York Insurance Law and Department Regulation No. 52. It was determined that the Company was in compliance with such requirements.

The following is a description of the inter-company agreements in effect as of the examination date:

i. Data Processing Cost Sharing Agreement

On January 1, 1998, the Company entered into a data processing cost sharing agreement with Penn Treaty Network America Insurance Company (PTNA). Under this agreement, approved by the Department, various services are provided by PTNA to AINIC, including, but not limited to: management information systems, utilization review services, claims administration, marketing, collection of premiums and review of staffing and scheduling. The parties acknowledged that the allocation method for shared expenses under this agreement shall be consistent with the provisions of Department Regulation No. 33 (11 NYCRR 91). It is noted that the Department has approved this agreement.

ii. Claims Administration Cost Sharing Agreement

On January 1, 1998, the Company entered into a claims administration cost sharing agreement with Penn Treaty Network America Insurance Company (PTNA).

Under the terms of this agreement, PTNA agrees to provide claims administration services to AINIC. The charges for the services rendered by PTNA are intended to represent the actual cost incurred by PTNA, so that PTNA will neither profit nor suffer a loss. All charges and expenses directly incurred by PTNA on behalf of AINIC during each calendar quarter are charged entirely to AINIC. Furthermore, AINIC is to reimburse PTNA for its share of the salaries, employee relations and welfare, travel and travel items, rent and rent items, equipment, telephone and telefax and payroll tax expenses paid by PTNA. The parties acknowledged that the allocation method for shared expenses under this agreement shall be consistent with the provisions of Department Regulation No. 33 (11 NYCRR 91). It is noted that the Department has approved this agreement.

iii. Underwriting Cost Sharing Agreement

On January 1, 1998, the Company entered into an underwriting cost sharing agreement with Penn Treaty Network America Insurance Company (PTNA). Under the terms of this agreement, all underwriting services provided to AINIC are to be based on the written criteria, standards and guidelines of AINIC. Further, AINIC has the ultimate and final authority over the acceptance, rejection or cancellation of risks. The charges to be paid by AINIC for the services rendered by PTNA are intended to represent the actual cost incurred by PTNA, so that PTNA will neither receive a profit nor suffer a loss. All charges and expenses directly incurred by PTNA on behalf of AINIC during each calendar quarter under this agreement are charged entirely to AINIC. Furthermore, AINIC shall reimburse PTNA for its share of the salaries, employee relations and

welfare, travel and travel items, rent and rent items, equipment, telephone and telefax and payroll tax expenses paid by PTNA. The parties acknowledged that the allocation method for shared expenses under this agreement shall be consistent with the provisions of Department Regulation No. 33 (11 NYCRR 91). It is noted that the Department has approved this agreement.

Part 91.4 of Department Regulation No. 33 (11 NYCRR 91.4) states in part:

“...(2) Each... insurer shall maintain records with sufficient detail to show fully:

- (i) the system actually used for allocation of income and expenses;
- (ii) the actual basis of allocation;
- (iii) the actual monetary distribution of the respective items of income, salaries, wages, expenses and taxes to:
  - (a) units of activity or functions, if any distribution is made on such basis,
  - (b) fund accounts, if any distribution is made on the basis thereof, reflecting separately, for each fund, premiums or considerations, investment income, capital gains and losses, benefit payments, expenses and provision for reserves,
  - (c) annual statement lines of business,
  - (d) companies, and
  - (e) a recapitulation and reconciliation of items (a), (b), (c), and (d) with the insurer’s books of account and annual statement.

(3) Such records shall be classified and indexed in such form as to permit ready identification between the item allocated and the basis upon which it was allocated, and shall be maintained in such manner as to be readily accessible for examination. These records shall bear the date and shall identify the person responsible for the preparation thereof.

(4) Basis of allocation shall be reviewed periodically to ascertain their suitability for continued use.

(5) Allocations of income and expenses between companies shall be treated in the same manner as if made for major annual statement lines of business.”

During the examiner’s review, it was determined that the Company did not comply with the provisions of said agreements, relative to the methods of cost allocation specified in Department Regulation No. 33 (11 NYCRR 91). Item 5 of the Data



Processing Cost Sharing Agreement states, “the parties hereto acknowledge that the allocation method for shared expenses shall be consistent with the provisions of New York Regulation No. 33.”

However, it was noted that during 2005 and 2006, the Company’s affiliate, Penn Treaty Network America Insurance Company charged \$100,000 of general expenses to the Company, without adequate supporting documentation for such charge. This transaction does not conform to the requirements of the Company’s agreement, which states that insurers are to use only such methods of allocation that will produce the suitable and equitable distribution of income and expenses detailed in Department Regulation No. 33.

In addition, the calculated percentage of expenses allocated among the affiliates that was used to determine the aforementioned charge of \$100,000 of general expenses was 2%. The 2% was outlined in a memo dated January 2, 2008. The calculation the Company used as its basis is the total premium among the affiliates. This procedure is not consistent with Department Regulation No. 33 (11 NYCRR 91.4 (f)(5)), which states in part:

“General indexes such as premium volume, number of policies, and insurance in force shall not be used as basis for distributing costs among major annual statement lines of business...”

Further, the abovementioned transaction and allocation appear to be violative of Sections 1505(a) and (b) of the New York Insurance Law, which state:

“(a) Transactions within a holding company system to which a controlled insurer is a party shall be subject to the following:

- (1) the terms shall be fair and equitable;
- (2) charges or fees for services performed shall be reasonable; and
- (3) expenses incurred and payments received shall be allocated to the insurer on an equitable basis in conformity with customary insurance accounting practices consistently applied.

(b) The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties.”

It is recommended that the allocation of expenses between the Company and PTNA be apportioned in conformity with the provisions of Department Regulation No. 33, as per the cost agreement in effect between such entities.

A similar recommendation was included within the previous report on examination.

It is recommended that the Company and PTNA comply with the requirements of Sections 1505(a) and (b) of the New York Insurance Law in regard to transactions under the inter-company agreements.

F. Abandoned Property Law

During the examination review of the captioned item it was revealed that during the examination period, the Company did not comply with the requirements of Sections 1316(1), (2), (3) and (4) of the Abandoned Property Law, which state:

“Unclaimed insurance proceeds other than life insurance.

1. Any amount issued and payable on or after July first, nineteen hundred seventy-four payable to a resident of this state on or because of a policy of insurance other than life insurance, which is held or owing by a domestic insurer or a foreign insurer authorized to do business in this state or by an agent or agency of such insurer, shall be deemed abandoned property if unclaimed for three years by the person entitled thereto. Where such amount is held or owing by a domestic insurer for an unknown person or a person whose address is unknown, such amount is presumed to be payable to a resident of this state.
2. Such abandoned property shall be reported to the comptroller annually on or before the first day of April. Such report shall be in such form and manner as the comptroller may prescribe.
3. Within thirty days following the filing of the report of abandoned property with the comptroller pursuant to subdivision two of this section, the insurer shall cause to be published a list of such abandoned property in the same manner as that prescribed for life insurance companies by section seven hundred two of this chapter.
4. Such abandoned property shall be paid or delivered to the comptroller within the first ten days of September of each year.”

It is recommended that the Company comply with the requirements of Section 1316 of the New York Abandoned Property Law.

A similar recommendation was included in the previous report on examination.

G. Significant Operating Ratios

The following ratios have been computed as of December 31, 2006, based upon the results of this examination:

Net premiums written (in 2006) to surplus as regards policyholders	0.75 to 1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	70.23%

Premiums in course of collection to surplus as regards policyholders	6.48%
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The above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and capital and surplus as determined by this examination and as reported by the Company as of December 31, 2006:

	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase/ (Decrease)</u>
<u>Assets</u>			
Bonds	\$ 17,431,094	\$ 17,431,094	
Cash and short-term investments	800,284	800,284	
Federal and foreign income tax	194,205	194,205	
Uncollected premiums	3,794	3,794	
Investment income due and accrued	<u>228,309</u>	<u>228,309</u>	
Total assets	<u>\$ 18,657,686</u>	<u>\$ 18,657,686</u>	
<u>Liabilities</u>			
Aggregate health claims reserves	\$ 11,397,199	\$ 8,977,939	\$ (2,419,260)
Policy and contract claims	325,652	325,652	
Interest maintenance reserve	39,120	39,120	
Commissions to agents due or accrued	1,138	1,138	
General expenses due or accrued	117,867	117,867	
Taxes, licenses, and fees due or accrued	21,440	21,440	
Federal and foreign income taxes	825,190	825,190	
Amounts held for agents' account	49,310	49,310	
Remittances and items not allocated	16,657	16,657	
Asset valuation reserve	5,942	5,942	
Reinsurance payable	4,108	4,108	
Accounts payable	<u>1,906</u>	<u>1,906</u>	
Total liabilities	<u>\$ 12,805,529</u>	<u>\$ 10,386,269</u>	<u>\$ (2,419,260)</u>
<u>Capital and Surplus</u>			
Common capital stock	\$ 300,000	\$ 300,000	
Gross paid-in and contributed surplus	5,600,141	5,600,141	
Unassigned funds	<u>(47,984)</u>	<u>2,371,276</u>	<u>(2,419,260)</u>
Total capital and surplus	<u>\$ 5,852,157</u>	<u>\$ 8,271,417</u>	<u>(2,419,260)</u>
Total liabilities, capital and surplus	<u>\$ 18,657,686</u>	<u>\$ 18,657,686</u>	

**Note:** The Internal Revenue Service has not conducted an audit of the income tax return filed on behalf of the Company through tax year 2006. The examiner is unaware of any potential exposure of the Company to any tax assessments and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses and Capital and Surplus

Capital and surplus increased \$662,264 during the four-year period, January 1, 2003 to December 31, 2006, detailed as follows:

Revenue

Net premium income	\$17,180,254	
Net investment income	<u>1,970,131</u>	
Total revenue		\$19,150,385

Expenses

Hospital/medical benefits	\$ 4,932,037	
Commissions	3,459,094	
General administrative expenses	1,623,040	
Taxes, licenses and fees	542,371	
Increase in reserves for life and accident and health contracts	<u>6,873,146</u>	
Total expenses		\$ <u>17,429,688</u>
Net income before federal and foreign income taxes		\$ 1,720,697
Federal income taxes		1,174,895
Net realized capital loss		<u>(88,348)</u>
Net income		\$ <u><u>457,454</u></u>

Change in Capital and Surplus

Capital and surplus per report on examination, as of December 31, 2002		\$ 5,189,893
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	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$ 457,454		
Change in deferred income tax	825,868		
Change in non-admitted assets		\$ 627,102	
Change in asset valuation reserve	<u>6,044</u>	<u>0</u>	
Net increase in capital and surplus			<u>662,264</u>
Capital and surplus per report on examination, as of December 31, 2006			\$ <u><u>5,852,157</u></u>

#### 4. AGGREGATE RESERVES FOR ACCIDENT AND HEALTH POLICIES

The examination liability of \$11,397,199 is \$2,419,260 greater than the \$8,977,939 reported by the Company as of the examination date. 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 statements as verified during the examination. The examination change as of December 31, 2006, is reflected as follows (net of reinsurance):

<u>ACCOUNT</u>	<u>AINIC</u>	<u>DEPARTMENT</u>	<u>INCREASE/(DECREASE)</u>
Unearned premium reserve	\$ 1,329,591	\$ 1,280,328	\$ (49,263)
Active life reserve	5,195,814	7,026,036	1,830,222
Disabled life reserve	<u>2,778,186</u>	<u>3,416,487</u>	<u>638,301</u>
Totals	<u>\$ 9,303,591</u>	<u>\$ 11,722,851</u>	<u>\$ 2,419,260</u>

It should be further noted that a subsequent actuarial analysis was performed by the Department to determine the adequacy of the Company's reserves for the captioned account as of December 31, 2009. This review determined that the Company's reserves were adequate as of that date. It should be noted however, that AINIC strengthened its reserves by approximately \$4.7 million (about \$4.2M for the active life reserve and about \$0.5M for the disabled life reserve), over the reserves established in prior years, as of December 31, 2009.

## 5. 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 subscribers and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct examination.

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

- A) Policy Forms;
- B) Claims Processing

### A. Policy Forms

Section 3201(a) of the New York Insurance Law defines policy form as follows:

“(a) In this article, "policy form" means any policy, contract, certificate, or evidence of insurance and any application therefor, or rider or endorsement thereto, affording benefits of the kinds of insurance specified in paragraph one, two, three or twenty-four of subsection (a) of section one thousand one hundred thirteen of this chapter, a group annuity certificate to which subsection (a) of section three thousand two hundred nineteen of this article applies, and a funding agreement authorized by section three thousand two hundred twenty-two of this article. The term "policy form" shall not include an agreement, special rider, or endorsement relating only to the manner of distribution of benefits or to the reservation of rights and benefits used at the request of the individual policyholder, contract holder or certificate holder.”

Section 3201(b)(1) of the New York Insurance Law states:

“No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law.”



The Company did not file Form 1091 for approval with the Department as required by the above statute.

It is recommended that the Company file Form 1091 for approval with the Department, in accordance with the requirements of Section 3201(b)(1) of the New York Insurance Law.

B. Claims Processing

1. Attribute Sample

A review of claims processed during the period January 1, 2006 through December 31, 2006, was performed by using a statistical sampling methodology covering the claims processed during the aforementioned period, in order to evaluate the overall accuracy and compliance environment of the Company's claims processing.

This statistical random sampling process was performed using ACL, an auditing software program. The sampling methodology was devised to test various attributes deemed necessary for successful processing of claims and to test and reach conclusions about all predetermined attributes, individually or on a combined basis. The sample size was comprised of 167 randomly selected claims.

The review indicated that 12 claims were processed incorrectly. This number does not include claims for which the Company issued Explanation of Benefits Statements (EOBs) which were not in compliance with the requirements of Section 3234 of the New York Insurance Law.

EOBs which were not in compliance with the requirements of Section 3234 of the New York Insurance Law were issued with regard to an additional 27 claims. Such EOB violations are detailed further in item 5.B.2 (immediately below) of this report on examination.

## 2. Explanation of Benefits Statements / Denial Letters

The Company's claims procedures indicated that Explanation of Benefits Statements (EOBs) are sent to enrollees / providers for certain claims. If a claim is fully denied, a denial letter is sent instead of an EOB to the enrollee / provider. Both the EOB and the denial letter are required to disclose to the enrollees / providers all the information specified in Section 3234(b) of the New York Insurance Law, which sets forth minimum standards for the content of an EOB.

Section 3234(b) of the New York Insurance Law states in part:

“The explanation of benefits form must include at least the following...

(2) the date of service;

(4) the provider's charge or rate;

(5) the amount or percentage payable under the policy or certificate after deductibles, co-payments, and any other reduction of the amount claimed;

(7) a telephone number or address where an insured or subscriber may obtain clarification of the explanation of benefits, as well as a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made.”

A review of a sample of the Company's paid and denied claims during the period January 1, 2006 to December 31, 2006, was performed. The review revealed that the EOBs issued by the Company did not contain certain wording mandated by Sections 3234(b)(2), (4), (5) and (7) of the New York Insurance Law, such as: the date of service, the provider's charge or rate, the amount payable under the policy, a description of the time limit and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection (even when a request for clarification has been made).

It is recommended that the Company issue EOBs and denial letters that include all of the requisite information specified by Section 3234(b) of the New York Insurance Law.

## **6. SUBSEQUENT EVENTS**

The American Independent Network Insurance Company of New York (AINIC) is a member of the Penn Treaty American Corporation holding company group (Group). This Group is currently under liquidation proceedings by the Pennsylvania Insurance Department due to under reservations of the claims reserves on its long-term care business. AINIC is the only solvent entity in the Group.

## 7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination included six (6) recommendations detailed as follows (page numbers refers to the prior report on exam):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<u>Management</u>	
1. It is recommended that the Company distribute annual conflict of interest statements to its officers and directors and require that the Company's officers and directors complete such statements annually in the future.	5
<i>The Company has complied with this recommendation.</i>	
<u>Investments</u>	
2. It is recommended that all of the Company's securities and investments, its bank accounts and evidence of asset ownership be located in New York, as per the Commitment Letter which the Company entered into with the Superintendent of Insurance.	7
<i>The Company has complied with this recommendation.</i>	
3. It is recommended that the purchase and sale of investments be approved by AINIC's board of directors.	7
<i>The Company has not complied with this recommendation. A similar recommendation is contained herein.</i>	
<u>Underwriting Cost Sharing Agreement</u>	
4. It is recommended that the allocation of expenses between the Company and PTNA be apportioned in conformity with the provisions of Department Regulation No. 33 (11 NYCRR 91).	13
<i>The Company has not complied with this recommendation. A similar recommendation is contained herein.</i>	

**ITEM NO.****PAGE NO.**Abandoned Property Law

5. It is recommended that the Company file annual reports with the Office of the Comptroller of the State of New York in compliance with Section 1316 of the Abandoned Property Law. 14

*The Company has not complied with this recommendation. A similar recommendation is contained herein.*

Disaster Recovery/Business Continuity Plan

6. It is recommended that the Company develop and maintain both a disaster recovery and a business continuity plan. 14

*The Company has complied with this recommendation.*

## 8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management and Controls</u>	
It is recommended that the Company file all changes to its by-laws with the New York Insurance Department. It is further recommended that the Company's board hold the required number of meetings (per its by-laws) each year.	4
B. <u>Investments</u>	
i. It is recommended that the Company comply with the requirements of Section 1411(a) of the New York Insurance Law by having its board of directors (or a committee thereof) approve the purchase and sale of its investments.	6
This recommendation was also included in the prior report on examination.	
ii. It is recommended that the Company's management provide accurate responses to the Department.	7
iii. It is recommended that the Company execute a formal written investment advisory agreement detailing such items as: investment limits, benchmarks, allowable investments and related data with U.S. Bank and furnish such document to the Department for review. Further, it is recommended that the Company's board or committee thereof, approve the contents of such investment advisory agreement.	7
C. <u>Holding Company System</u>	
i. It is recommended that the allocation of expenses between the Company and PTNA be apportioned in conformity with the provisions of Department Regulation No. 33, as per the cost agreement in effect between such entities.	15
A similar recommendation was included within the previous report on examination.	
ii. It is recommended that the Company and PTNA comply with the requirements of Sections 1505(a) and (b) of the New York Insurance Law in regard to transactions under the inter-company agreements.	15

**ITEM****PAGE NO.**D. Abandoned Property Law

It is recommended that the Company comply with the requirements of Section 1316 of the New York Abandoned Property Law. 16

A similar recommendation was included in the previous report on examination.

E. Policy Forms

It is recommended that the Company file Form 1091 for approval with the Department, in accordance with the requirements of Section 3201(b)(1) of the New York Insurance Law. 22

F. Claims Processing

It is recommended that the Company issue EOBs and denial letters that include all of the requisite information specified by Section 3234(b) of the New York Insurance Law. 24

Appointment No. 22677

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, **James J. Wrynn**, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

**Jeffrey Usher**

as a proper person to examine into the affairs of the

**American Independent Network Insurance Company of New York**

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 name and affixed the official Seal of this Department, at the City of New York.

this 2<sup>nd</sup> day of April, 2010



James J. Wrynn  
Superintendent of Insurance

