

REPORT ON EXAMINATION

OF THE

EXCISE BOND UNDERWRITERS

AS OF

NOVEMBER 30, 2009

DATE OF REPORT

SEPTEMBER 01, 2010

EXAMINER

LEON TAMBUE

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

September 01, 2010

Honorable James J. Wrynn
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 30526 dated May 18, 2010 attached hereto, I have made an examination into the condition and affairs of Excise Bond Underwriters as of November 30, 2009, and submit the following report thereon.

Wherever the designation "the Association" appears herein without qualification, it should be understood to indicate Excise Bond Underwriters.

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

The examination was conducted at the Association's administrative offices located at 15 Maiden Lane, New York, NY 10038.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of November 30, 2004. This examination covered the five-year period from December 1, 2004 through November 30, 2009. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of November 30, 2009. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Association's independent certified public accountants ("CPA"). 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 Association
- Management and control
- Accounts and records
- Territory and plan of operation
- Financial statements

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

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

2. DESCRIPTION OF ASSOCIATION

Excise Bond Underwriters is a pool of surety companies, which was organized in 1933 as an unincorporated association, for the purpose of reinsuring bonds required by the New York State Liquor Authority for manufacturing, transporting or selling alcoholic beverages.

In June 1978, the Association became a subscribing member of Affiliated Reinsurance Associations ("AreA"), a non-profit, non-incorporated organization established for the purpose of administration of all matters which involved its members. The functions performed by AreA consist of administrative and staff services and related activities necessary for efficient operations of all its members. Specific policy determinations and operations, as provided in the agreement

subscribed to by each member, are excluded from these functions. AreA functions include employment of all personnel, payment of general expenses, leasing of offices facilities and equipment, and custodianship of necessary files and records. As of November 30, 2009, other members of AreA were as follows:

Registered Mail Insurance Association
 Workers' Compensation Reinsurance Bureau
 Railroad Insurance Underwriters

A. Management

The Association operates under the provisions of an amended excise reinsurance agreement dated May 1, 1968, which provides for an executive committee. The functions of the committee are analogous to a corporate board of directors. Meetings are held twice a year. The members of the executive committee are selected by the members of the pool at a triennial meeting to serve for a term of three years.

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

Members of the executive committee as November 30, 2009 were:

Great American Insurance Company
 Hanover Insurance Company

At November 30, 2009, the officers of the Association were as follows:

<u>Name</u>	<u>Title</u>
John L. Comeau	President
Efthymia Tsoukalas	Vice president
Xhuhere Mehovic	Treasurer
Jonathan Weinrich	Counsel

B. Territory and Plan of Operation

Business is acquired from agents and brokers throughout the State of New York, and is directly written by the Association at its home office. The Association seeks recovery from bond holding licensees for all claims paid to the State Liquor Authority (“SLA”) on the licensees’ behalf.

C. Amended Excise Reinsurance Agreement of May 1968

In accordance with the terms of this agreement, the member companies of Excise Bond Underwriters agreed to reinsure each other upon all excise bonds (bonds required by the State of New York in connection with the manufacture, transportation or sale of alcoholic beverages) executed by any member company. At November 30, 2009, the member companies and their percentage of participation in the Association were as follows:

<u>Member</u>	<u>Percentage</u>
Great American Insurance Company	37.398%
Hanover Insurance Company	<u>62.602</u>
Total	<u>100.00%</u>

Distributions of earnings were made to member companies during 2005, 2006, 2007, 2008 and 2009.

During the examination period, three member companies resigned from the Association: Fidelity and Deposit Company of Maryland resigned effective November 30, 2004 and United States Fidelity & Guaranty Company and Seaboard Surety Company both resigned effective November 30, 2008. The Association is currently in litigation with United States Fidelity & Guaranty Company and Seaboard Surety Company regarding amounts due for administrative costs associated with the existing policies. The Association is withholding distributions totaling \$21,391 from those companies pending resolution of the litigation.

D. Significant Operating Ratios

The following ratios have been computed as of November 30, 2009, based upon the results of this examination:

Net premiums written in 2009 to surplus as regards policyholders	251.96%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	86.12%
Premiums in course of collection to surplus as regards policyholders	31.55%

None of the above ratios fall outside the benchmark ranges established 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 three-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$ 415,467	11.84 %
Other underwriting expenses incurred	3,059,360	87.19
Net underwriting loss	<u>34,017</u>	<u>0.97</u>
Premiums earned	<u>\$3,508,844</u>	<u>100.00 %</u>

E. Accounts and Records

The Association is not an insurance company and is therefore not required to prepare an annual statement on an NAIC association blank. The Association does have its financial statements audited by an independent certified public accountant on an annual basis; however, it has not been providing the audited financial statements to the Department. The Association is subject to the provisions of Section 2317(c) of the New York Insurance Law, which provides that every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance “shall be subject to examination by the superintendent as often as he may deem it expedient.” In order for the Department to monitor the operations of the Association, and in lieu of more frequent Department examinations, it is recommended that the Association provide a copy of its audited financial statements to the Department on an annual basis. A similar recommendation was included in the prior report on examination.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of November 30, 2009 as determined by this examination and as reported by the Association:

Assets

Investments - US treasury notes	\$1,118,203
Cash and cash equivalents	139,171
Investment income receivable	2,196
Premiums in course of collections, net of commissions	106,072
Special deposit - post office	300
Advances to AreA	<u>55,000</u>
Total admitted assets	<u>\$1,420,942</u>

Liabilities and Member's Equity

Liabilities

Losses	\$15,501
Loss adjustment expenses	22,968
Taxes, licenses and fees (excluding federal and foreign income taxes)	7,322
Unearned premiums	975,976
Other expenses (payable to parent)	<u>62,941</u>
Total liabilities	\$1,084,708
Members' equity	<u>336,234</u>
Total liabilities and member's equity	<u>\$1,420,942</u>

NOTE: Excise Bond Underwriters is a not-for-profit association. It is not required to file a federal income tax return.

B. Underwriting and Investment Exhibit

Members' equity increased by \$164,979 during the five-year examination period December 1, 2004 through November 30, 2009, detailed as follows:

Statement of Income

Underwriting income

Premiums earned		\$ 3,508,844
Deductions:		
Losses and loss adjustment expenses incurred	\$ 415,467	
Other underwriting expenses incurred	<u>3,059,360</u>	
Total deductions		<u>3,474,824</u>
Net underwriting gain (loss)		\$ 34,017
<u>Investment income</u>		
Net realized capital gains	\$ <u>237,275</u>	
Net investment gain		237,275
<u>Other income</u>		
Withdrawal – Settlement	\$ 53,000	
Services charges	9,214	
Refunds to agents	<u>(205)</u>	
Total other income		<u>62,009</u>
Net income		<u>\$ 333,301</u>

Members' Equity

Members' equity per report on examination as of November 30, 2004			\$ 171,255
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Members' Equity</u>	<u>Members' Equity</u>	
Net income	\$333,301	\$	
Change in non-admitted assets	41,410		
Distributions retained	21,391		
Distributions to member companies	<u>0</u>	<u>231,123</u>	
Total gains and losses	<u>\$396,102</u>	<u>\$231,123</u>	
Net decrease / increase in Members' equity			<u>164,979</u>
Members' equity per report on examination as of November 30, 2009			<u>\$ 336,234</u>

4. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
1. <u>Financial Statement</u>	
It was recommended that the Association file a copy of its certified year-end financial statement reports with the Department on an annual basis.	6
The Association has not complied with this recommendation. A similar recommendation is included herein.	
2. <u>Investments</u>	
A. It was recommended that the investments in annuities not be classified as U.S. Treasury notes and bills.	6
The Association has complied with this recommendation.	
B. It was recommended that investment in annuities be reported at the current withdrawal value.	9
The annuities in question have now reached their maturity date and therefore are no longer subject to early withdrawal penalties.	

5. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
It is recommended that the Association provide a copy of its audited financial statements to the Department on an annual basis.	5

Respectfully submitted,

_____/s/_____
Leon Tambue
Senior Insurance Examiner

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

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

_____/s/_____
Leon Tambue

Subscribed and sworn to before me
this _____ day of _____, 2010.

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:

Leon Tambue

as proper person to examine into the affairs of the

EXCISE BOND UNDERWRITERS

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

Underwriters

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 18th day of May, 2010



James J. Wrynn

JAMES J. WRYNN

Superintendent of Insurance