

REPORT ON ORGANIZATION

OF THE

NEW YORK TRANSPORTATION INSURANCE CORPORATION

AS OF

JUNE 14, 2005

DATE OF REPORT

JUNE 17, 2005

EXAMINER

ADEBOLA AWOFESO

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

June 17, 2005

Honorable Howard Mills  
Acting 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 22386 dated June 8, 2005 attached hereto, I have made an examination on organization of New York Transportation Insurance Corporation as of June 14, 2005, and submit the following report thereon.

Wherever the designations "Company" or "NYTIC" appear herein without qualification, they should be understood to indicate New York Transportation Insurance Corporation.

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 Company's attorney offices located at 180 Maiden Lane. New York, New York 10038.

## 1. SCOPE OF EXAMINATION

The examination comprised a complete verification of the issuance of the Company's capital stock, the receipt of the capital and surplus funds, and the determination of the Company's assets and liabilities. The records examined were the declaration of intention and charter, the by-laws, the certificate of incorporation, the corporate minutes, the stock register and the inter-company and custodial agreements entered into by the Company as of the examination date. In addition, an affidavit, appended hereto, was obtained from two officers of the Company indicating that the transactions noted in this report were lawful and bona fide.

## 2. INCORPORATION

New York Transportation Insurance Corporation was incorporated under the laws of the State of New York on January 24, 2003. The Department approved the Company's declaration of intention and charter on the same date.

As of the examination date, the Company's board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Arun Agarwal Syosset, NY	President, Big Apple Brokerage, Inc. A&M Insurance Brokerage, Inc. Radas Management Corp. Agarwal Yusba Enterprises, Ltd. New York Transportation Insurance Company
Rachita Agarwal Syosset, NY	Student, Georgetown Law School Assistant Secretary, New York Transportation Insurance Company
Ranjana Agarwal Syosset, NY	Owner and Manager, Deer Park Tennis and Fitness Center

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Anita Gupta, River Forest, IL	Medical Researcher, Forensics and Pathology, Northwestern Memorial Hospital
Harendra K. Gupta, Forest Park, IL	Teacher, Chicago Board of Education
Nidhi. Gupta River Forest, IL	Pharmacy Technician, Osco Drug Store
Nittin K. Gupta River Forest, IL	Student, DePaul University
Raj R. Gupta, Forest Park, IL	Teacher, Schurz High School
Susan Javer, Dix Hill, NY	Manager, Deer Park Tennis and Fitness Center
Elliott Roth, Suffern, NY	Certified Public Accountant, Practicing Accountant
Anna Yuspa, Matawan, NJ	Analyst, Fleet Bank
Marat Yuspa, Matawan, NJ	Vice President, Big Apple Brokerage, Inc. A&M Insurance Brokerage, Inc. Radas Management Corp. Agarwal Yusba Enterprises, Ltd. New York Transportation Insurance Company
Steven B. Yuspa, Matawan, NJ	Analyst, Citigroup

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

As of June 14, 2005, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Andrew W. Attivissimo	Chief Operating Officer
Arun Agarwal	President
Marat Yuspa	Vice President
Aloke Agarwal	Secretary /Treasurer
Rachita Agarwal	Assistant Secretary

Article IV (Section.1) of the Company's by-laws requires that the board elect the chairman of the board of directors as an officer of the Company. As of June 14, 2005, the board had not elected such officer. It is recommended that the board of directors elect the appropriate officers, as required by its by-laws.

### **3. CAPITALIZATION AND SUBSCRIPTION**

New York Transportation Insurance Corp authorized capital of \$600,000 consists of 60,000 shares of common stock at \$10 par value per share. On June 13, 2005, the Company issued 60,000 shares of its common stock to various investors for a consideration of \$1,999,800.

In order to fulfill the deposit requirement of Section 4104 of the New York Insurance Law, the Company has placed securities with a par value of \$990,507 in a custodial account in the name of the Superintendent of Insurance of the State of New York in trust for the security of the policyholders of NYTIC, within the United States, its territories and possessions.

4. **BALANCE SHEET**

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of June 14, 2005 and as reported by the Company:

		<u>Per Company</u>
<u>Assets</u>		
Bonds		\$1,798,672
Cash		<u>50,937</u>
Total admitted assets		<u>\$1,849,609</u>
<u>Liabilities</u>		
		\$0
<u>Capital and Surplus</u>		
Common capital stock	\$600,000	
Gross paid in and contributed surplus	1,399,800	
Unassigned funds (Surplus)	<u>(150,190)</u>	<u>1,849,609</u>
Total surplus as regards policyholders		<u>\$1,849,609</u>

## **5. CUSTODIAL AGREEMENT**

The NAIC Financial Condition Examiners Handbook Part 1-General, Section IV.H-Custodial or Safekeeping Agreements requires insurance companies to maintain a custodial agreement with the following guidelines:

- a. That the national bank, state bank, or trust company, as custodian is obligated to indemnify the insurance company for any insurance company's loss of securities in the custodian's custody, except that, unless domiciliary state law, regulation, or administrative action otherwise require a stricter standard (Section 2.b. sets forth an example of such a stricter standard), the bank or trust company shall not be so obligated to the extent that such loss was caused by other than the negligence or dishonesty of the custodian;
- b. If domiciliary state law, regulation, or administrative action requires a stricter standard of liability for custodians of insurance company securities than that set forth in Section 2.a., then such stricter standard shall apply. An example of a stricter standard that may be used is that the custodian is obligated to indemnify the insurance company for any loss of securities of the insurance company in the custodian's custody occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction;
- c. That in the event of a loss of the securities for which the custodian is obligated to indemnify the insurance company, the securities shall be promptly replaced or the value of the securities and the value of any loss of rights or privileges resulting from said loss of securities shall be promptly replaced;
- d. That the national bank, state bank or trust company as custodian shall not be liable for any failure to take any action required to be taken hereunder in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosions, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control;
- e. That in the event that the custodian gains entry in a clearing corporation through an agent, there should be a written agreement between the custodian and the agent that the agent shall be subjected to the same liability for loss of securities as the custodian. If the agent is governed by laws that differ from the regulation of the custodian, the Commissioner of Insurance of the state of domicile may accept a standard of liability applicable to the agent that is different from the standard liability;
- f. That if the custodial agreement has been terminated or if 100% of the account assets in any one custody account have been withdrawn, the custodian shall provide written notification, within three business days of termination or withdrawal, to the insurer's domiciliary commissioner;
- g. That during regular business hours, and upon reasonable notice, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, its records relating to securities, if the custodian is given written instructions to that effect from an authorized officer of the insurance company;

- h. The custodian and its agents, upon reasonable request, shall be required to send all reports which they receive from a clearing corporation or the Federal Reserve book-entry system which the clearing corporation or the Federal Reserve permits to be redistributed and reports prepared by the custodian's outside auditors, to the insurance company on their respective systems of internal control;
- i. To the extent that certain information maintained by the custodian is relied upon by the insurance company in preparation of its annual statement and supporting schedules, the custodian agrees to maintain records sufficient to determine and verify such information.
- j. That the custodian shall provide, upon written request from a regulator or an authorized officer of the insurance company, the appropriate affidavits, with respect to the insurance company's securities held by the custodian;
- k. That the custodian shall secure and maintain insurance protection in an adequate amount;
- l. That the foreign bank acting as a custodian, or a United States custodian's foreign agent, or a foreign clearing corporation is only holding foreign securities or securities required by the foreign country in order for the insurer to do business in that country. A United States custodian must hold all other securities.

The Company had no custodial agreement in effect for the safekeeping of its investments. It is recommended that the Company procure an agreement that comply with NAIC guidelines.

## **6. AUTHORIZED POWERS AND MINIMUM CAPITAL REQUIRED**

The Company is authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

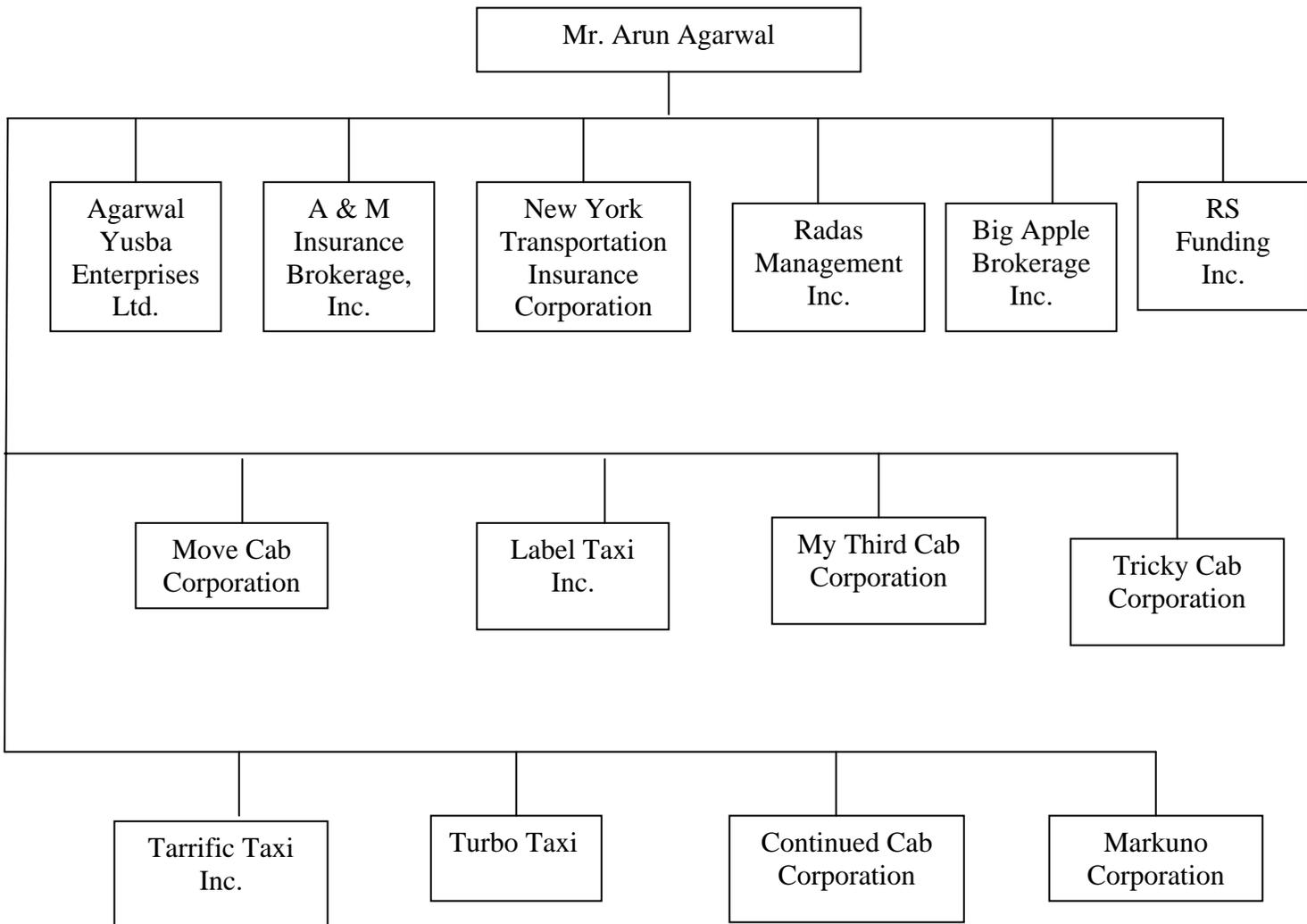
<u>Paragraph</u>	<u>Line of Business</u>
15	Workers' compensation and employers' liability

Based on the lines of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$600,000.

## 7. HOLDING COMPANY SYSTEM

The Company is a member of a holding company system that is ultimately controlled by Arun Agarwal.

The following is the organization chart of the holding company system at June 14, 2005:



At June 14, 2005, the Company was party to the following agreements with other members of its holding company system:

Brokerage Agreement

Effective October 22, 2004, the Company and its affiliate A&M Insurance Brokerage Inc. (“A&M”), entered into a brokerage agreement. Under the terms of this agreement, A&M performs specified services on behalf of the Company.

Cost Allocation Agreement

Effective May 18, 2005, the Company and members of its affiliates; Agarwal Yusba Enterprises Ltd, A&M Insurance Brokerage Inc., Radas Management Inc. and Big Apple Brokerage Inc. entered into a cost allocation agreement. Under the terms of this agreement, the companies agree to allocate expenses for services rendered, to be calculated as an approximate percentage of each company’s share of the total salary attributable to each employee.

Rent Allocation Agreement

Effective September 16, 2004, the Company and members of its affiliate Agarwal Yusba Enterprises Ltd (“Landlord”) entered into a rent allocation agreement. Under the terms of this agreement, each Company will occupy 575 square feet of office space and pays \$.83/mo per square feet for a total of \$477.25 in total monthly rent. Each tenant agrees to pay 25% of the building expenses and maintenance costs.

## 8. CONCLUSION

Based on the foregoing examination, it is concluded that the Company sold 60,000 shares of common stock with a par value of \$10 per share. These shares represented the total authorized and issued stock for which the Company received a consideration of \$1,999,800, of which \$600,000 represents capital and \$1,399,800 represents gross paid in and contributed surplus.

## 9. SUMMARY OF COMMENTS AND RECOMMENDATIONS

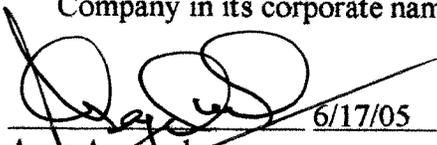
<u>ITEM</u>		<u>PAGE NO.</u>
A	<u>Incorporation</u>	
	It is recommended that the Company elect a chairman of the board as one of its officers.	4
B	<u>Custodial Agreement</u>	
	It is recommended that the Company procure a custodial agreement that comply with the guidelines set forth in the NAIC Examiners' Handbook.	7

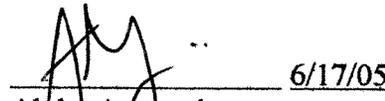


STATE OF NEW YORK,            )  
  )  
COUNTY OF NEW YORK        )    SS.:

The undersigned each an executive officer of New York Transportation Insurance Corp (the "Company") duly sworn, depose and say under oath that, on the date of June 14, 2005:

- (1) Each of the undersigned is an officer of the Company.
- (2) The Company's capital and surplus equals One Million Nine Hundred and Ninety Nine Thousand, Eight Hundred Dollars (\$1,999,800), consisting of paid in capital of Six Hundred Thousand Dollars (\$600,000) and contributed surplus of One Million Three Hundred and Ninety Nine Thousand, Eight Hundred Dollars (\$1,399,800) (the "Capital and Surplus"). The capital and surplus is on deposit with the Bank of New York.
- (3) No part of the Capital and Surplus has been withdrawn, pledged, or in any way impaired.
- (4) No part of the Capital and Surplus is to be invested or otherwise legitimately used or appropriated except for the sole and exclusive use and benefit of the Company.
- (5) There is no agreement or understanding, express or implied, made or existing between the Company and its officers, or any or either of them, or any person or persons, to the effect or import that the money paid in by any stockholder shall be loaned or returned to it.
- (6) Neither the Company nor any of its officers is in any way, manner or form pledged or committed to make any investment, loan or disposition of the Capital and Surplus, or any part or portion thereof, which is not in strict conformity in all respects with the provisions of the Insurance Law of the State of New York.
- (7) The Capital and Surplus is the property of the Company and is possessed by the Company in its corporate name and capacity for the benefit of its policyholders.

  
\_\_\_\_\_  
Arun Agarwal  
President

  
\_\_\_\_\_  
Alok Agarwal  
Treasurer and Secretary

Subscribed and sworn to before me  
this 17 day of June, 2005

  
\_\_\_\_\_  
Notary Public

**STEVEN YUSPA**  
Notary Public State of New York  
No. 01YU6081574  
Qualified in Kings County  
Commission Expires October 7, 2006

Appointment No 22386

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, HOWARD MILLS, Acting Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Adebola Awofeso**

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

**NEW YORK TRANSPORTATION INSURANCE CORPORATION**

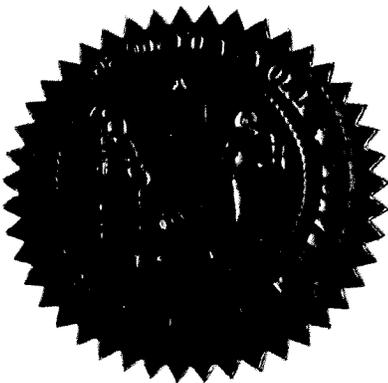
*to make a report to me in writing of the condition of the said*

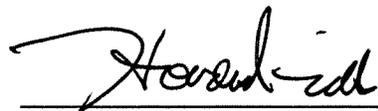
**Corporation**

*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 8th day of June, 2005*





HOWARD MILLS

Superintendent of Insurance