

REPORT ON EXAMINATION

OF

COMMUNITY MUTUAL INSURANCE COMPANY

AS OF

DECEMBER 31, 2018

DATE OF REPORT

APRIL 3, 2020

EXAMINER

SHEIK H. MOHAMED

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## Department of Financial Services

**KATHY HOCHUL**  
Governor

**ADRIENNE A. HARRIS**  
Acting Superintendent

October 1, 2021

Honorable Adrienne A. Harris  
Acting 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 31987 dated July 18, 2019, attached hereto, I have made an examination into the condition and affairs of Community Mutual Insurance Company as of December 31, 2018, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Community Mutual 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 433 River Street, Suite 8002, Troy, New York 12180.

## 1. SCOPE OF EXAMINATION

The Department has performed an examination of the Community Mutual Insurance Company, a single-state insurer. The previous examination was conducted as of December 31, 2013. This examination covered the five-year period from January 1, 2014 through December 31, 2018. Transactions occurring subsequent to this period were reviewed when deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners 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
- Reinsurance
- Affiliated group
- Financial statement presentation
- Loss review and analysis
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company with regard to the 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

An organizational meeting of the Bethlehem Mutual Insurance Association was held in 1854. The Company was incorporated on April 9, 1875, for the purpose of transacting business as an assessment co-operative fire insurance company in the Town of Bethlehem, Albany County, New York.

The Bethlehem Mutual Insurance Association and the New Scotland Mutual Insurance Company merged effective August 31, 1962. The surviving company was known as the Bethlehem and New Scotland Mutual Insurance Company. On December 1, 1992, a merger was effected with the Co-operative Fire Insurance Corporation of Bergholz, New York, with the Bethlehem and New Scotland Mutual Insurance Company continuing as the surviving company.

Effective January 1, 1993, the Bethlehem and New Scotland Mutual Insurance Company converted to an advanced premium co-operative property/casualty insurance company and changed its name to Community Mutual Insurance Company.

Effective December 1, 2013, the Company entered into an affiliation agreement with Union Mutual Fire Insurance Company, a Vermont-domiciled 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 18 members. The board meets at least two times during each calendar year. At December 31, 2018, the board of directors was comprised of the following seven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
David William Becker East Greenbush, NY	Owner, Becker Farms
Mona Smith DeMay Sand Lake, NY	Retired
Jennifer Parker Galfetti Barre, VT	Chief Financial Officer and Treasurer, Community Mutual Insurance Company Chief Financial Officer and Treasurer, Union Mutual Fire Insurance Company

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Peter Baird Joslin, Jr. Albany, NY	Attorney, O'Connor, O'Connor, Bresee and First, P.C.
Michael William Nobles Barre, VT	President and Chief Executive Officer, Union Mutual Fire Insurance Company Chairman and Chief Executive Officer, Community Mutual Insurance Company
Gary Henry Ouellette Berlin, VT	Executive Vice President, Union Mutual Fire Insurance Company
Thomas Albert White East Greenbush, NY	President, Community Mutual Insurance Company

As of December 31, 2018, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Michael William Nobles	Chief Executive Officer
Thomas Albert White*	President
Jennifer Parker Galfetti	Chief Financial Officer and Treasurer
Lisa Lynn Keysar	Corporate Secretary

\*Mr. White resigned effective January 1, 2019 and was replaced by Marvin Joseph Cook effective March 18, 2020.

B. Territory and Plan of Operation

As of December 31, 2018, the Company was licensed to write business in New York State only.

As of the examination date, the Company was 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>
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
12	Collision
13	Personal injury liability

<u>Paragraph</u>	<u>Line of Business</u>
14	Property damage liability
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine (inland only)

Based upon the lines of business for which the Company is licensed and pursuant to the requirements of Articles 13, 41, and 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$527,367.

The Company did not assume any business during the examination period. The following schedule shows the direct premiums written by the Company for the period under examination:

<u>Calendar Year</u>	<u>Total Direct Premiums</u>
2014	\$3,266,888
2015	\$3,522,895
2016	\$4,396,219
2017	\$5,006,172
2018	\$5,562,488

The Company's predominant lines of business are commercial multiple peril and homeowners' multiple peril, which accounted for 58.1% and 32.7%, respectively, of the Company's 2018 direct written business. At December 31, 2018, the Company wrote insurance through approximately 61 independent agents and one affiliated agent.

#### C. Reinsurance Ceded

Pursuant to the terms of an affiliation and service agreement with Union Mutual Fire Insurance Company (refer to section 2D below for further description), effective December 1, 2013, the Company entered into a quota share agreement with Union Mutual Fire Insurance Company ("Union") through which the Company ceded 100% of premiums written net of external reinsurance. This cession did not include FAIR Plan (short for Fair Access for Insurance Requirements) business as well as certain immaterial balances retained by the Company pursuant to its contractual arrangement with Union. The contract indemnifies the Company in respect of liability that may accrue as a result of loss or losses under policies classified by the Company as property and casualty. The contract remains in effect until terminated. This contract was amended so that it would apply to all losses incurred by the Company, including the FAIR Plan.

During the examination period, the Company did not have external reinsurance in place.

Loss Portfolio Transfer Agreement

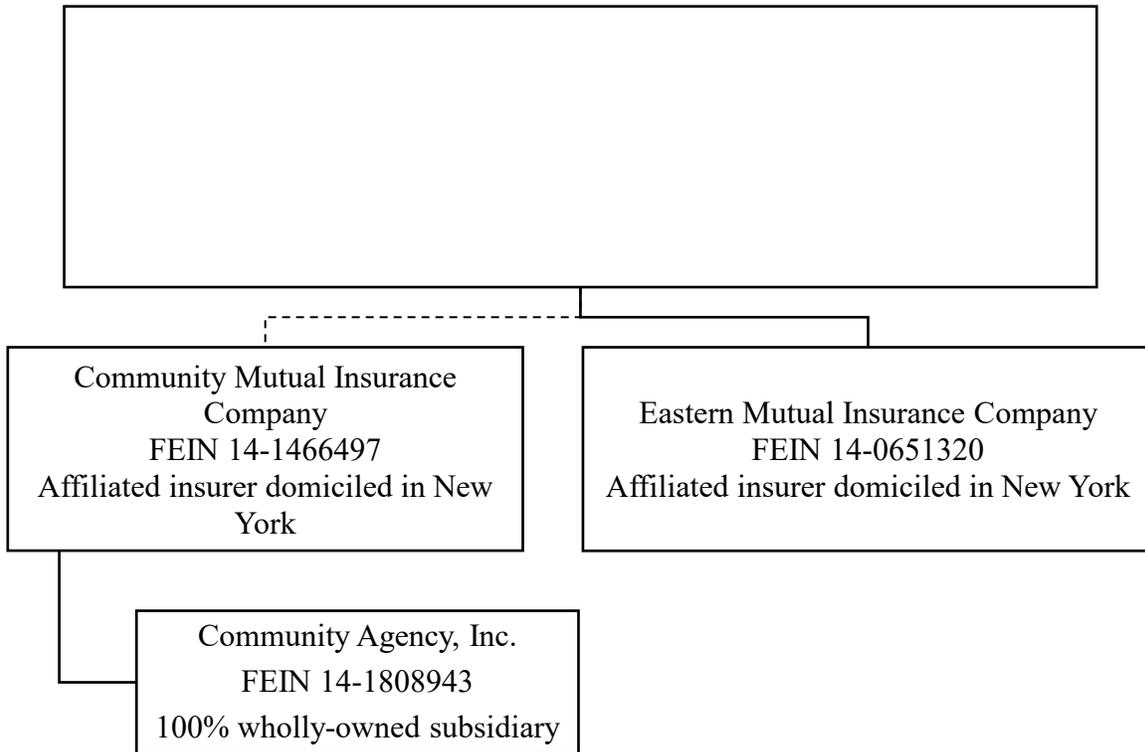
Effective December 1, 2013, the Company entered into a ceded loss portfolio transfer agreement with an authorized affiliated reinsurer, Union, whereby the reinsurer agreed to assume 100% of the Company's loss and loss adjustment (allocated and unallocated) reserves, net of prior reinsurance, as of December 1, 2013. The agreement transferred initial reserves in the amount of \$674,092, for which the Company paid a consideration of \$674,092; thus, there was no initial gain on this contract at inception. The agreement was accounted for by the Company pursuant to the provisions of paragraph 30 and 31 of SSAP 62R.

D. Affiliated Group

i. Affiliation with Union Mutual Fire Insurance Company

Effective December 1, 2013, the Company became affiliated with Union Mutual Fire Insurance Company, a Vermont-domiciled insurer, by virtue of an affiliation and services agreement, a deposit and control agreement, and common management.

The following is an abridged chart of the affiliated group at December 31, 2018:



In a letter dated October 29, 2013, the Department found it unobjectionable for the Company to enter the following agreements with Vermont-domiciled insurer, Union Mutual Fire Insurance Company:

1. Affiliation and Services Agreement

The Affiliation and Services Agreement, dated October 29, 2013, calls for Union to provide such support and services (strategic, claims, underwriting, accounting, actuarial, data processing, legal, personnel, communications, training, administrative and operational support) to the Company. The agreement further calls for Union to reimburse the Company for all of its ongoing operational expenses (including, without limitation, employee wages), with the exception of investment expenses. Effective January 1, 2014, all employees of the Company became employees of Union.

The agreement calls for the Company to cede 100% of its underwriting activity to Union under an intercompany 100% quota share reinsurance agreement. The Company's losses and LAE are to be 100% apportioned to Union, net of prior reinsurance. Refer to section 2C of this report for a description of the reinsurance and loss portfolio agreement executed between the Company and Union.

The agreement further states that the Company shall amend its by-laws in a number of ways. By-law changes called for in the agreement include a provision that so long as Union is providing a 100% quota share agreement to the Company or has contributed capital to the Company, that has not been repaid, the Company's Nominating Committee shall nominate a majority of the candidates for the position of director of the Company who have an affiliation with Union, as designated by Union. The Company shall further amend its by-laws to reduce the number of directors permitted to sit on its board, from nine to seven, and permit the election of directors who are not policyholders. If at any time directors with an affiliation to Union, as designated by Union, shall cease to comprise a majority of the duly elected and seated directors of the Company, the agreement shall be considered materially breached and shall terminate immediately without notice. Either party may terminate the agreement for convenience at any time by giving 180 days prior written notice to the other party. Union may terminate the agreement for breach on 30 days prior written notice to the Company, provided the Company has not cured said breach within such time.

## 2. Deposit and Control Agreement

The Deposit and Control agreement between Union and the Company, dated and effective December 31, 2013, calls for Union to purchase a \$350,000 surplus note from the Company. The surplus note, when combined with the Company's pre-existing surplus to policyholders, shall equal or exceed the statutory minimum surplus to policyholders of the Company required by the New York Insurance Law. This agreement calls for Union to purchase additional surplus notes as are necessary for the Company to maintain statutory minimum surplus. Any additional purchases are subject to approval from the Vermont Department of Financial Regulation. The Company shall repay all surplus notes purchased under this agreement with interest accruing at a rate equal to the prime rate as published on the first business day of each year in the Wall Street Journal, from the date of deposit(s) to the date of repayment.

The repayment of principal and interest on surplus notes shall be made out of free and divisible surplus with the approval of the Department in accordance with the provisions of Section 1307(b) of the New York Insurance Law.

In the event that the directors with an affiliation to Union, as designated by Union, shall cease to comprise the majority of the duly elected and seated directors of the Company, the agreement shall terminate immediately and without notice and, subject to Section 1307(b) of the New York Insurance Law, the Company shall become obligated to commence repayment of all surplus notes.

### 3. Quota Share Reinsurance Contract

In connection with the affiliation agreement, the Company entered into a significant prospective quota share agreement as well as a loss portfolio agreement with Union. Refer to section 2C of this report for a description of the reinsurance and loss portfolio transfer agreements executed between the Company and Union.

#### ii. Community Agency, Inc.

As of December 31, 2018, the Company had a wholly-owned subsidiary, Community Agency, Inc., which was organized in 1998. During the period under review, the Company provided space, certain clerical and managerial services to the subsidiary and paid all expenses on behalf of the subsidiary. The basis for reimbursement by the subsidiary for the services rendered by the Company is outlined in contracts developed annually by the parties. Copies of the contracts are included in the annual Department Regulation 53 submissions made by the Company to the Department.

#### E. Significant Ratios

The Company's ratios are not illustrated because they are not meaningful due to the affiliation and 100% quota share agreement in place with Union.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2018, as reported by the Company:

#### Assets

	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 642,430	\$ 0	\$ 642,430
Common stocks	16,060	6,539	9,521
Cash, cash equivalents and short-term investments	285,392	0	285,392
Investment income due and accrued	6,820	0	6,820
Uncollected premiums and agents' balances in the course of collection	159,454	2,273	157,181
Deferred premiums, agents' balances and installments booked but deferred and not yet due	984,914	0	984,914
Amounts recoverable from reinsurers	182,131	0	182,131
Net deferred tax asset	87,500	0	87,500
Receivables from parent, subsidiaries and affiliates	<u>2,180</u>	<u>0</u>	<u>2,180</u>
Total assets	<u>\$2,366,881</u>	<u>\$8,812</u>	<u>\$2,358,069</u>

Liabilities, Surplus and Other FundsLiabilities

Commissions payable, contingent commissions and other similar charges	\$ 110,973
Taxes, licenses and fees (excluding federal and foreign income taxes)	3,627
Advance premium	92,584
Ceded reinsurance premiums payable (net of ceding commissions)	671,638
Funds held by company under reinsurance treaties	108,983
2003 aggregate recoverable	<u>(5,595)</u>
 Total liabilities	 \$ 982,210

Surplus and Other Funds

Minimum surplus	\$528,124
Surplus notes	350,000
Unassigned funds (surplus)	<u>497,735</u>
 Surplus as regards policyholders	 <u>1,375,859</u>
 Total liabilities, surplus and other funds	 <u>\$2,358,069</u>

Note: The Internal Revenue Service has not performed an audit of the Company's federal income tax returns for any tax year during the examination period. 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 income for the examination period as reported by the Company was \$365,345, as detailed below:

Underwriting Income

Premiums earned		\$ 6,490
Deductions:		
Losses and loss adjustment expenses incurred	\$ (12,918)	
Other underwriting expenses incurred	(238,477)	
Change in 2003 aggregate	<u>10,023</u>	
Total underwriting deductions		<u>(241,372)</u>
Net underwriting gain or (loss)		\$247,862

Investment Income

Net investment income earned	\$195,294	
Net realized capital gain	<u>(69,203)</u>	
Net investment gain or (loss)		126,091

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ 257	
Finance and service charges not included in premiums	140,514	
Finance and service charges ceded to affiliate	<u>(149,379)</u>	
Total other income		<u>(8,608)</u>
Net income before federal and foreign income taxes		\$365,345
Federal and foreign income taxes incurred		<u>0</u>
Net income		<u>\$365,345</u>

C. Capital and Surplus

Surplus as regards policyholders increased \$385,104 during the five-year examination period January 1, 2014 through December 31, 2018, as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2013			\$ 990,755
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$365,345		
Net unrealized capital gains or (losses)		\$66,668	
Change in net deferred income tax	74,900		
Change in nonadmitted assets	<u>11,527</u>	<u>0</u>	
Total gains and losses	\$451,772	\$66,668	
Net increase (decrease) in surplus			<u>385,104</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2018			<u>\$1,375,859</u>

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

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$0 is the same as reported by the Company as of December 31, 2018. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and statutory accounting principles, including SSAP No. 55. All of the Company's reserves were ceded to Union Mutual Fire Insurance Company through a loss portfolio transfer agreement and a quota share agreement described in the reinsurance section of this report. Refer to section 2C of this report for a description of the reinsurance and loss portfolio transfer agreements executed between the Company and Union.

## 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u> It was recommended that the Company comply with its by-laws.  The Company has complied with this recommendation.	4
B. <u>Reinsurance</u> It was recommended that the Company comply with Department Regulation 108 Section 112.6(k) and make the required disclosures pertaining to loss portfolio transactions.  The Company has complied with this recommendation.	8
C. <u>Accounts and Records</u>	
i. It was recommended that the Company comply with New York Insurance Law Section 6611(a)(4)(C), henceforth.  The Company has complied with this recommendation.	12
ii. It was recommended that the Company obtain agreements for its custodial accounts that include all the provisions required by the Department and NAIC Financial Condition Handbook.  The Company has complied with this recommendation.	12
iii. It was recommended that the Company correctly complete the Annual Statement General Interrogatories relative to its custodial agreements.  The Company has complied with this recommendation.	12

## 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

This report on examination contains no comments or recommendations.

Respectfully submitted,

\_\_\_\_\_/S/\_\_\_\_\_  
Sheik H. Mohamed, CPA  
Associate Insurance Examiner

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

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

\_\_\_\_\_/S/\_\_\_\_\_  
Sheik H. Mohamed

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

APPOINTMENT NO. 31987

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, Linda A. Lacewell, 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:

**Sheik Mohamed**

as a proper person to examine the affairs of the

**Community Mutual 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 18th day of July, 2019

LINDA A. LACEWELL  
Superintendent of Financial Services



By:

*Joan P. Riddell*

Joan Riddell  
Deputy Bureau Chief