

REPORT ON EXAMINATION

OF THE

UTICA NATIONAL ASSURANCE COMPANY

AS OF

DECEMBER 31, 2004

DATE OF REPORT

AUGUST 20, 2007

EXAMINER

ALFRED W. BLOOMER, JR.

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

August 20, 2007

Honorable Eric Dinallo
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 22357 dated April 1, 2005 attached hereto, I have made an examination into the condition and affairs of Utica National Assurance Company as of December 31, 2004, and submit the following report thereon.

Wherever the designations "the Company" or "UNAC" appear herein without qualification, they should be understood to indicate Utica National Assurance Company.

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 home offices located at 180 Genesee Street, New Hartford, New York, 13413.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1999. This examination covered the five-year period from January 1, 2000 through December 31, 2004. 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, 2004, 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 Company'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 Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

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

Concurrent examinations were conducted of Utica Mutual Insurance Company ("UMIC"), a New York domestic insurer, and of Graphic Arts Mutual Insurance Company ("GAMIC"), a New York domestic insurer, as of December 31, 2004. These companies are part of a pooling operation with UNAC as described further in this report in Item 2C, "Reinsurance." Separate reports on examination have been rendered relative to Utica Mutual Insurance Company and to Graphic Arts Mutual Insurance Company.

Concurrent examinations have also been conducted of Republic-Franklin Insurance Company (“RFIC”), an Ohio domestic insurer, by the Ohio Insurance Department and with Utica National Insurance Company of Texas (“UNIT”), a Texas domestic insurer by the Texas Insurance Department. RFIC has been a party to the aforementioned pooling agreement since January 1, 1984 and UNIT has been a party to the agreement since January 1, 1995.

2. DESCRIPTION OF COMPANY

The Company was incorporated on June 7, 1995 under the laws of the State of New York. Operations were conducted under the title, “Graphic Arts Insurance Company” until June 23, 1997, when the present name was adopted.

The Company is 100% owned by Utica Mutual Insurance Company, a New York domiciled Insurance Company.

A common management arrangement with UMIC of New Hartford, New York, became effective in 1997. Since 1997, the Company has pooled premiums, losses and expenses with UMIC through a reinsurance pooling agreement which is discussed more fully in Item 2C, “Reinsurance.”

Capital paid in is \$3,000,000 consisting of 50,000 shares of common stock at \$60.00 par value per share. Gross paid in and contributed surplus is \$14,200,000. There were no changes in capital and paid in and contributed surplus from the prior examination date.

A. Management

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 thirteen nor more than twenty-one members. The board meets four times during each calendar year. At December 31, 2004, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
James P. Carhart New Hartford, NY	Vice President, Utica National Insurance Group
Richard P. Creedon Whitesboro, NY	Senior Vice President and General Counsel, Utica National Insurance Group

Name and ResidencePrincipal Business Affiliation

Daniel D. Daly
Vernon, NY

Vice President,
Utica National Insurance Group

Robert W. Dicks, Jr.
New Hartford, New York

Vice President and General Auditor,
Utica National Insurance Group

George T. Dodd
New Hartford, New York

Vice President and Actuary,
Utica National Insurance Group

Brian P. Lytwynec
Ilion, New York

Executive Vice President,
Utica National Insurance Group

Anthony C. Paolozzi
Whitesboro, NY

Executive Vice President, Chief Financial Officer
and Treasurer,
Utica National Insurance Group

Curtis M. Pearsall
Whitesboro, NY

Vice President,
Utica National Insurance Group

Clarke W. Peterson
New Hartford, NY

Senior Vice President,
Utica National Insurance Group

Albert A. Ritchie
Utica, NY

Senior Vice President,
Utica National Insurance Group

James D. Robinson
New Hartford, NY

President and Chief Executive Officer,
Utica National Insurance Group

Robert A. Sherman
Sauquoit, NY

Senior Vice President,
Utica National Insurance Group

George P. Wardley, III
New Woodstock, New York

Associate General Counsel and Secretary,
Utica National Insurance Group

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended with the exception of Daniel D. Daly who attended less than 50% of the meetings for which he was eligible to attend.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the insurer. It is essential that board members attend meetings consistently and set forth their views on relevant matters so that the board may reach appropriate decisions. Individuals who fail to attend at least one-half of the regular meetings do not fulfill such criteria. It is recommended

that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

As of December 31, 2004, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
James D. Robinson	President, Chairman and Chief Executive Officer
George P. Wardley, III	Secretary
Anthony C. Paolozzi	Executive Vice President, Chief Financial Officer and Treasurer
Brian P. Lytwynec	Executive Vice President

On February 27, 2006, subsequent to the examination date, the board of directors appointed Brian P. Lytwynec to the office of president and chief operating officer.

B. Territory and Plan of Operation

As of December 31, 2004, the Company was licensed to write business in Georgia, Kansas and New York.

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>
3	Accident & health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
11	Animal
12	Collision
13	Personal injury liability
14	Property damage liability
15	Worker's compensation and employer's liability
16	Fidelity and surety
17	Credit
19	Motor vehicle and aircraft physical damage

<u>Paragraph</u>	<u>Line of Business</u>
20	Marine and inland marine
21	Marine protection and indemnity
24	Credit unemployment
26	Gap
27	Prize indemnification
28	Service Contract reimbursement
29	Legal services

The Company is also licensed to transact such workers' compensation insurance as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a) of the New York Insurance Law including insurance described in the Longshoremen's and Harbor Workers' Compensation Act. (Public Law No 803, 69 Cong. as amended; 33USC Section 901 et seq. as amended).

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 \$9,100,000.

As of the examination date, the Company was only writing business in New York and Georgia.

The Company obtains its business through a network of 461 agents and brokers as of the examination date. The Company's agency plant consists primarily of "neighborhood" agents and brokers. The Company does not solicit business through the national brokerage firms. The Company does not participate in pools, associations, syndicates or FAIR plans.

The bulk of the Company's business is commercial lines. Four lines of business, workers' compensation, commercial multi-peril, commercial auto liability and auto physical damage represents approximately 90% of the Company's direct writings.

The following schedule shows the direct premiums written by the Company both in total and in New York for the period under examination:

<u>Calendar Year</u>	<u>New York State</u>	<u>Total United States</u>	<u>Premiums Written in New York State as a percentage of United States Premium</u>
2000	\$37,905,414	\$50,023,946	75.77%
2001	\$26,815,057	\$32,195,133	83.29%
2002	\$11,764,721	\$13,378,169	87.94%
2003	\$10,777,173	\$13,421,963	80.30%
2004	\$12,905,831	\$15,344,954	84.10%

C. Reinsurance

Assumed reinsurance accounted for 46.29% of the Company's gross premium written at December 31, 2004. During the period covered by this examination, the Company's assumed reinsurance business has decreased. The main reason for the decrease is that the Company implemented stricter underwriting standards. All of the assumed reinsurance represents business obtained through a pooling agreement with four affiliates. The Company utilizes reinsurance accounting as defined in NAIC Accounting Practices and Procedures Manual Statement of Statutory Accounting Principle ("SSAP") No. 62 for all of its assumed reinsurance business.

Utica National Assurance Company participates in an inter-company pool with four other property casualty affiliates. Under this pooling agreement, premiums, losses and expenses are shared as follows: Utica Mutual Insurance Company (89%), Graphic Arts Mutual Insurance Company (5%), Republic-Franklin Insurance Company (3%), Utica National Assurance Company (2%), and Utica National Insurance Company of Texas (1%). The business written by Utica Lloyds of Texas and Utica Specialty Insurance Company is ceded 100% to Utica Mutual and is shared in accordance with the above-mentioned pooling agreement.

The review of the inter-company pooling agreement indicates that certain accounts were either not pooled or were not pooled in accordance with the agreement. The agreement calls for the following accounts to be pooled, that were either not pooled or not pooled in accordance with the pooling agreement in the Company's filed annual statement:

- Uncollected premiums and agents' balances in the course of collection
- Accounts receivable – policy deductible
- Ceded reinsurance premiums payable
- Pension benefit obligations
- Loss adjustment expenses incurred
- Other underwriting expenses incurred
- Total underwriting deductions
- Finance and service charge not included in premium

The total amount of the unpooled or incorrectly pooled items is not material to the examination and therefore, no adjustment will be made to “Surplus as regards policyholders.”

It is recommended that the Company comply with the terms of its inter-company pooling agreement and pool all accounts in accordance with that agreement.

The Company has established standards by which its reinsurance department is not permitted to place reinsurance with reinsurers that do not comply with those standards. The Company requires that all domestic reinsurers have a minimum of an A.M. Best rating of A- or better and a minimum of \$50,000,000 in policyholders’ surplus and that foreign reinsurers have a minimum rating of BBB from Standard and Poor and a minimum of \$50,000,000 in policyholders surplus. All reinsurers with a non-insurance parent having a controlling interest are generally not acceptable. Variances from these guidelines require approval from the reinsurance security committee.

The company has structured its ceded reinsurance program to limit its maximum exposure to any one risk as follows:

<u>Treaty</u>	<u>Cession</u>
Property 1 st layer 100% Authorized 2 nd layer 100% Authorized	\$9,000,000 excess of \$1,000,000 each risk, each loss, subject to a loss occurrence limit of \$18,000,000; agreement is subject to an annual aggregate deductible of \$5,000,000.
Casualty (6 layers) 1 st layer 95% Authorized 2 nd layer 72.5% Authorized 3 rd layer 75% Authorized 4 th layer 69.25% Authorized 5 th layer 98.01% Authorized 6 th layer 93.13% Authorized	\$99,000,000 excess of \$1,000,000, each occurrence; annual aggregate deductible of \$4,500,000.
Agents’ Errors & Omissions 1 st layer 95% Authorized 2 nd layer 93.39% Authorized	\$4,000,000 excess of \$1,000,000 per policy per claim, \$5,000,000 excess of \$5,000,000 per policy per claim.
Surety 100% Authorized	\$3,000,000 excess of \$1,000,000, any one principal.
Boiler and Machinery 100% Authorized	100% of \$100,000,000 of equipment breakdown liability.
Automatic Umbrella 100% Authorized	90% of \$1,000,000 and 100% of \$9,000,000 excess of \$1,000,000 of the liability produced by Graphic Arts Industries.

<u>Treaty</u>	<u>Cession</u>
Errors & Omissions 100% Authorized	50% of \$1,000,000 each occurrence of the liability produced by Graphic Arts Industries.
Property and Casualty 100% Authorized	100% of the liability for the business produced by the Kansas Farm Bureau.
Personal Umbrella 100% Authorized	75% of \$1,000,000, each occurrence \$4,000,000 excess of \$1,000,000, each occurrence.
Commercial Umbrella 100% Authorized	50% of \$5,000,000 each occurrence. \$5,000,000 excess of \$5,000,000, each occurrence.
	<u>For contractor business only:</u>
	50% of \$1,000,000 each occurrence for contractor business
	100% of \$9,000,000 excess of \$1,000,000.
School Umbrella 100% Authorized	50% of \$5,000,000 each occurrence. \$10,000,000 excess of \$5,000,000, each occurrence.

As of December 31, 2004, the Company also maintained the following excess of loss coverage on a per occurrence basis:

<u>Treaty</u>	<u>Cession</u>
Property (3 layers) 1 st layer 63.09% Authorized 2 nd layer 54.74% Authorized 3 rd layer 61.15% Authorized	95% of \$170,000,000 in excess of \$40,000,000, each occurrence

As of December 31, 2004, the Company has in force the following facultative automatic excess of loss reinsurance agreement:

<u>Treaty</u>	<u>Cession</u>
Property 100% Authorized	\$30,000,000 excess of \$10,000,000 each risk, for schools and condominiums.
100% Authorized	\$10,000,000 excess of \$10,000,000 each risk for Graphic Arts Industries risks.

As of December 31, 2004, the Company has in force the following facultative binding excess of loss reinsurance agreement:

<u>Treaty</u>	<u>Cession</u>
Casualty 100% Authorized	90% of \$1,000,000, net loss each claim and 100% of \$1,000,000 excess of \$1,000,000 of net loss each claim of the employment related practices liability.

Since the last examination the Company has not changed its net retention of \$1,000,000 for both property and casualty business. The Annual Aggregate Deductible increased from \$2.5 million to \$5 million for Property business and from \$2.5 million to \$4.5 million for Casualty business. The majority of the business was ceded to affiliated reinsurers.

All 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 except the following:

- For several treaties, the extra contractual obligation clause was found to include a fraud and bad faith clause however; the fraud and bad faith clause did not state that it is allowable to the extent that such coverage is not contrary to the New York State Insurance Law.
- An “entire contract” clause was not included in all of the Company’s reinsurance contracts as required by SSAP No. 62, paragraph 8c.

It is recommended that the Company include the above noted required clauses in the Company’s reinsurance agreements.

It is the Company's policy that the legal department reviews a new contract clause or unfamiliar language in a reinsurance contract for both new and renewal contracts. In the CPA's work papers it was noted that this is "an informal process and there is no evidence of the Legal Department's review or comments provided" on examination, the Company could not provide documentation supporting their assertion that the legal department reviews reinsurance contracts that contain a new clause or unfamiliar language.

It is recommended that the Company establish a formal procedure for the documentation of contract reviews of reinsurance agreements.

Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. On examination the Company could not provide analytic documentation

to substantiate that the transfer of risk on its ceded reinsurance contracts was performed prior or subsequent to entering into those contracts. Representations were made in an attestation from the Company's chief executive officer pursuant to Department Circular Letter No. 8 (2005) that all of these contracts contained "self-evident risk transfer." Additionally, examination review indicated that the Company's ceded reinsurance contracts did not contain clauses indicating that they were a party to finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraphs 41 to 44 of SSAP No. 62.

During the period covered by this examination, the Company did not enter into any commutation agreements.

The review of Note 26 to the annual statement revealed that the Company did not comply with SSAP No. 63, paragraph 10 disclosure requirements for a reporting entity which is part of a group of affiliated entities which utilizes a pooling arrangement under which the pool participants cede substantially all of their direct and assumed business to the pools.

It is recommended that the Company comply with SSAP No. 63 financial statement disclosure requirements.

Subsequent to the examination date, the Company changed its primary reinsurance intermediary from J P Woods to Holborn, Inc. Uni-Service Excess Facilities Inc, a related party, continues to act as a secondary reinsurance intermediary for the Company. All three reinsurance intermediaries are licensed in New York.

The Company could not provide documentation to support that reinsurance contract terms and expected results are properly documented prior to execution by the Reinsurance Senior Vice President.

It is recommended that the Company retain all documentation pertaining to its review of its reinsurance contracts prior to execution.

D. Holding Company System

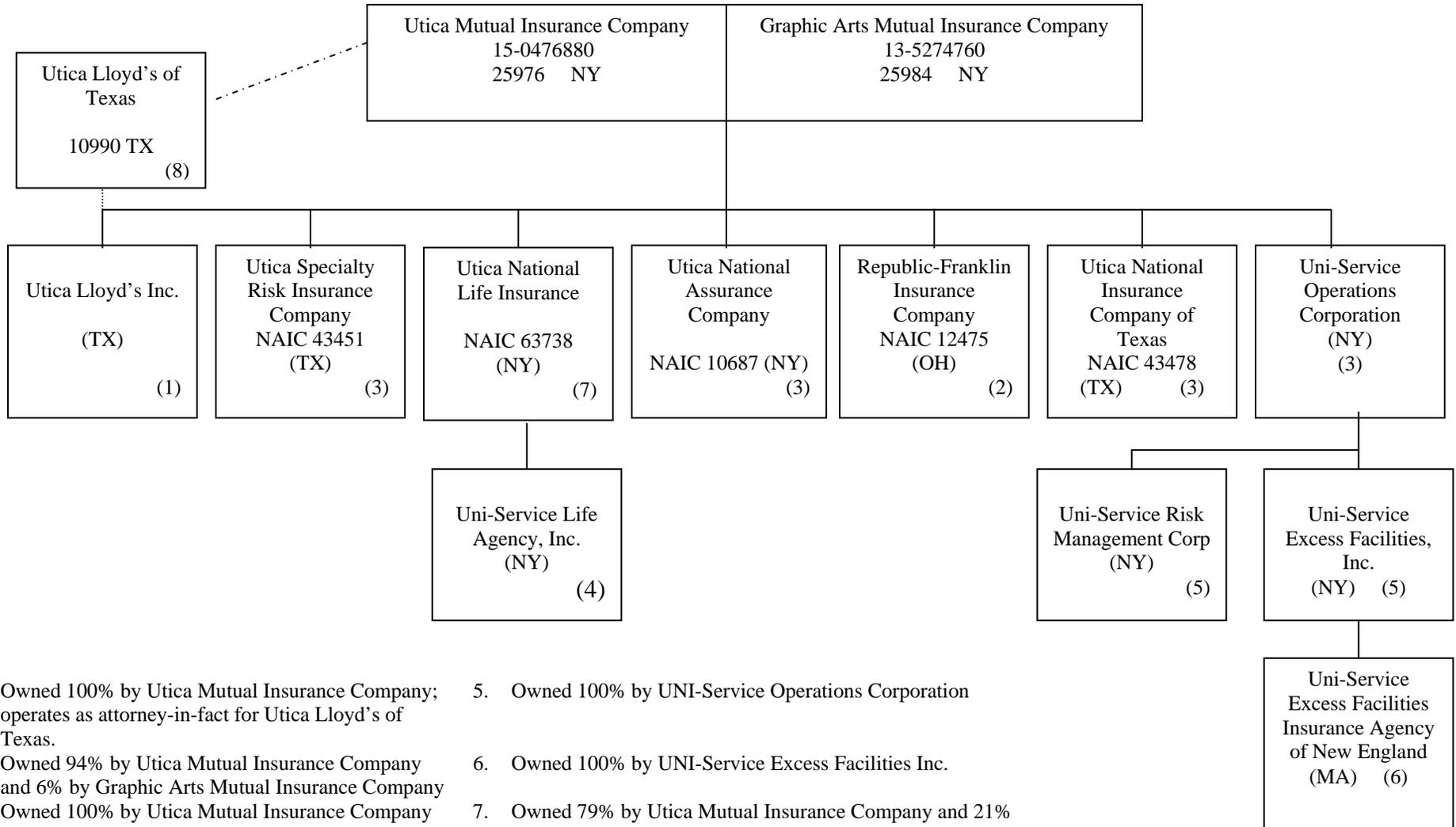
The Company is not a member of a holding company as defined in Article 15 of the New York Insurance Law and is therefore not required to make any filings specified by Department

Regulation 52. However, effective August 13, 2001 the Company is responsible to make specified filings pursuant to Circular Letter No 17 (2001).

The Company and its various affiliates comprise the unincorporated entity known as Utica National Insurance Group (“Group”). On May 25, 2004, Republic-Franklin Insurance Company, an affiliate of UNAC, discontinued the operations of its subsidiary, Utica (Bermuda) Limited. Utica (Bermuda) Limited has been removed from the chart.

The following is an organizational chart outlining the relationship between members of the Group at December 31, 2004:

Utica National Insurance Group



- 1. Owned 100% by Utica Mutual Insurance Company; operates as attorney-in-fact for Utica Lloyd's of Texas.
- 2. Owned 94% by Utica Mutual Insurance Company and 6% by Graphic Arts Mutual Insurance Company
- 3. Owned 100% by Utica Mutual Insurance Company
- 4. Owned 100% by Utica National Life Insurance Company

- 5. Owned 100% by UNI-Service Operations Corporation
- 6. Owned 100% by UNI-Service Excess Facilities Inc.
- 7. Owned 79% by Utica Mutual Insurance Company and 21% by Graphic Arts Mutual Insurance Company.
- 8. A Texas Lloyds association of twelve underwriters under sponsorship of Utica Mutual Insurance Company.

At December 31, 2004, the Company was party to the following agreements with other members of its holding company system:

- Inter-Company pooling agreement with Utica Mutual Insurance Company, Graphic Arts Mutual Insurance Company, Republic-Franklin Insurance Company, and Utica National Insurance Company of Texas (This agreement is described in Section 2C of this report.)
- Tax allocation agreement with Utica Mutual Insurance Company, Republic-Franklin Insurance Company, Utica National Insurance Company of Texas, Utica Specialty Risk Insurance Company, Utica Lloyd's, Inc., UNI-Service Operations Corporation, UNI-Service Risk Management Corporation, UNI-Service Excess Facilities, and UNI-Service Excess Facilities Insurance Agency of New England.

In 1999, the Company amended its previously approved tax allocation agreement. This amendment was in place for the entire examination period. Circular Letter No. 33 (1979) requires that all amendments to a tax allocation agreement be approved by the Company's board of directors and be submitted to the Department for non-disapproval. The Company could not provide documentation supporting the submission of this amended agreement to the Department nor could it provide substantiation that the agreement was approved by the Company's board of directors.

It is recommended that the Company comply with Department Circular Letter No. 33 (1979) and submit all amendments to its inter-company tax allocation agreements to the board of directors for approval and then to the Department for non-disapproval at least 30 days prior to the effective date of any changes to the agreement.

Further, the agreement states that settlement of any inter-company tax balances owed to all affiliates are made within 30 days of the filing of the applicable estimated or actual consolidated federal income tax return with the Internal Revenue Service. Review of the payments indicates that a number of payments were made after the 30 days required by the agreement.

It is recommended that the Company comply with its tax allocation agreement and settle its inter-company balances within 30 days of the filing of the applicable estimated or actual consolidated federal income tax return with the Internal Revenue Service.

On September 10, 2004, the Utica Mutual Insurance Company and Utica National Assurance Company engaged in a "security swap" in which UMIC transferred to UNAC certain GNMA securities in

exchange for various mortgage-backed and corporate bonds. In this exchange, UMIC transferred assets valued at \$10,627,890 par value or \$11,137,123 fair market value to UNAC for assets valued at \$10,850,249 par value or \$11,346,091 fair market value. The difference in market values for the securities “swapped”, \$208,968, was paid in cash by UMIC to UNAC.

The security swap was done to bring UNAC into compliance with Article 14 of the New York Insurance Law.

Circular Letter No. 17 (2001) states in part:

“Beginning September 1, 2001, every authorized domestic insurer that is exempt from the provisions of Article 15 of the New York Insurance Law is hereby directed, pursuant to Section 308 of the New York Insurance Law, to furnish this Department by e-mail with a report on the attached Form CL 17 (2001), at least 30 days in advance of entering into any of the following transactions . . .

- Sales, purchases, exchanges, loans, extensions of credit, or investments with an affiliate, provided the transactions are equal to or exceed:
- With respect to non-life insurers, the lesser of three percent (3%) of the insurer’s admitted assets or twenty-five percent (25%) of surplus to policyholders . . . as of the 31st day of December next preceding . . .

The amount of this transaction exceeds the benchmark set by the Circular Letter for UNAC and was not reported to the Department on Form CL 17 (2001) as required by the Circular Letter.

Further, it was noted that the sales / acquisitions of securities were transferred at book value, not market value and as such no gain or loss was recognized by either company. The Company indicated that this was done due to limitations of their investment system at the time of the transfer and so as not to recognize a gain prior to the actual disposal of the investment security.

It is recommended that the Companies comply with Circular Letter No. 17 (2001) and report all transactions exceeding the benchmarks, on the required form, to this Department at least 30 days prior to entering into such transaction.

It is further recommended that the Companies comply with the National Association of Insurance Commissioners’ Annual Statement Instructions and properly report all sales and acquisitions of securities and the related investment gains and losses in all future statements filed with this Department.

E. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed to be abandoned property. Such abandoned property shall be reported to the comptroller on or before the first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report.

The Company's abandoned property reports for the period of this examination were all filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2004, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	67%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	68%
Premiums in course of collection to surplus as regards policyholders	15%

All of the above ratios fall within the benchmark ranges set forth 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 five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Loss and loss adjustment expenses incurred	\$52,847,274	81.44%
Other underwriting expenses incurred	20,922,536	32.24
Net underwriting loss	<u>(8,879,414)</u>	<u>(13.68)</u>
Premiums earned	<u>\$64,890,396</u>	<u>100.00%</u>

G. Accounts and Records

a. Premiums and considerations

Uncollected Premiums and Agents' Balances in the Course of Collection (line 12.1)

On examination it was noted that the Company was reducing the non-admitted portion of premiums and considerations as noted below:

- When an insured has multiple policies with the same agent, and the net amount for all the policies show a credit balance, the Company reduces the non-admitted amount by the amount owed for that policy;
- When an agent reports that they have received money from the insured, the Company reduces the balance owed by that amount. The Company is treating payments to the agent as payment to the Company.
- When an insured has multiple policies with the Company and one policy has a credit balance on a direct billed policy and a balance over 90 days past due on an agency billed policy, the credit balance is used to off-set the over due balance.

This accounting treatment noted above is not in accordance with SSAP No. 6, paragraph 9, which states:

“9. Nonadmitted amounts are determined as follows:

- a. Uncollected Premium—To the extent that there is no related unearned premium, any uncollected premium balances which are over ninety days due shall be nonadmitted. If an installment premium is over ninety days due, the amount over ninety days due plus all future installments that have been recorded on that policy shall be nonadmitted;
- b. Bills Receivable—Bills receivable shall be nonadmitted if either of the following conditions are present:
 - i. If any installment is past due, the entire bills receivable balance from that policy is nonadmitted; or
 - ii. If the bills receivable balance due exceeds the unearned premium on the policy for which the note was accepted, the amount in excess of the unearned premium is nonadmitted.
- c. Agents' Balances—The uncollected agent's receivable on a policy by policy basis which is over ninety days due shall be nonadmitted regardless of any unearned premium;
 - i. If amounts are both payable to and receivable from an agent on the same underlying policy, and the contractual agreements between the agent and the reporting

entity permit offsetting, the nonadmitted portion of amounts due from that agent shall not be greater than the net balance due, by agent;

ii. If reconciling items between a reporting entity's account and an agent's account are over ninety days due, the amounts shall be nonadmitted.”

Based on the statutory accounting guidance noted above, the Company should have non-admitted that portion of the asset that did not comply with SSAP No. 6.

It is recommended that the Company comply with SSAP No. 6, paragraph 9 when determining its non admitted uncollected premiums and agents’ balances.

The changes caused by these procedures are not material to the examination and, therefore, no adjustment to “Surplus as regards policyholders” will be made.

b. Commissions Payable

The following is noted relative to Commissions payable:

1. The Company reported commissions’ payable for direct billed commissions as a reduction of line 12.1 on the assets page of the annual statement. This should have been reported as a liability on line 4 of page 3.
2. The Company reported commissions’ payable for brokers’ commissions as a reduction of line 12.1 on the assets page of the annual statement. This should have been reported as a liability under Commissions Payable of line 4 of the liabilities' page. The amount was also incorrect.
3. The Company reported commissions payable for agency billed commissions as a liability as part of Line 5, "Other Expenses" on the annual statement at December 31, 2004. This should have been reported as a reduction of premium due on line 12.2 of the annual statement.

Due to the immateriality of the change resulting from the incorrect amount reported for commissions payable for brokers no examination change has been made. All other noted changes are balance sheet reclassifications.

c. Unearned premiums

Review of the Company’s actuarial opinion makes no mention of a reserve for ceded unearned premiums and reserve for direct unearned premiums as is required by the NAIC SSAP No. 65, paragraph 32. These items are also not discussed in the “Opinion and relevant comments” paragraph of the actuarial

opinion. Further, the Opinion does not address the reduction in unearned premium due to salvage and subrogation.

It is recommended that the Company comply with SSAP No. 65, paragraph 32 by filing an actuarial opinion containing the requisite information.

d. Certified Public Accountant Engagement Letter

On examination it is determined that that the engagement letter entered into between Utica National Insurance Group and PricewaterhouseCoopers, LLP, its independent auditor, is not in compliance with Department Regulation 118. According to Part 89.2 of Department Regulation No. 118, such contract must specify the following:

“(a) on or before May 31st, the CPA shall provide an audited financial statement of such insurer and of any subsidiary required by section 307(b)(1) of the Insurance Law together with an opinion on the financial statements of such insurer and any such subsidiary for the prior calendar year and an evaluation of the insurer’s and any such subsidiary’s accounting procedures and internal control systems as are necessary to the furnishing of the opinion;

(b) any determination by the CPA that the insurer has materially misstated its financial condition as reported to the superintendent or that the insurer does not meet minimum capital or surplus to policyholder requirements set forth in the Insurance Law shall be given by the CPA, in writing, to the superintendent within 15 calendar days following such determination; and

(c) the workpapers and any communications between the CPA and the insurer relating to the audit of the insurer shall be made available for review by the superintendent at the offices of the insurer, at the Insurance Department or at any other reasonable place designated by the superintendent. The CPA must retain for review such workpapers and communications in accordance with the provisions of Part 243 of this Title (Regulation 152). More specifically, such workpapers and communications must be retained by the CPA for the period specified in sections 243.2(b)(7) and (c) of this Title. For the purposes of this subdivision, the workpapers and communications shall be deemed to have been created on the date the filing required by section 89.2(a) of this Part was submitted to the superintendent.”

The engagement letter entered into between the company and Pricewaterhouse Coopers LLP, dated November 10, 2004 for the 2004 audit period contained none of the required provisions. As a

result, the contract between Utica National Insurance Group and the independent auditor is not in compliance with Department Regulation 118.

It is recommended that the Company comply with Department Regulation 118 by entering into future contracts with its independent auditor that contains the requisite provisions.

e. Custodial Agreement

The examination reviewed the custodial agreement between the Company and the Bank of New York, the Company's custodian. The custodial agreement lacked the following safeguards and controls required by Part 1, Section IV(J) of the NAIC Financial Condition Examiners Handbook.

2a. The 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 . . .

2c. 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 . . .

2e. 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

2f. 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; . . .

2h. 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 . . .

2i. 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 verify such information. (The agreement falls short - it only agrees to "make reasonable effort to procure" this information.)

2l. The foreign bank acting as a custodian, or a U.S. 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 US custodian must hold all other securities.

It was further noted that the Company answered "yes" to the General Interrogatory # 23 in the filed annual statements at December 31, 2004, and listed the Bank of New York custodial agreement as an agreement that complied with the NAIC Financial Condition Examiners Handbook.

It is recommended that the Company comply with Part 1, Section IV(J) of the NAIC Financial Condition Examiners Handbook by revising its custodial agreements to include all of the requisite safeguards and controls.

It is further recommended that the Company respond appropriately to the general interrogatories in all future statements filed with this Department.

f. Preparation of the Annual Statement

The examination noted several instances where the Annual Statement was not prepared in accordance with the NAIC Annual Statement Instructions:

- Commissions payable were netted against "Uncollected premiums" on the Asset page, line 12.1, rather than as "Commissions payable" on the Liabilities page, Line 4 of the Company's filed annual statement.
- Unidentified cash receipts, premium payments greater than the amount billed and deposits for policies that have not been issued were reported as reductions to agents' balances or as a write-in liability rather than the liability "Remittances and items not allocated."
- "Advance premium," Liabilities page, line 10 was reported as "Future effectives" on write-in on Line 2302 of the Liabilities page.
- Note 23 to the "Notes to Financial Statements" did not contain the disclosures required by the annual statement instructions.
- Note 26 to the "Notes to Financial Statements" did not contain the disclosures required by SSAP No. 63, paragraphs 10d through 10g.

It is recommended that the Company exercise more care in the preparation of its filed statements and fully comply with the NAIC Annual Statement Instructions for all future statements filed with this Department.

g. Internal Controls

Manual Journal Entries

The Company has no formal written policy regarding the posting of manual entries to the Company's journals. The Company limits who is authorized and has the ability to make these entries, but there is no written policy regarding this.

It is recommended that the Company institute a formal approval policy to document and control manual entries made to the Company's books and records.

h. Record Retention

During the review of the Company's claims data it was noted that there were a substantial number of gaps present in the claim numbers recorded in that database. The gaps in the claim numbers result from errors in the initial keying/ creation of the claim. The gaps represent situations where keying errors have occurred and are corrected by deletion of the initial claim and the re-keying of the information using a new claim number. When these deletions are made, the Company's system generates a report of the claim number that was deleted. However, that report is only maintained for a period of thirty-seven days.

Department Regulation 152 requires the records to be held for six calendar years from creation or until the filing of the report on examination in which the record was subject to review, whichever is longer.

It is recommended that the Company retain this report and any similar reports that capture the detail of the information keyed on a claim prior to its deletion. Subsequent to the examination, the Company instituted a program to retain this information for the period required by Department Regulation 152.

i. Allocation of expenses

The examination reviewed the manner in which the Company allocates its expenses and the compliance of this allocation with Department Regulation 30. The following discrepancies were found:

- Department Regulation 30 requires that the Company produce and maintain an "Allocation of salaries, Recapitulation of salaries, and Detail of allocation bases" for each 12 month period. The Company did not produce this allocation of salaries.

It is recommended that the Company produce and maintain the records in the form and manner required by Department Regulation 30.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2004. This statement is the same as the balance sheet filed by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$43,390,259	\$ 0	\$43,390,259
Preferred stocks	520,000	0	520,000
Cash, cash equivalents and short-term investments	1,887,627	0	1,887,627
Investment income due and accrued	478,271	0	478,271
Uncollected premiums and agents' balances in the course of collection	3,069,848	55,723	3,014,125
Deferred premiums, agents' balances and installments booked but deferred and not yet due	1,103,805	7,078	1,096,727
Accrued retrospective premiums	5,706	571	5,135
Amounts recoverable from reinsurers	546,235	0	546,235
Current federal and foreign income tax recoverable and interest thereon	184,339	0	184,339
Net deferred tax asset	735,000	0	735,000
Electronic data processing equipment and software	33,277	0	33,277
Furniture and equipment, including health care delivery assets	59,900	59,900	
Receivables from parent, subsidiaries and affiliates	143,939	0	143,939
Other assets nonadmitted	8,816	8,816	0
Aggregate write-ins for other than invested assets	<u>406,475</u>	<u>171,896</u>	<u>234,579</u>
Total assets	<u>\$52,573,499</u>	<u>\$303,984</u>	<u>\$52,269,515</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and Loss adjustment expenses		\$23,594,670
Commissions payable, contingent commissions and other similar charges		351,926
Other expenses (excluding taxes, licenses and fees)		778,931
Taxes, licenses and fees (excluding federal and foreign income taxes)		412,290
Unearned premiums		6,524,242
Dividends declared and unpaid - Policyholders		226,578
Ceded reinsurance premiums payable (net of ceding commissions)		183,512
Amounts withheld or retained by company for account of others		29,140
Drafts outstanding		3,303
Aggregate write-ins for liabilities		<u>321,853</u>
Total liabilities		\$32,426,445

Surplus and Other Funds

Aggregate write-ins for special surplus funds	\$ 74,773	
Common capital stock	3,000,000	
Gross paid in and contributed surplus	14,200,000	
Unassigned funds (surplus)	<u>2,568,297</u>	
Surplus as regards policyholders		<u>19,843,070</u>
Total liabilities, surplus and other funds		<u>\$52,269,514</u>

NOTE: The Internal Revenue Service has completed its audits of the Company's consolidated Federal Income Tax returns through tax year 2001. All material adjustments, if any, made subsequent to the date of examination and arising from said audits, are reflected in the financial statements included in this report. The Internal Revenue Service is scheduled to begin the audit of the tax returns covering tax years 2002, 2003 and 2004. 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. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$2,537,732 during the five-year examination period January 1, 2000 through December 31, 2004, detailed as follows:

Underwriting Income

Premiums earned		\$64,890,396
Deductions:		
Loss and Loss adjustment expenses incurred	\$52,847,274	
Other underwriting expenses incurred	20,922,536	
Aggregate write-ins for underwriting deductions	<u>0</u>	
Total underwriting deductions		<u>73,769,810</u>
Net underwriting gain or (loss)		\$ (8,879,414)

Investment Income

Net investment income earned	\$12,799,449	
Net realized capital gain	<u>(56,508)</u>	
Net investment gain or (loss)		12,742,941

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ (209,528)	
Finance and service charges not included in premiums	233,344	
Aggregate write-ins for miscellaneous income	<u>(152,818)</u>	
Total other income		\$ <u>(129,002)</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$ 3,734,525
Dividends to policyholders		<u>1,175,456</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$ 2,559,069
Federal and foreign income taxes incurred		<u>947,964</u>
Net Income		\$ <u>1,611,105</u>

Surplus as regards policyholders per report on examination as of December 31, 1999			\$17,305,336
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$1,611,105		
Net unrealized capital gains or (losses)	48,118		
Change in net deferred income tax	294,224		
Change in nonadmitted assets	408,299		
Change in provision for reinsurance	2,226		
Cumulative effect of changes in accounting principles	315,133		
Aggregate write-ins for gains and losses in surplus	<u> </u>	<u>\$141,373</u>	
Total gains and losses	<u>\$2,679,105</u>	<u>\$141,373</u>	
Net increase (decrease) in surplus			<u>2,537,732</u>
Surplus as regards policyholders per report on examination as of December 31, 2004			<u>\$19,843,068</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$23,594,670 is the same as reported by the Company as of December 31, 2004. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Companies internal records and in its filed annual statements.

The Group reported negative one-year loss development \$17,421,348 in its 2005 filed annual statements of which \$348,427 is UNAC's pooled share of the development. There will not be an adjustment to "Surplus as regards policyholders" in this report because the reported one-year development is below the tolerable error for an account established by the examination.

The Department's actuarial review also concluded that the actuarial report presented on examination did not comply with the NAIC instructions and did not contain the requisite documentation for an actuarial report. The actuarial report has no documentation regarding the Schedule P reconciliation and ULAE reserve analysis. Paragraph 7 of the Actuarial Opinion section of the NAIC instructions states, in part;

"The Actuarial Report should be consistent with the documentation and disclosure requirements of ASOP #9. The Actuarial Report should contain both narrative and technical components. The narrative component should provide sufficient detail to clearly explain to company management, the regulator, or other authority the findings,

recommendation and conclusions, as well as their significance. The technical component should provide sufficient documentation and disclosure for another actuary practicing in the same field to evaluate the work. This technical component must show the analysis from the basic data, e.g., loss triangles, to the conclusions.

The report must also include:

- An exhibit which ties to the Annual Statement and compare the Actuary's conclusions to the carried amounts;
- Summary exhibit(s) of either the actuary's best estimate, range of reasonable estimates, or both, that led to the conclusion in the OPINION paragraph regarding the reasonableness of the provision for all unpaid loss and loss adjustment obligations;
- Documentation of the required reconciliation from the data used for analysis to the Annual Statement Schedule P."

The actuarial report must also include all exhibits and documentation including a narrative to clearly explain the assumptions and methodology used regarding the "Adjusting and other expense" reserve analysis.

It should be noted that the Company and the Company's actuary did not provide timely responses and clarification of questions to this Department. This had the consequence of hindering the review and taxing the Department's resources.

It is recommended that the Company prepare the actuarial report in accordance with the NAIC instructions.

It is recommended that the Company's actuary prepare and include in the actuarial report the requisite exhibits and documentation and provide the same to the examination in a timely manner.

It is recommended that the Company's actuarial report include all exhibits and documentation including a narrative to clearly explain the assumption and methodology used regarding the Adjusting and Other expense reserve analysis.

On November 14, 2004, the Company's board of directors approved the appointment of a new actuary to opine on the losses and loss adjustment expenses in conjunction with the 2004 annual statement filings. The NAIC instructions for the 2004 annual statement pertaining to the Actuarial Opinion include the following directions:

“The Qualified Actuary must be appointed by the Board of Directors, or its equivalent, or by a committee of the Board, by December 31 of the calendar year for which the opinion is rendered. Whenever the Board of Directors replaces the appointed actuary, the company must notify the domiciliary commissioner *within 30 days of the date of the Board action* and give the reasons for the replacement (emphasis added).”

The Company failed to notify this Department within the time frame specified in the NAIC Annual Statement Instructions. The notification was dated May 11, 2005.

It is recommended that the Company comply with the NAIC Annual Statement Instructions and report all future changes of actuaries within the timeframe and in the manner prescribed by those instructions.

5. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau of this Department.

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

- A. Sales and advertising
- B. Underwriting
- C. Claims and complaint handling

The following problem areas were encountered in the examination of the Company’s market conduct.

Underwriting

The examination reviewed compliance with Department Regulation 90 which requires that specific wording be included in each notice of cancellation or non-renewal of a personal lines policy by the Company. Department Regulation 90 states in part:

- (a) The following notice shall be clearly and prominently set out in boldface type on the front (except that the company name, company representative, company address and company phone number may be stamped, or typed in the appropriate place in the notice),

so that it draws the reader's attention on all notices of refusal to issue, cancellation or non-renewal, except where the cancellation is for nonpayment of premium; and on all notices of termination of agents' and brokers' contracts or accounts, which are subject to this Part mailed or delivered on and after January 1, 1988:

“If you have any questions in regard to this termination, please contact this company's representative at (company phone number, name of company representative, company address).

The New York Insurance Law prohibits insurers from engaging in redlining practices based upon geographic location of the risk or the producer. If you have any reason to believe that we have acted in violation of such law, you may file your complaint with the Department either on its website at www.ins.state.ny.us/complhow.htm or by writing to the State of New York Insurance Department, Consumer Services Bureau, at either 25 Beaver Street, New York, NY 10004 or One Commerce Plaza, Albany, 12257.”

The sampled cancellations/non-renewals selected for review on examination shows that the Company is not in compliance with Department Regulation 90. The policy terminations did not include the web site address the insured could file a complaint at.

It is recommended that the Company revise its policy system to include the requisite wording of Department Regulation 90.

Subsequent to the examination date the Company revised its policy system to include the requisite wording.

Claims and Complaint Handling

Department Regulation 64 requires that each claims examiner have a copy of that Regulation available to each examiner at their workstation. UNAC fulfills that requirement by loading a copy of this Regulation on its intranet site. Review of the Company's intranet site indicates that the version of Department Regulation 64 was outdated.

It is recommended that the Company ensure that the current version of Department Regulation 64 is available to all persons administering claims settlement as required therein.

The Company's complaint log was reviewed to determine if this log was in compliance with Circular Letter No. 11 (1978). This review indicates that the log did not contain the data or the structure required by Circular Letter No. 11 (1978). The following exceptions were noted:

The Company's complaint log did not include the following data columns:

- The New York State Insurance Department file number.
- The person in the company with whom the complainant has been dealing.
- The person within the company to whom the matter has been referred for review.
- The date of such referral.
- Bearing in mind the appropriate regulation mandating timely substantive replies, the dates of correspondence to the Insurance Department's Consumer Services Bureau.
 - A. The acknowledgment (if any).
 - B. The date of any substantive response.
 - C. The chronology of further contacts with this Department.
- The results of the complaint investigation and the action taken.
- Remarks about internal remedial action taken as a result of the investigation.

In addition, it was observed that the Company was not fully compliant with the Circular Letter because they were not generating and circulating Quarterly reports to the head of the respective operating units and to the Company president as required.

During the aforementioned review, the examination also noted that the Company incorporated all of the complaints into one central complaint log with no way of distinguishing the complaints of one company in the group to another. Since the Department generates its complaint log by individual company the failure of the Company's complaint log to be separated by Company requires the examiners to cross-reference all complaints tested prior to reviewing those complaints.

Further, the inability to review the number and type of complaints for each company did not allow the examiners to determine if an explicit type of complaint or a complaint relating to a specific company, line or class of business was prevalent.

Circular Letter No. 11 (1978) states that the purpose of the complaint log is to be a "tool to identify any problem areas within the Company." Therefore, it is incumbent on the Company to maintain the log in such a manner as to easily identify specific problems.

It is recommended that the Company revise its complaint log to incorporate the data with the requisite column headings as required by Circular Letter No. 11 (1978).

It is recommended that the Company generate quarterly reports and forward them to the heads of the respective operating units and to the Company president.

In addition, it is recommended that management either generate separate logs for each Company or include an identifier of the Company in the Utica National Insurance Group that generated the complaint.

It was observed that management and supervisors at the Albany district claims office have settlement on fidelity bond claims at various levels up to \$200,000 despite the fact that all fidelity claims were settled by the home office. This authority was given to the district claim office during Utica National Insurance Group's preparation for Y2K and was not subsequently withdrawn.

It is recommended that the Company update the settlement authority for claims to conform with its currently approved procedures.

The Company established criteria in its claims manual requiring that a claims payment in excess of \$20,000 have the signature of the Unit Supervisor and the Claims office manager. Review of the sampled claims indicates that the checks for environmental claims in excess of \$20,000 were signed by two attorneys adjusting the claims rather than the signature of the Unit Supervisor and the Claims office manager.

It is recommended that the Company either comply with their written procedures or amend the procedures to conform to its current practice.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>		<u>PAGE NO.</u>
A	It was recommended that the Company make changes to its investment portfolio to bring itself into compliance with Section 1402 of the Insurance Law.	15

The Company has complied with this recommendation.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	4
B. <u>Reinsurance</u>	
i. It is recommended that the Company comply with the terms of its inter-company pooling agreement and pool all accounts in accordance with that agreement.	8
ii. It is recommended that the Company include the required clauses in the Company's reinsurance agreements.	10
iii. It is recommended that the Company establish a formal procedure for the documentation of contract reviews of reinsurance agreements.	10
iv. It is recommended that the Company comply with SSAP No. 63 financial statement disclosure requirements.	11
v. It is recommended that the Company retain all documentation pertaining to its review of its reinsurance contracts prior to execution.	11
C. <u>Holding Company System</u>	
i. It is recommended that the Company comply with Department Circular Letter No. 33 (1979) and submit all amendments to its inter-company tax allocation agreements to the Board of Directors for approval and then to the New York Insurance Department for non-disapproval at least 30 days prior to the effective date of any changes to the agreement.	14
ii. It is recommended that the Company comply with its tax allocation agreement and settle its inter-company balances within 30 days of the filing of the applicable estimated or actual consolidated federal income tax return with the Internal Revenue Service.	14
iii. It is recommended that the Companies comply with Circular Letter No. 17 (2001) and submit all transactions exceeding the benchmarks to this Department 30 days prior to entering into such transaction.	15
iv. It is further recommended that the Companies comply with the National Association of Insurance Commissioners' Annual Statement Instructions and properly report all sales and acquisitions of securities	15

ITEMPAGE NO.

and the related investment gains and losses in all future statements filed with this Department.

D. Accounts and records

- | | | |
|------|---|----|
| i. | It is recommended that the Company comply with SSAP No. 6, paragraph 9 when determining its non admitted uncollected premiums and agents' balances. | 18 |
| ii. | It is recommended that the Company comply with SSAP No. 65, paragraph 32 by filing an actuarial opinion containing the requisite information. | 19 |
| iii. | It is recommended that the Company comply with Department Regulation 118 by entering into future contracts with its independent auditor that contain the requisite provisions. | 20 |
| iv. | It is recommended that the Company comply with Part 1, Section IV(J) of the NAIC Financial Condition Examiners Handbook by revising its custodial agreements to include all of the requisite safeguards and controls. | 21 |
| v. | It is further recommended that the Company respond appropriately to the general interrogatories in all future statements filed with this Department. | 21 |
| vi. | It is recommended that the Company exercise more care in the preparation of its filed statements and fully comply with the NAIC Annual Statement Instructions for all future statements filed with this Department. | 21 |
| vii. | It is recommended that the Company institute a formal approval policy to document and control manual entries made to the Company's books and records. | 22 |
| ix. | It is recommended that the Company retain this report and any similar reports that capture the detail of the information keyed on a claim prior to its deletion. | 22 |

Subsequent to the examination, the Company instituted a program to retain this information for the period required by Department Regulation 152.

- | | | |
|----|--|----|
| x. | It is recommended that the Company produce and maintain the records in the form and manner required by Department Regulation 30. | 22 |
|----|--|----|

<u>ITEM</u>	<u>PAGE NO.</u>
E.	
<u>Loss and loss adjustment expense</u>	
i.	27
It is recommended that the Company prepare the actuarial report in accordance with the NAIC instructions.	
ii.	27
It is recommended that the Company's actuary prepare and include in the actuarial report the requisite exhibits and documentation and provide the same to the examination in a timely manner.	
iii.	27
It is recommended that the Company's actuarial report include all exhibits and documentation including a narrative to clearly explain the assumption and methodology used regarding the Adjusting and Other expense reserve analysis.	
iv.	28
It is recommended that the Company comply with the NAIC Annual Statement Instructions and report all future changes of actuaries within the timeframe and in the manner prescribed by those instructions.	
F.	
<u>Market conduct activities</u>	
i.	29
It is recommended that the Company revise its policy system to include the requisite wording of Department Regulation 90.	
Subsequent to the examination date the Company revised its policy system to include the requisite wording.	
ii.	29
It is recommended that the Company ensure that the current version of Department Regulation 64 is available to all persons administering claims settlement as required therein.	
iii.	30
It is recommended that the Company revise its complaint log to incorporate the data with the requisite column headings as required by Circular Letter No. 11 (1978).	
iv.	31
It is recommended that the Company generate <u>quarterly</u> reports and forward them to the heads of the respective operating units and to the Company president.	
v.	31
In addition, it is recommended that management either generate separate logs for each Company or include an identifier of the Company in the Utica National Insurance Group that generated the complaint.	
vi.	31
It is recommended that the Company update the settlement authority for claims to conform to its currently approved procedures.	
vii.	31
It is recommended that the Company either comply with their written procedures or amend the procedures to conform to its current practice.	

Appointment No 22357

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:

Alfred Bloomer

as proper person to examine into the affairs of the

UTICA NATIONAL INSURANCE COMPANY

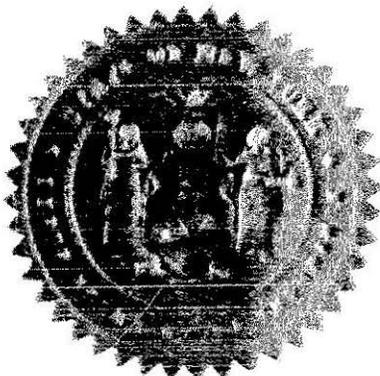
and to make a report to me in writing of the condition of the said

Company

with such other information as he shall deem requisite.

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

this 1st day of April, 2005



A handwritten signature in cursive script, appearing to read "Howard Mills", written over a horizontal line.

HOWARD MILLS

Acting Superintendent of Insurance