

REPORT ON EXAMINATION

OF THE

EVEREADY INSURANCE COMPANY

AS OF

DECEMBER 31, 2004

DATE OF REPORT

DECEMBER 7, 2007

EXAMINER

VERONICA DUNCAN BLACK

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

December 7, 2007

Honorable Eric R. 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 22348 dated March 14, 2005 attached hereto, I have made an examination into the condition and affairs of Eveready Insurance Company as of December 31, 2004, and submit the following report thereon.

Wherever the designations “the Company” or “Eveready” appear herein without qualification, they should be understood to indicate Eveready Insurance 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 59 Maiden Lane, New York, New York 10038.

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 complete verification of assets and liabilities as of December 31, 2004. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent public accountants. A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners ("NAIC"):

- History of 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.

2. DESCRIPTION OF COMPANY

Eveready was incorporated under the laws of the State of New York on August 8, 1963 and became licensed to do insurance business on May 1, 1965.

In 2002, pursuant to the estate settlement of both Isidore and Irene Wollerstein, Marc Wollerstein and Alan Wollerstein acquired controlling interest or 23.62% in the Company, and have been deemed the ultimate controlling persons of Eveready Insurance Company. Marc and Alan Wollerstein share equally in the 23.62% interest in Eveready's common stock.

The Company's paid up capital of \$350,000 consists of 700,000 shares of common stock at a par value of \$.50 per share. All authorized shares are outstanding. The total gross paid in capital and contributed surplus as of December 31, 2004, was \$490,000.

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 members. As of December 31, 2004, the Company's board of directors was comprised of the following twelve members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Abraham Baum Bosque De Las Lomas, Mexico	Entrepreneur
Gudelio Friedstadt Corona Del Mar, CA	Entrepreneur
Herbert Futoran New York, NY	Vice President and Attorney of Record, Eveready Insurance Company
Jeffrey A. Futoran New York, NY	Secretary and Treasurer, Eveready Insurance Company
Roni Futoran Woodbury, NY	Science Teacher
Edward Charles Harrison Chappaqua, NY	Chief Information Officer, Eveready Insurance Company
Malcolm Robinson Manhasset, NY	Manager, Eveready Insurance Company

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
William Silverman Lake Worth, FL	Retired
Alan Wollerstein Dix Hill, NY	Chairman of the Board of Directors and Vice President and Attorney of Record, Eveready Insurance Company
Andrew Wollerstein New York, NY	Director of Information System, Eveready Insurance Company
Marc Wollerstein Roslyn Heights, NY	President, Eveready Insurance Company
Neil Wollerstein New York, NY	Attorney of Record, Eveready Insurance Company

It is noted that as of the examination date, the Company had only twelve directors, which is less than the number stipulated in its charter and bylaws. Further, Section 1201(a)(5)(B)(v) of the New York Insurance Law requires that the number of directors shall not be less than thirteen.

It is recommended that the Company comply with its charter and by-laws and with Section 1201(a)(5)(B)(v) of the New York Insurance Law by ensuring that it maintains at least thirteen members on its board of directors. The Company advised that the failure to maintain thirteen directors on its board was caused by the death of a couple of directors and that it had made diligent efforts to replace each, as the vacancies occurred, with a qualified candidate. Subsequent to the examination date, the board appointed an additional director to fill the remaining vacancy.

The board of directors met five times during each calendar year for the period under examination. 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 has an acceptable record of attendance.

A review of the Company's compliance with Section 312 of the New York Insurance Law revealed that it did not retain signed statements by its directors acknowledging that they had read the prior report on examination. Section 312 of the New York Insurance Law requires the Superintendent of Insurance to forward a copy of the report on examination as filed for public inspection to every insurer examined. Additionally, this section requires that the insurer furnish a copy of such report to each member of its board of directors, who in turn must sign a statement which

must be retained in the insurer's files confirming that such member has received and read the report on examination.

It is recommended that the Company retain statements confirming that each board member has received and read the report on examination pursuant to Section 312(b) of the New York Insurance Law.

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

<u>Name</u>	<u>Title</u>
Marc Wollerstein	President
Jeffrey Futoran	Secretary and Treasurer
Alan Wollerstein	Vice President

B. Territory and Plan of Operation

As of December 31, 2004, the Company was licensed to write business only in the State of 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>
13	Personal injury liability
14	Property damage liability
19	Motor vehicle and aircraft physical damage

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 \$350,000.

The Company is a property and casualty insurer writing primarily private passenger automobile liability and physical damage coverage with a small amount of commercial automobile business in the downstate area of New York. Its business is developed through an independent agency distribution platform of approximately 475 brokers. It also utilizes two of its affiliates, the

Wallace Brokerage Corporation and the Profile Agency, to generate business. The affiliates produce approximately 50% of the Company's total book of business.

The Company's writings decreased from 2000 to 2004 largely due to changes in its underwriting guidelines as well as greater overall competition in the automobile line of business.

The following schedule shows the Company's direct premiums written in the State of New York for the period under examination:

<u>Calendar year</u>	<u>Direct Premiums Written</u>
2000	\$26,025,050
2001	\$30,179,525
2002	\$28,692,416
2003	\$24,328,939
2004	\$21,020,811

C. Reinsurance

Assumed

The Company does not assume any business.

Ceded

The Schedule F data as contained in the Company's filed annual statement was found to accurately reflect its reinsurance transactions.

The examiner reviewed all ceded reinsurance contracts in effect at December 31, 2004. As of the examination date, the Company had one reinsurance agreement in place that provided an excess of loss as well as quota share protection coverage. The contract contained the required standard clauses including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

It was noted that the Company's reinsurance agreement provided an offset clause that was not in compliance with Section 7427 of the New York Insurance Law, which requires that in the event of the insolvency of either party to the agreement then offset shall be allowed to the extent permitted. The offset clause contained in the contract read as follows:

"The Company or the reinsurer may offset any balance, whether on account of premium, commission, claims or losses, adjustment expense, salvage, or otherwise,

due from one party to the other under this Agreement or under any other agreement heretofore or hereafter entered into between the Company and the Reinsurer.”

It is recommended that the Company amend its reinsurance agreement to include wording which states that in the event of the insolvency of either party to the agreement then offset shall be allowed to the extent permitted by the provisions of Section 7427 of the New York Insurance Law.

The Company had the following ceded reinsurance program in effect at December 31, 2004:

Type of treaty

Cession

Property / Casualty:

Quota share Reinsurance of Auto Physical
Damage Business

Section (a):

61.01% quota share with respect to business in force at the effective time and date of treaty, subject to a limit of \$75,000 per risk and a limitation of \$225,000 on all risks involving one occurrence.

100% Authorized

Section (b):

25% quota share with respect to business becoming effective at and after the effective time and date of treaty, subject to a limit of \$75,000 per risk and a limitation of \$225,000 on all risks involving one occurrence.

Excess of Loss Reinsurance of Automobile
Liability Business

Automobile Bodily Injury:

Limit of \$900,000 excess of \$100,000

100% Authorized

Automobile Property Damage Liability:

Limit of \$900,000 excess of \$100,000

Automobile Liability Combined Single Limit:

(Bodily and Property Damage)

Limit of \$900,000 excess of \$100,000

Uninsured or Underinsured Motorists Coverage:

Limit of \$200,000 excess of \$100,000

Automobile Personal Injury Protection:

Limit of \$900,000 excess of \$100,000

Combination Retention Cover on Automobile

Bodily Liability, Underinsured and

Underinsured Motorist Coverages and

Automobile Personal Injury Protection:

Limit of the difference between the sum of the

Type of treatyCession

separate Company Retentions on the classes of business involved and the Company Retention for this Combination Retention Cover

Loss in Excess of Policy Limit:

The reinsurer shall afford an additional reinsurance to the Company for 75% of only that portion of the amount paid to the third party claimant, which is in excess of the greater of the Company's policy limit or the Company's retention. The reinsurer's liability for losses in Excess of Policy Limits and Extra Contractual obligations combined arising out of all occurrences taking place during each agreement year shall not exceed \$2,000,000.

Extra Contractual Obligation:Loss in Excess of Policy Limit:

The reinsurer shall afford an additional reinsurance to the Company for 75% of that portion of the Extra Contractual Obligation which is in excess of the Company's retention. The reinsurer's liability for losses in Excess of Policy Limits and Extra Contractual obligations combined arising out of all occurrences taking place during each agreement year shall not exceed \$2,000,000.

The Company is a participant to one reinsurance agreement, which has been in existence since the prior examination. The Company, however, modified its reinsurance coverage by eliminating catastrophe coverage for its automobile physical damage business and eliminating no-fault coverage from its quota share coverage for business written on and after July 1, 2002. It also discontinued its quota share coverage for its personal auto liability business. As of January 1, 2004, it reduced its quota share physical damage coverage to twenty- five percent. The ceding commission rate has also been reduced from 38.50% to 32.5%. Its largest net amount insured of \$100,000 on any single risk has remained the same compared with the prior examination report.

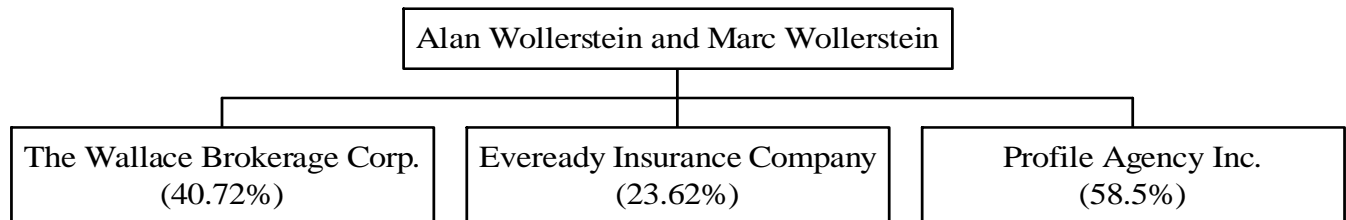
D. Holding Company System

Alan Wollerstein and Marc Wollerstein have been deemed the ultimate controlling persons of Eveready Insurance Company by reason of ownership of 23.62% of Eveready's common stock. They are also the controlling persons of Wallace Brokerage Corporation ("Wallace") and Profile

Agency Incorporated (“Profile”). Alan Wollerstein and Marc Wollerstein, together with the three controlled entities, constitute a holding company system as defined in Section 1501(a) (6) of the New York Insurance Law.

A review of the holding company registration statements filed with this Department indicated that such filings were complete and were filed in a timely manner pursuant to Article 15 of the New York Insurance Law and Department Regulations 52 and 52-A.

The following is a chart of the holding company system at December 31, 2004:



Note: Alan and Marc Wollerstein share equally in the percentages indicated above.

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

Profile Agency Agreement

The Company and its affiliate, Profile Agency Incorporation (“Agent”), entered into an agency agreement effective July 22, 1987. Pursuant to the terms of the agreement, the Agent has the authority to bind the Company to contract of insurance subject to the Company’s underwriting guidelines and limitation. The Agent receives and deposits premium receipts in accordance with Department Regulation 29. The Agent also receives a commission compensation fee of not less than 15% or greater than 25% for the services rendered. In August 1987, the Department approved a supplemental rider which amended this agreement.

Pursuant to the provisions of Department Regulation 52-A, with regard to business placed with an authorized property/casualty insurance company and produced by any licensed producer that is a parent or an affiliate of such insurer, Part 80-2.3(b) of Department Regulation 52-A requires that:

“Prior to the effective date of a policy issued or issued for delivery or renewed in this state, a licensed producer, as described in subdivision (a) of this section, shall deliver to the prospective insured written notice disclosing the relationship between the insurer and the

producer. The notice shall state that the insured will not receive any special benefit or advantage because of that relationship.”

Business placed with the Company by Profile Agency Inc. (“Profile”) is subject to the aforementioned provisions. Upon review, it was noted that Profile never provided written notification to the Company’s insureds of the relationship between the Company and the producer and stating that the insured would not receive any special benefit or advantage because of that relationship. It is recommended that the Company ensure that Profile provide the proper written notice to its insureds pursuant to the provisions of Part 80-2.3(b) of Department Regulation 52-A.

Wallace Brokerage Agreement

Effective July 22, 1987, the Company entered into a brokerage agreement with its affiliate, Wallace Brokerage Corporation (“Broker”). Under the terms of the agreement, the Broker does not have the authority to bind the Company to a contract of insurance and the Company has the absolute right to decline or accept any insurance application or to cancel any and all insurance that may be written by the broker. The agreement and a supplemental rider were non-disapproved by this Department.

The agreement provides that the broker is to be compensated as follows:

“As full compensation for services where Company has received payment, Company shall pay twelve percent Broker commission unless stated otherwise in writing by the Company prior to the binding of insurance... The rate of commission allowable shall be subject to change by Company at any time by written notice to Broker respecting insurance written or renewed thereafter.”

A review of premium transactions associated with this agreement revealed that the Company was compensating Wallace Brokerage Corporation with varying commission rates of 8%, 10% and 15%; the Company could not provide evidence of written notice to the Broker that it was deviating from the stated rate of 12% as required by the agreement. It is recommended that the Company adhere to the provisions in its brokerage agreement with Wallace Brokerage Corporation by providing the Broker with written notice prior to changing the commission rate.

Additionally, it is noted that the Company did not notify the Department of the changes in the commission rate stated in the brokerage agreement. It is recommended that the Company notify this Department of any changes to the approved brokerage agreement pursuant to the provisions of Section 1505(d) of the New York Insurance Law.

E. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law requires insurance companies to report to the comptroller's office annually on or before April 1 any properties that are deemed abandoned and have not been claimed for a three-year period. This filing is required by all companies 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, except for the year ended 2004. The Company was not in compliance with Sections 1316(3) of the New York Abandoned Property Law in regard to publication of its abandoned property for the county of Nassau, New York. Section 1316(3) of the New York Abandoned Property Law requires that within thirty days following the filing of the report of abandoned property with the comptroller the insurer must cause to be published a list of such abandoned property in at least one newspaper published in the county of the state in which is located the last-known address of the holder of a policy under which such abandoned property is payable.

It is recommended that the Company comply with Section 1316(3) of the New York Abandoned Property Law and publish its unclaimed property in the County of Nassau, New York.

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 regard policyholders	2.46 to 1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	87%
Premiums in course of collection to surplus as regards policyholders	18%

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>
Losses and loss adjustment expenses incurred	\$ 61,528,153	73.39%
Other underwriting expenses incurred	29,362,316	35.02
Net underwriting loss	<u>(7,057,955)</u>	<u>(8.41)</u>
 Premiums earned	 <u>\$83,832,514</u>	 <u>100.00%</u>

G. Accounts and Records

(i) Investments

As of the examination date, the Company held an investment in a call option on HFRX Global Hedge Fund Index. Pursuant to Section 1410(b)(2) of the New York Insurance Law, an insurer may only use derivative instruments to engage in hedging transactions, replication transactions, and for certain limited income generation transactions (selling a covered call). The purchase of a call option for speculative purposes is not permitted pursuant to Section 1410(b)(2) of the New York Insurance Law. No examination change is included in this report for this non-permitted transaction due to immateriality; however, it is recommended that the Company divest itself of the prohibited investment and refrain from investing in prohibited derivative transactions pursuant to Section 1410(b)(2) of the New York Insurance Law.

Additionally, it was noted that the investment was entered into without the formal review and approval of the Company's board of directors. Pursuant to Section 1410(b)(3)(A) of the New York Insurance Law, before entering into any derivative transactions, the board of directors of the insurer or a committee thereof charged with the responsibility for supervising investments shall authorize such transactions.

Further, the Company does not have an approved derivative use plan on file with this Department. Pursuant to Section 1410(b)(3)(A) of the New York Insurance Law and Part 178(a)(1) of Department Regulation 163, an insurer may not invest in derivative transactions without a derivative use plan, approved by its board of directors and by this Department.

It is recommended that the Company refrain from investing in derivative transactions without the approval of its board of directors and without an approved derivative use plan pursuant to Section 1410(b)(3)(A) of the New York Insurance Law and Part 178(a)(1) of Department Regulation 163.

It was also noted that this investment was not held by any of the Company's securities custodians. It is recommended that the Company hold all of its investments in a custodial account.

(ii) Investments – NAIC Securities Valuation Office

The Company indicated in the Notes to Financial Statement in its 2004 annual statement that its financial statements are prepared in conformity with accounting principles prescribed or permitted by the National Association of Insurance Commissioners. During the review of the investment cycle, it was determined that the Company did not follow the NAIC Securities Valuation Manual ("SVO") guidelines for valuing securities for which there was no price available. The manual provides that where a unit price for a security cannot be obtained from a public source, the reporting entity insurance company shall provide the SVO with at least two price quotes from financial institutions acceptable by the SVO. It should also be noted that Section 1414(g) of the New York insurance Law gives the Company the authority with permission of the Superintendent to value its securities in accordance with any applicable method approved by the National Association of Insurance Commissioners.

It is recommended that the Company comply with Section 1414(g) of the New York Insurance Law and value its securities in accordance with the guidelines established by the National Association of Insurance Commissioners.

(iii) Annual Statement Reporting

In response to Note 8 (Derivative Instruments) of the Notes to Financial Statements contained in its 2004 annual statement, the Company responded "none." It is noted that the Company's investment in a call option on HFRX Global Hedge Fund Index represented a derivative instrument and should have been disclosed in the Note.

It is recommended that the Company accurately complete Note 8 of the Notes to Financial Statement in its future filed annual statements.

In response to Note 10 (Information Concerning Parent, Subsidiaries and Affiliates) of the Notes to Financial Statements contained in its 2004 annual statement, the Company responded “none.” Pursuant to the National Association of Insurance Commissioners annual statement instructions, this note should include disclosures of all material related party transactions, including a description of any intercompany agreements and the nature of the control relationship among the Company and its parent, subsidiaries and affiliates.

It is recommended that the Company accurately complete Note 10 of the Notes to Financial Statement in its future filed annual statements.

(iv) Authorized Signatures

Upon review of the Company’s internal control procedures regarding the issuance of checks, it was noted that the threshold at which a second signature is required for payments to policyholders and vendors is \$25,000. The \$25,000 threshold for payments to policyholders is acceptable; however, as a prudent business practice, the \$25,000 threshold for requiring a second signature for payments to vendors is deemed to be too high. In order to safeguard the assets of the Company and provide a secure internal control environment, it is recommended that the Company amend its threshold for requiring two signatures on checks written to vendors from \$25,000 to no more than \$10,000.

(v) Department Regulation 30 – Classification of expenses

A review of the Company’s compliance with Department Regulation 30, Part 105 and Statements of Statutory Accounting Principles of the Accounting and Procedures Manual (“SSAP”) No. 70 was performed as part of this examination review. The captioned Regulation and SSAP established uniform expense allocation rules to classify expenses within prescribed principal grouping.

Based upon the examiner’s review, it appears that the Company incorrectly classified unrelated expenses such as computer services and the rental of postage equipment to the postage, telephone and telegraph expense category.

It is recommended that the Company comply with Department Regulation 30, Part 105 and classify only postage, telephone and telegraph expenses as it relates to this category.

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

A review of the Company's uncollected premiums and agents' balances in the course of collection indicated that the Company was not determining its non-admitted amounts in accordance with Section 1301(a)(11) of the New York New York Insurance Law and SSAP No. 6 of the NAIC Accounting Practices and Procedures Manual. It was noted that the Company was using its third quarter-ended statement date to determine its non-admitted asset instead of its annual statement date.

The use of the third quarter-ended statement date to determine its not-admitted asset did not cause a material difference and no examination change is included in this report; however, it is recommended that the Company comply with Section 1301(a)(11) of the New York Insurance Law and SSAP No. 6 to determine its non-admitted asset for uncollected premiums and agents' balances in the course of collection.

(vii) Electronic Data Processing

A review of the Company's electronic data processing equipment account revealed that the admitted asset reported by the Company included certain non-operating system software items. Pursuant to Section 1301(a)(18) of the New York Insurance Law, an insurer may only report an admitted asset for "electronic data processing apparatus and related equipment constituting a data processing, record keeping, or accounting system if the cost of each such system is fifty thousand dollars or more." Further, Part 83.4(c)(3)(i) of Department Regulation 172 provides that "non-operating system software shall be nonadmitted."

No examination change is included in this report for the disallowance of non-operating system software due to immateriality; however, it is recommended that the Company non-admit all non-operating system software pursuant to the provisions of Section 1301(a)(18) of the New York Insurance Law and Part 83.4(c)(3)(i) of Department Regulation 172.

H. Custodian Agreement

As of the examination date, the Company's securities were held with two banks, Bank of New York and Citibank. Two securities, both State of Israel bonds, were held with the Bank of New York without the benefit of a custodial agreement.

It is recommended that the Company enter into a custodial agreement with the Bank of New York which complies with the provisions prescribed in the National Association of Insurance Commissioners Financial Condition Examiners Handbook.

As of the examination date, the securities held with Citibank were secured pursuant to a custodial agreement. A review of the custodial agreement revealed that it was lacking the following safeguarding provisions prescribed in the National Association of Insurance Commissioners Financial Condition Examiners Handbook, Part 1, Section IV.J:

1. The custodian is obligated to indemnify the insurance company for any insurance company's loss of securities in the 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.
2. 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.
3. 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.
4. The 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.
5. 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.

6. 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 a written instructions to that effect from an authorized officer of the insurance company.
7. 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.
8. The custodian shall secure and maintain insurance protection in an adequate amount.

It is recommended that the Company amend its custodial agreement to include provisions pursuant to the National Association of Insurance Commissioners Financial Condition Examiners Handbook guidelines in order to ensure the necessary safeguard of its assets.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2004 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Ledger Assets</u>	<u>Not-Admitted Assets</u>	<u>Admitted Assets</u>
Bonds	\$ 16,051,987	\$ 0	\$16,051,987
Preferred stocks	208,680		208,680
Common stocks	898,920		898,920
Cash and short-term investments	2,521,400		2,521,400
Other invested assets	90,344		90,344
Investment income due and accrued	176,639		176,639
Uncollected premiums and agents' balances in the course of collection	1,636,748	270,000	1,366,748
Deferred premiums, agents' balances and installments booked but deferred and not yet due	6,546,992		6,546,992
Amounts recoverable from reinsurer	2,268,816		2,268,816
Current federal and foreign income tax recoverable and interest thereon	182,801		182,801
Net deferred tax asset	681,161		681,161
Electronic data processing equipment	178,110		178,110
Furniture and equipment, including health care delivery asset	21,785	21,785	
Deposits with bureaus and others	3,300	3,300	
Pooling income receivable	<u>216,678</u>	<u> </u>	<u>216,678</u>
Total assets	<u>\$ 31,684,361</u>	<u>\$295,085</u>	<u>\$31,389,276</u>

Liabilities, Surplus and Other Funds

Losses and loss adjustment expenses	\$14,302,629
Other expenses (excluding taxes, licenses and fees)	83,933
Unearned premiums	8,979,749
Ceding reinsurance premiums payable (net of ceding commissions)	529,374
Amounts withheld or retained by company for account of others	<u>823</u>

Total liabilities	<u>\$23,896,508</u>
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Surplus and Other Funds

Common capital stock	\$ 350,000
Gross paid in and contributed surplus	490,000
Unassigned funds (surplus)	<u>6,652,768</u>

Surplus as regards policyholders	<u>\$7,492,768</u>
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Total liabilities, surplus and other funds	<u>\$31,389,276</u>
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NOTE: The Company has never been audited by the Internal Revenue Services (“IRS”). Any potential exposure of the Company to any income tax assessment that may arise as a result of an IRS audit has not been established herein.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$1,748,976 during the five-year examination period January 1, 2000 through December 31, 2004 detailed as follows:

Underwriting Income

Premiums earned		\$83,832,514
Deductions:		
Losses and loss adjustment expenses incurred	\$61,528,153	
Other underwriting expenses incurred	<u>29,362,316</u>	
Total underwriting deductions		<u>90,890,469</u>
Net underwriting gain or (loss)		\$ (7,057,955)

Investment Income

Net investment income earned	\$3,452,069	
Net realized capital gain	<u>(257,611)</u>	
Net investment gain or (loss)		3,194,458

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(1,945,664)	
Finance and service charges not included in premiums	6,793,798	
Grant income	150,000	
Pooling income	<u>2,977,837</u>	
Total other income		<u>7,975,971</u>
Net income before federal and foreign income taxes		\$ 4,112,474
Federal and foreign income taxes incurred		<u>(1,268,969)</u>
Net Income		\$ <u>2,843,505</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1999			\$5,743,792
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$2,483,505		
Net unrealized capital gains or (losses)		\$ 241,246	
Change in net deferred income tax	681,161		
Change in nonadmitted assets	40,556		
Dividends to stockholders	<u> </u>	<u>1,575,000</u>	
Total gains and losses	<u>\$3,565,222</u>	<u>\$1,816,246</u>	
Net increase (decrease) in surplus			<u>1,748,976</u>
Surplus as regards policyholders per report on examination as of December 31, 2004			<u>\$7,492,768</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$14,302,629 is the same as the amount 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 Company's internal records and in its filed annual statements.

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. Claims and complaint handling

No problem areas were encountered.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A <u>Management</u></p> <p>It is recommended that the board members who are unwilling or unable to attend meetings consistently should be asked to resign or be replaced.</p> <p>The Company has complied with this recommendation.</p>	<p>5</p>
<p>B <u>Reinsurance</u></p> <p>It is recommended that the Company maintain appropriate documentation that demonstrates that its reinsurance agreement transfer risk in accordance with Chapter 22 of the National Association of Insurance Commissioners (“NAIC”) Accounting Practices and Procedures Manual.</p> <p>The Company has complied with this recommendation.</p>	<p>9</p>
<p>C <u>Authorized Signatures</u></p> <p>It is recommended that the board of directors revise the threshold at which checks require two signatures to the \$5,000 level to both properly safeguard the assets of the Company and provide a secure internal control environment.</p> <p>The Company has not complied with this recommendation. A similar recommendation has been made in this report.</p>	<p>11</p>

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i It is recommended that the Company comply with its charter and by-laws and with Section 1201(a)(5)(B)(v) of the New York Insurance Law by ensuring that it maintains at least thirteen members on its board of directors. The Company advised that the failure to maintain thirteen directors on its board was caused by the death of a couple of directors and that it had made diligent efforts to replace each, as the vacancies occurred, with a qualified candidate. Subsequent to the examination date, the board appointed an additional director to fill the remaining vacancy.	4
ii It is recommended that the Company retain statements confirming that each board member has received and read the report on examination pursuant to Section 312(b) of the New York Insurance Law.	5
B. <u>Reinsurance</u>	
It is recommended that the Company amend its reinsurance agreement to include wording which states that in the event of the insolvency of either party to the agreement then offset shall be allowed to the extent permitted by the provisions of Section 7427 of the New York Insurance Law.	7
C. <u>Holding Company System</u>	
i. It is recommended that the Company ensure that Profile provide the proper written notice to its insureds pursuant to the provisions of Part 80-2.3(b) of Department Regulation 52-A.	10
ii. It is recommended that the Company adhere to the provisions in its brokerage agreement with Wallace Brokerage Corporation by providing the Broker with written notice prior to changing the commission rate.	10
iii. It is recommended that the Company notify this Department of any changes to the approved brokerage agreement pursuant to the provisions of Section 1505(d) of the New York Insurance Law.	10
D. <u>Abandoned Property Law</u>	
It is recommended that the Company comply with Section 1316(3) of the New York Abandoned Property Law and publish its unclaimed property in the County of Nassau, New York.	11
E. <u>Accounts and Records</u>	
<u>Investments</u>	
i. It is recommended that the Company divest itself of the prohibited investment and refrain from investing in derivative transactions without the approval of its board of directors and without an approved derivative use plan pursuant to Section 1410(b)(3)(A) of the New York Insurance Law and Part 178(a)(1) of	13

ITEMPAGE NO.

Department Regulation 163.

- ii. It is recommended that the Company hold all of its investments in a custodial account. 13

Investments – NAIC Securities Valuation Office

It is recommended that the Company comply with Section 1414(g) of the New York Insurance Law and value its securities in accordance with the guidelines established by the National Association of Insurance Commissioners. 13

Annual Statement Reporting

- i. It is recommended that the Company accurately complete Note 8 of the Notes to Financial Statement in its future filed annual statements. 13
- ii. It is recommended that the Company accurately complete Note 10 of the Notes to Financial Statement in its future filed annual statements. 14

Authorized Signatures

It is recommended that the Company amend its threshold for requiring two signatures on checks written to vendors from \$25,000 to no more than \$10,000. 14

Department Regulation 30 – Classification of Expenses

It is recommended that the Company comply with Department Regulation 30, Part 105 and classify only postage, telephone and telegraph expenses as it relates to this category. 14

Uncollected Premiums and Agents' Balances in the Course of Collection

It is recommended that the Company comply with Section 1301(a)(11) of the New York Insurance Law and SSAP No. 6 to determine its non- admitted asset for uncollected premiums and agents' balances in the course of collection. 15

Electronic Data Processing

It is recommended that the Company non-admit all non-operating system software pursuant to the provisions of Section 1301(a)(18) of the New York Insurance Law and Part 83.4(c)(3)(i) of Department Regulation 172. 15

F Custodian Agreement

- i. It is recommended that the Company enter into a custodial agreement with the Bank of New York which complies with the provisions prescribed in the National Association of Insurance Commissioners Financial Condition Examiners Handbook. 16
- ii. It is recommended that the Company amend its custodial agreement to include provisions pursuant to the National Association of Insurance Commissioners Financial Condition Examiners Handbook guidelines in order to ensure the necessary safeguard of its assets. 17

Appointment No 22348

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:

Veronica Duncan Black

as proper person to examine into the affairs of the

EVEREADY INSURANCE COMPANY

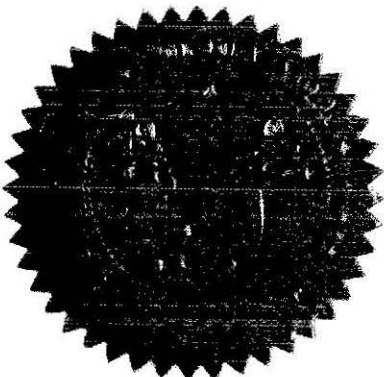
and to make a report to me in writing of the condition of the said

Company

with such other information as she 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 14th day of March, 2005



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

HOWARD MILLS

Acting Superintendent of Insurance