

ASSOCIATION REPORT ON EXAMINATION  
OF THE  
SOMPO JAPAN INSURANCE COMPANY OF AMERICA  
AS OF  
DECEMBER 31, 2002

ZONES  
REPRESENTED

I  
II

STATES  
PARTICIPATING

NEW YORK  
MISSISSIPPI

EXAMINERS

JAMES MURPHY  
JOSEPH M. PIRES



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

Honorable Mike Pickens  
Chairman, Executive Committee  
Commissioner of Insurance  
State of Arkansas

Honorable Janie Miller  
Chairman, Southeastern Zone  
Commissioner of Insurance  
State of Kentucky

Honorable Gregory V. Serio  
Superintendent of Insurance  
State of New York

Honorable Mike Kreidler  
Chairman, Western Zone  
State of Washington

Sirs:

Pursuant to your instructions an examination has been made into the condition and affairs of the Sampo Japan Insurance Company, hereinafter referred to as “the Company” or “Sampo”, at its home office located at Two World Financial Center, New York New York 10281.

The examination was conducted by the New York State Insurance Department, hereinafter referred to as “the Department” with participation from the State of Mississippi representing the Southeastern Zone.

The report on examination is respectfully submitted.

REPORT ON EXAMINATION  
OF THE  
SOMPO JAPAN INSURANCE COMPANY OF AMERICA  
AS OF  
DECEMBER 31, 2002

DATE OF REPORT

MARCH 25, 2004

EXAMINER

JAMES MURPHY

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

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

March 25, 2004

Honorable Gregory V. Serio  
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 21983 dated January 9, 2003 attached hereto, I have made an examination into the condition and affairs of Sompo Japan Insurance Company of America as of December 31, 2002, and submit the following report thereon.

The examination was conducted at the Company's administrative offices located at Two World Financial Center New York, New York 10281.

Wherever the designations "the Company" or "Sompo" appear herein without qualification, they should be understood to indicate the Sompo Japan Insurance Company of America.

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

## 1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1997. This examination covered the five-year period from January 1, 1998 through December 31, 2002. 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, 2002. 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 certified 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:

- 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
- Market conduct activities

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

The Company was incorporated under the laws of the State of New York on August 9, 1962, as the Federated Insurance Company and commenced business on January 1, 1963. On July 7, 1972, the name of the Company was changed to the Yasuda Fire & Marine Insurance Company of America. On July 1, 2002 the Nissan Fire & Marine Insurance Co., merged with the Yasuda Fire & Marine Insurance Co., Ltd. and became known as Sompo Japan Insurance, Inc. As a result of this merger, the Company changed its name from the Yasuda Fire & Marine Insurance Company of America to Sompo Japan Insurance Company of America and is now a wholly-owned subsidiary of Sompo Japan Insurance, Inc.

Capital paid in is \$10,000,000 consisting of 400,000 shares of common stock at \$25 par value per share. Gross paid in and contributed surplus is \$106,500,000. Gross paid in and contributed surplus increased by \$50,000,000 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
1998	Beginning gross paid in and contributed surplus	\$56,500,000
2002	Surplus contribution	<u>\$50,000,000</u>
	Total Surplus Contributions	<u>50,000,000</u>
2002	Ending gross paid in and contributed surplus	<u>\$106,500,000</u>

### 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 met four times during each calendar year. At December 31, 2002, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Takeo Akiyama New York, NY	Partner, Winthrop, Stimson, Putnam & Roberts
Stanley Dorf Cedarhurst, NY	Retired
Donald Gabay New York, NY	Partner, Stroock, Stroock & Lavan
Harry Keefe Stewart Manor, NY	Retired President, Talbot Bird & Company, Inc.
Shuichiro Kunizuka Fort Lee, NJ	Senior Vice President, Sompo Japan Insurance Company of America
John J. McElroy Randolph, NY	Senior Vice President and Secretary, Sompo Japan Insurance Company of America
Frank Palotta Ramsey, NJ	Retired Executive Vice President, New York Marine Managers
Alan Samuels Atlantic Beach, NY	Consultant
Richard A. Tafro Upper Saddle River, NJ	Executive Vice President, Sompo Japan Insurance Company of America
Kazunori Tsutsumi Palos Verdes Estates, CA	Executive Vice President, Sompo Japan Insurance Company of America
Tadashi Urata Norcross, GA	Executive Vice President, Sompo Japan Insurance Company of America
Seiji Yamamoto New York, NY	Senior Vice President, Sompo Japan Insurance Company of America
Tatsujiro Yonekura New York, NY	President, Sompo Japan Insurance Company of America

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended.

As of December 31, 2002, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Tatsujiro Yonekura	President
John J. McElroy	Secretary
Kazuyuki Nakazawa	Controller

B. Territory and Plan of Operation

As of December 31, 2002, the Company was licensed to write business in all fifty states and the District of Columbia.

As of the examination date, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Line of Business</u>
4	Fire
5	Miscellaneous property damage
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	Workers' compensation and employers' liability
16	Fidelity and surety
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity
26	Gap
28	Service contract reimbursement
30	Substantially similar kind of insurance

The Company is also empowered to transact such workers' compensation business as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a), including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69<sup>th</sup> Congress as amended; 33 USC Section 901 et seq. as amended), Section 4102 (c) and 4103(a)(4) of the New York Insurance Law.

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 \$35,000,000.

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 Premiums Written</u>
1998	\$19,113,698	\$109,081,239	17.52%
1999	23,431,157	114,012,536	20.55
2000	24,898,117	132,325,120	18.82
2001	24,795,500	121,535,967	20.40
2002	<u>18,513,475</u>	<u>106,766,382</u>	<u>17.34</u>
	<u>\$110,751,947</u>	<u>\$583,721,244</u>	<u>18.97%</u>

The Company's main underwriting focus is to insure Japanese business interests in the United States that are clients of the parent company, Sompo Japan Insurance, Inc. The primary lines of business that the Company underwrites are workers' compensation, commercial multi-peril and commercial automobile liability.

C. Reinsurance

Assumed

The Company assumes a relatively minor volume of business (less than 1%) as compared to its direct writings.

Ceded

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

The examiner reviewed all ceded reinsurance contracts in effect at December 31, 2002. It was noted that one of the Company's facultative certificates did not include an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

It is recommended that the Company ensure that all reinsurance agreements contain insolvency clauses as required under Section 1308 of the New York Insurance Law.

All of the Company's ceded reinsurance contracts contained an arbitration clause. One contract stated that arbitration should take place in New York but did not state that it should be based on New York Insurance Law. A similar condition was noted in the previous report.

It is again recommended that the Company amend all its reinsurance agreements to state that all arbitration shall take place in New York and be governed by New York Insurance Law.

The following is a description of the Company's ceded reinsurance program in effect at December 31, 2002:

<u>Type of Treaty</u>	<u>Cession</u>
<u>Property Per Risk</u> 7 layers Mostly authorized	\$82,000,000 excess of \$300,000, each and every occurrence.
<u>Catastrophe</u> 6 layers Mostly authorized	\$65,000,000 excess of \$1,000,000, Layers 1 through 4 are ceded at 90%.
<u>Workers' Compensation</u> 4 layers Mostly unauthorized 2 <sup>nd</sup> layer 100% authorized	\$25,000,000 excess of \$300,000, 1 <sup>st</sup> layer is ceded at 74%. All other layers are ceded at 100%.
<u>Ocean Cargo</u> 3 layers Unauthorized	\$12,000,000 excess of \$200,000, all layers are ceded at 100%.
<u>Casualty Excess of Loss</u> 2 layers Mostly authorized	\$8,000,000 excess of \$300,000, 2 <sup>nd</sup> layer is ceded at 100%.

In addition to the treaty reinsurance program described above, the Company obtains facultative reinsurance in order to limit its exposure.

The Company could not provide copies of all signed contracts. Therefore, it is recommended that the Company have all ceded reinsurance contracts signed within nine months. It is also recommended that the Company keep all reinsurance agreements in New York and have them readily available upon request of the Department.

#### Unauthorized Reinsurance

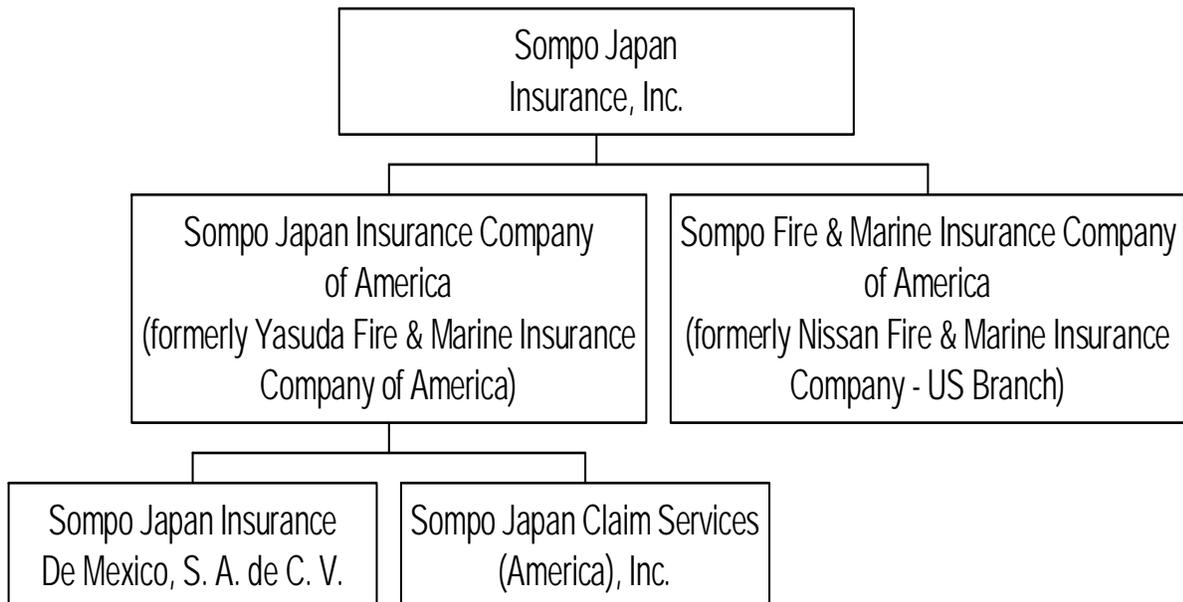
The letters of credit obtained by the Company in order to take credit for cessions made to unauthorized reinsurers were reviewed for compliance with Department Regulation 133. No exceptions were noted.

D. Holding Company System

The Company is a member of the Sompo Japan Insurance Group. The Company is 100% owned by Sompo Japan Insurance, Inc.

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 Regulation 52.

The following is a chart of the holding company system at December 31, 2002:



At December 31, 2002, the Company was party to the following agreements with other members of its holding company system:

Tax Allocation Agreement

The Company files its income tax return on a consolidated basis with its parent and affiliates pursuant to the terms and conditions of a tax allocation agreement dated September 7, 1989. This agreement was submitted to the Department prior to use as required by Article 15 of the New York Insurance Law. The tax allocation agreement conforms to the requirements of Circular Letter No. 33 (1979).

Salary Allocation Agreement

This agreement is between the Company, Sampo Claims Services and Sampo Japan Insurance, Inc. Pursuant to the terms of the agreement, the companies employ shared employees. The agreement provides for the allocation of their salaries to the respective party based upon the proportion of time that each employee performs services for each company.

Space Allocation Agreement

This agreement is between the Company, Sampo Claims Services and Sampo Japan Insurance, Inc. Pursuant to the terms of the agreement, the companies share office space. The agreement provides for the allocation of rent to the respective party based upon the proportion of time that each employee performs services for each company.

All agreements were filed with this Department pursuant to the provisions of Section 1505 of the New York Insurance law.

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 not filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law. It is again recommended that the Company file its abandoned property reports on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

Management has indicated that it has not filed any abandoned property reports with regulatory authorities for the last few years. It is recommended that the Company comply with the appropriate abandoned property laws for all of the jurisdictions in which it is licensed.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2002, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	.92 to 1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	86%
Premiums in course of collection to surplus as regards policyholders	10.8%

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	\$425,307,387	102.42%
Other underwriting expenses incurred	158,633,308	38.20
Net underwriting loss	<u>(168,684,682)</u>	<u>(40.62)</u>
Premiums earned	<u>\$415,256,015</u>	<u>100.00%</u>

It is recommended that the Company maintain full and complete claim files. A similar recommendation was contained in the prior examination report.

G. Accounts and records

During the course of the examination, a review was made of the Company's claim files. Claim files were often difficult to follow, and the examination verification of paid and outstanding loss amounts could not be accomplished without the assistance of claims department personnel.

It is recommended that the company maintain full and complete claim files. A similar recommendation was contained in the prior examination report.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination with those reported by the Company in its December 31, 2002 filed annual statement:

<u>Assets</u>	<u>Examination</u>		<u>Company</u>		<u>Surplus Increase (Decrease)</u>
	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Net Admitted Assets</u>	
Bonds	\$230,196,209	\$	\$230,196,209	\$230,196,209	
Common stocks	6,152,067		6,152,067	6,152,067	
Cash and short-term investments	95,263,484		95,263,484	95,263,484	
Premiums and agents' balances in course of collection	13,310,718	5,915,507	7,395,211	7,395,211	
Premiums, agents' balances and installments booked but deferred and not yet due	8,926,248	22,705	8,903,543	8,903,543	
Funds held by or deposited with reinsured companies	144,009		144,009	144,009	
Reinsurance recoverables on loss and loss adjustment expense payments	7,722,334		7,722,334	7,722,334	
Federal and foreign income tax recoverable	604,323		604,323	604,323	
EDP equipment and software	470,026		470,026	470,026	
Interest, dividends and real estate income due and accrued	2,315,273		2,315,273	2,315,273	
Equities and deposits in pools and associations	16,000		16,000	16,000	
Other assets non-admitted	31,729	31,729			
Aggregate write-ins for other than invested assets	<u>1,442,141</u>	<u>680,223</u>	<u>761,918</u>	<u>761,918</u>	
Total Assets	<u>\$366,594,561</u>	<u>\$6,650,164</u>	<u>\$359,944,397</u>	<u>\$359,944,397</u>	<u>\$ 0</u>

Liabilities Surplus and Other Funds

<u>Liabilities</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase (Decrease)</u>
Losses and loss adjustment expenses	\$232,036,602	\$220,370,602	\$(11,666,000)
Reinsurance payable on paid losses and loss adjustment expenses	362,992	362,992	
Commissions payable, contingent commissions and other similar charges	150,000	150,000	
Other expenses (excluding taxes, licenses and fees)	840,512	840,512	
Taxes, licenses and fees (excluding federal and foreign income taxes)	607,453	607,453	
Unearned premiums	33,578,466	33,578,466	
Ceded reinsurance premiums payable (net of ceding commissions)	11,862,521	11,862,521	
Funds held by company under reinsurance treaties	17,492	17,492	
Amounts withheld or retained by company for account of others	640,749	640,749	
Provision for reinsurance	4,418,474	4,418,474	
Drafts outstanding	6,455,940	6,455,940	
Payable to parent, subsidiaries and affiliates	552,890	552,890	
Aggregate write-ins for liabilities	<u>184,875</u>	<u>184,875</u>	
Total liabilities	<u>\$ 291,708,966</u>	<u>\$ 280,042,966</u>	<u>\$ (11,666,000)</u>
<u>Surplus and Other Funds</u>			
Common capital stock	\$ 10,000,000	\$ 10,000,000	
Gross paid in and contributed surplus	106,500,000	106,500,000	
Unassigned funds (surplus)	<u>(48,264,569)</u>	<u>(36,598,569)</u>	<u>\$ (11,666,000)</u>
Surplus as regards policyholders	<u>\$ 68,235,431</u>	<u>\$79,901,431</u>	
Total Liabilities Surplus and Other Funds	<u>\$ 359,944,397</u>	<u>\$ 359,944,397</u>	

Note: The Internal Revenue Service has not completed its audit of the Company's consolidated federal income tax returns through tax year 1998. The Internal Revenue Service has not yet begun to audit tax returns covering tax years 1999 through 2002. 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 decreased \$29,654,251 during the five-year examination period January 1, 1998 through December 31, 2002, detailed as follows:

Underwriting Income

Premiums earned		\$415,256,015
Deductions:		
Losses incurred	\$425,307,389	
Other underwriting expenses incurred	<u>158,633,308</u>	
Total underwriting deductions		<u>583,940,697</u>
Net underwriting gain or (loss)		\$(168,684,682)

Investment Income

Net investment income earned	\$79,282,580	
Net realized capital gain	<u>14,742,219</u>	
Net investment gain or (loss)		94,024,799

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$1,046,058	
Finance and service charges not included in premiums	15,984	
Aggregate write-ins for miscellaneous income	<u>(123,826)</u>	
Total other income		<u>938,216</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$(73,721,667)
Federal and foreign income taxes incurred		<u>(9,466,612)</u>
Net income		<u>\$(64,255,055)</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1997			\$97,889,679
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income		\$64,255,055	
Net unrealized capital gains or (losses)		7,332,080	
Change in net unrealized foreign exchange capital gain	\$230,378		
Change in net deferred income tax		250,406	
Change in non-admitted assets		3,483,392	
Change in provision for reinsurance		3,056,085	
Cumulative effect of changes in accounting principles		1,507,611	
Surplus adjustments paid in	<u>50,000,000</u>	<u>                    </u>	
Total gains and losses	<u>\$50,230,378</u>	<u>\$79,884,629</u>	
Net increase (decrease) in surplus			<u>(29,654,251)</u>
Surplus as regards policyholders per report on examination as of December 31, 2002			<u>\$68,235,428</u>

#### **4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability, of \$232,036,602, for the captioned item is \$11,666,000 more than the \$220,370,602 reported by the Company as of December 31, 2002. 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. Underwriting
- C. Rating
- D. Claims and complaint handling

No problem areas were encountered.

## **6. SUBSEQUENT EVENTS**

Subsequent to the date of this examination, the Company received a surplus contribution of \$31.7 million in cash from its parent. The Company also issued an additional 82,312 shares of common stock to its parent, receiving 100% of the common stock of an affiliate, Sompo Japan Fire & Marine Insurance Company of America as consideration. The consideration received for issuing the additional stock was allocated as follow:

Common capital stock	\$ 2,057,800
Gross paid in and contributed surplus	20,641,343

## **7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The prior report on examination contained 12 recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i.     It was recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	4
The Company has complied with this recommendation.	
ii.    It is recommended that all officers, directors and responsible employees complete conflict of interest questionnaires annually and disclose all possible conflicts to the board of directors.	4-5
The Company has complied with this recommendation.	
B. <u>Reinsurance</u>	
i.     It is recommended that all reinsurance contracts contain insolvency clauses as required under Section 1308 of the New York Insurance Law.	7
The Company has not complied with this recommendation. This recommendation is repeated in this report.	

<u>ITEM</u>	<u>PAGE NO.</u>	
ii.	It is also recommended that the Company amend its ocean marine excess reinsurance agreements to state that all arbitration shall be judged based upon New York Insurance Law.	7-8
	The Company has not complied with this recommendation. This recommendation is repeated in this report.	
iii.	It is recommended that the Company comply with the general agreement concerning facultative reinsurance cessions and Section 1505 of the New York Insurance Law and submit all inter-company facultative placement slips to the Department.	11
	The Company has complied with this recommendation	
iv.	It is also recommended that the Company comply with its general agreement concerning facultative reinsurance cessions by retaining the required minimum and maximum amounts on each cession.	11
	The Company has complied with this recommendation.	
v.	It is recommended that the Company comply with Section 325 of the New York Insurance Law and accompany all files and records written in Japanese with an accurate English translation.	11
	The Company has complied with this recommendation.	
vi.	It is recommended that the Company maintain better control over their reinsurance agreements and designate this responsibility to an officer of the Company.	12
	The Company has complied with this recommendation.	
C.	<u>Abandoned Property Law</u>	
i.	It is recommended that the Company file abandoned property reports on an annual basis as required by Section 1316 of the New York Abandoned Property Law and submit all abandoned property to the New York State Office of the Comptroller on an annual basis.	15
	The Company has not complied with this recommendation. This recommendation is repeated in this report.	
ii.	It is also recommended that the Company submit all overdue abandoned property to the State of California.	15

<u>ITEM</u>		<u>PAGE NO.</u>
	The Company has not complied with this recommendation. This recommendation is repeated in this report.	
D.	<u>Accounts and Records</u>	
i.	It is recommended that the Company comply with the instructions for the preparation of the annual statement by reporting unpaid case loss adjustment expenses in Schedule P of the annual statement.	15-16
	The Company has complied with this recommendation.	
ii.	It is recommended that the Company maintain full and complete claim files to support all loss and loss adjustment expense payments.	16
	The Company has not complied with this recommendation. This recommendation is repeated in this report.	

## **8. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Reinsurance</u>	
i	It is again recommended that all reinsurance contracts contain insolvency clauses as required by Section 1308 of the New York Insurance Law.	7
ii	It is again recommended that the Company amend all of its reinsurance agreements to state that all arbitration shall take place in New York and be governed by New York Insurance Law.	7
iii	It is recommended that the Company have all ceded reinsurance contracts signed within nine months as required by the NAIC.	8
iv	It is also recommended that the Company keep all reinsurance agreements in New York and have them readily available upon request.	8
B.	<u>Abandoned Property Law</u>	
	It is again recommended that the Company file abandoned property reports pursuant to Section 1316 of the New York Abandoned Property Law.	11
	It is recommended that the Company comply with the appropriate abandoned property laws for all the jurisdictions in which it is licensed.	11

ITEMPAGE NO.C. Accounts and records

It is again recommended that the Company maintain full and complete claim files.

12

Respectfully submitted,

\_\_\_\_\_  
/S/

James Murphy  
Associate Insurance Examiner

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

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

\_\_\_\_\_  
/S/

James Murphy

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

State of New York  
County of New York

EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES  
USED IN AN EXAMINATION

Joseph M. Pires, CFE, CIE, BEING DULY SWORN, STATES AS FOLLOWS:

1. I have authority to represent the State of Mississippi in the examination of Sompo Japan Insurance Company.
2. Mississippi is accredited under the National Association of Insurance Commissioners Financial Regulation Accreditation Standards.
3. I have reviewed the examination work papers and examination report and the examination of Sompo Japan Insurance Company was performed in a manner consistent with the standards and procedures required by the State of Mississippi.

The affiant says nothing further.

  
\_\_\_\_\_  
State of Mississippi Insurance Examiner's Signature

Subscribed and sworn before me by \_\_\_\_\_ on this 8 day of MARCH 2005.

(SEAL)

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

My commission expires 4/30/2006 [date].

**ALEXANDER A. PIEST**  
Notary Public - State of New York  
NO. 01PR4760386  
Qualified in Bronx County  
Commission Expires April 30, 2006

Appointment No. 21983

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**James Murphy**

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

**SOMPO JAPAN INSURANCE COMPANY OF AMERICA**

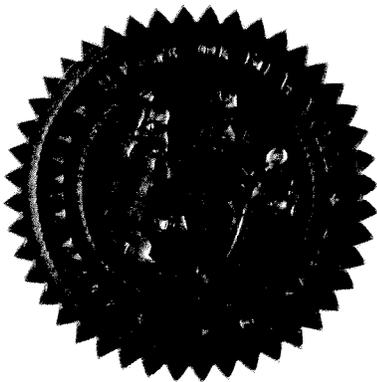
*and to make a report to me in writing of the condition of the said*

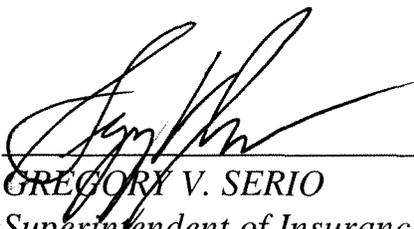
**COMPANY**

*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 9th day of January, 2003*



  
\_\_\_\_\_  
GREGORY V. SERIO  
Superintendent of Insurance

ASSOCIATION REPORT ON EXAMINATION  
OF THE  
SOMPO JAPAN INSURANCE COMPANY OF AMERICA  
AS OF  
DECEMBER 31, 2002

ZONES  
REPRESENTED

I  
II

STATES  
PARTICIPATING

NEW YORK  
MISSISSIPPI

EXAMINERS

JAMES MURPHY  
JOSEPH M. PIRES



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

Honorable Mike Pickens  
Chairman, Executive Committee  
Commissioner of Insurance  
State of Arkansas

Honorable Janie Miller  
Chairman, Southeastern Zone  
Commissioner of Insurance  
State of Kentucky

Honorable Gregory V. Serio  
Superintendent of Insurance  
State of New York

Honorable Mike Kreidler  
Chairman, Western Zone  
State of Washington

Sirs:

Pursuant to your instructions an examination has been made into the condition and affairs of the Sampo Japan Insurance Company, hereinafter referred to as “the Company” or “Sampo”, at its home office located at Two World Financial Center, New York New York 10281.

The examination was conducted by the New York State Insurance Department, hereinafter referred to as “the Department” with participation from the State of Mississippi representing the Southeastern Zone.

The report on examination is respectfully submitted.

REPORT ON EXAMINATION  
OF THE  
SOMPO JAPAN INSURANCE COMPANY OF AMERICA  
AS OF  
DECEMBER 31, 2002

DATE OF REPORT

MARCH 25, 2004

EXAMINER

JAMES MURPHY

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

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

March 25, 2004

Honorable Gregory V. Serio  
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 21983 dated January 9, 2003 attached hereto, I have made an examination into the condition and affairs of Sompo Japan Insurance Company of America as of December 31, 2002, and submit the following report thereon.

The examination was conducted at the Company's administrative offices located at Two World Financial Center New York, New York 10281.

Wherever the designations "the Company" or "Sompo" appear herein without qualification, they should be understood to indicate the Sompo Japan Insurance Company of America.

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

## 1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1997. This examination covered the five-year period from January 1, 1998 through December 31, 2002. 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, 2002. 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 certified 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:

- 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
- Market conduct activities

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

The Company was incorporated under the laws of the State of New York on August 9, 1962, as the Federated Insurance Company and commenced business on January 1, 1963. On July 7, 1972, the name of the Company was changed to the Yasuda Fire & Marine Insurance Company of America. On July 1, 2002 the Nissan Fire & Marine Insurance Co., merged with the Yasuda Fire & Marine Insurance Co., Ltd. and became known as Sompo Japan Insurance, Inc. As a result of this merger, the Company changed its name from the Yasuda Fire & Marine Insurance Company of America to Sompo Japan Insurance Company of America and is now a wholly-owned subsidiary of Sompo Japan Insurance, Inc.

Capital paid in is \$10,000,000 consisting of 400,000 shares of common stock at \$25 par value per share. Gross paid in and contributed surplus is \$106,500,000. Gross paid in and contributed surplus increased by \$50,000,000 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
1998	Beginning gross paid in and contributed surplus	\$56,500,000
2002	Surplus contribution	<u>\$50,000,000</u>
	Total Surplus Contributions	<u>50,000,000</u>
2002	Ending gross paid in and contributed surplus	<u>\$106,500,000</u>

### 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 met four times during each calendar year. At December 31, 2002, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Takeo Akiyama New York, NY	Partner, Winthrop, Stimson, Putnam & Roberts
Stanley Dorf Cedarhurst, NY	Retired
Donald Gabay New York, NY	Partner, Stroock, Stroock & Lavan
Harry Keefe Stewart Manor, NY	Retired President, Talbot Bird & Company, Inc.
Shuichiro Kunizuka Fort Lee, NJ	Senior Vice President, Sompo Japan Insurance Company of America
John J. McElroy Randolph, NY	Senior Vice President and Secretary, Sompo Japan Insurance Company of America
Frank Palotta Ramsey, NJ	Retired Executive Vice President, New York Marine Managers
Alan Samuels Atlantic Beach, NY	Consultant
Richard A. Tafro Upper Saddle River, NJ	Executive Vice President, Sompo Japan Insurance Company of America
Kazunori Tsutsumi Palos Verdes Estates, CA	Executive Vice President, Sompo Japan Insurance Company of America
Tadashi Urata Norcross, GA	Executive Vice President, Sompo Japan Insurance Company of America
Seiji Yamamoto New York, NY	Senior Vice President, Sompo Japan Insurance Company of America
Tatsujiro Yonekura New York, NY	President, Sompo Japan Insurance Company of America

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended.

As of December 31, 2002, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Tatsujiro Yonekura	President
John J. McElroy	Secretary
Kazuyuki Nakazawa	Controller

B. Territory and Plan of Operation

As of December 31, 2002, the Company was licensed to write business in all fifty states and the District of Columbia.

As of the examination date, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Line of Business</u>
4	Fire
5	Miscellaneous property damage
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	Workers' compensation and employers' liability
16	Fidelity and surety
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity
26	Gap
28	Service contract reimbursement
30	Substantially similar kind of insurance

The Company is also empowered to transact such workers' compensation business as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a), including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69<sup>th</sup> Congress as amended; 33 USC Section 901 et seq. as amended), Section 4102 (c) and 4103(a)(4) of the New York Insurance Law.

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 \$35,000,000.

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 Premiums Written</u>
1998	\$19,113,698	\$109,081,239	17.52%
1999	23,431,157	114,012,536	20.55
2000	24,898,117	132,325,120	18.82
2001	24,795,500	121,535,967	20.40
2002	<u>18,513,475</u>	<u>106,766,382</u>	<u>17.34</u>
	<u>\$110,751,947</u>	<u>\$583,721,244</u>	<u>18.97%</u>

The Company's main underwriting focus is to insure Japanese business interests in the United States that are clients of the parent company, Sompo Japan Insurance, Inc. The primary lines of business that the Company underwrites are workers' compensation, commercial multi-peril and commercial automobile liability.

C. Reinsurance

Assumed

The Company assumes a relatively minor volume of business (less than 1%) as compared to its direct writings.

Ceded

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

The examiner reviewed all ceded reinsurance contracts in effect at December 31, 2002. It was noted that one of the Company's facultative certificates did not include an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

It is recommended that the Company ensure that all reinsurance agreements contain insolvency clauses as required under Section 1308 of the New York Insurance Law.

All of the Company's ceded reinsurance contracts contained an arbitration clause. One contract stated that arbitration should take place in New York but did not state that it should be based on New York Insurance Law. A similar condition was noted in the previous report.

It is again recommended that the Company amend all its reinsurance agreements to state that all arbitration shall take place in New York and be governed by New York Insurance Law.

The following is a description of the Company's ceded reinsurance program in effect at December 31, 2002:

<u>Type of Treaty</u>	<u>Cession</u>
<u>Property Per Risk</u> 7 layers Mostly authorized	\$82,000,000 excess of \$300,000, each and every occurrence.
<u>Catastrophe</u> 6 layers Mostly authorized	\$65,000,000 excess of \$1,000,000, Layers 1 through 4 are ceded at 90%.
<u>Workers' Compensation</u> 4 layers Mostly unauthorized 2 <sup>nd</sup> layer 100% authorized	\$25,000,000 excess of \$300,000, 1 <sup>st</sup> layer is ceded at 74%. All other layers are ceded at 100%.
<u>Ocean Cargo</u> 3 layers Unauthorized	\$12,000,000 excess of \$200,000, all layers are ceded at 100%.
<u>Casualty Excess of Loss</u> 2 layers Mostly authorized	\$8,000,000 excess of \$300,000, 2 <sup>nd</sup> layer is ceded at 100%.

In addition to the treaty reinsurance program described above, the Company obtains facultative reinsurance in order to limit its exposure.

The Company could not provide copies of all signed contracts. Therefore, it is recommended that the Company have all ceded reinsurance contracts signed within nine months. It is also recommended that the Company keep all reinsurance agreements in New York and have them readily available upon request of the Department.

#### Unauthorized Reinsurance

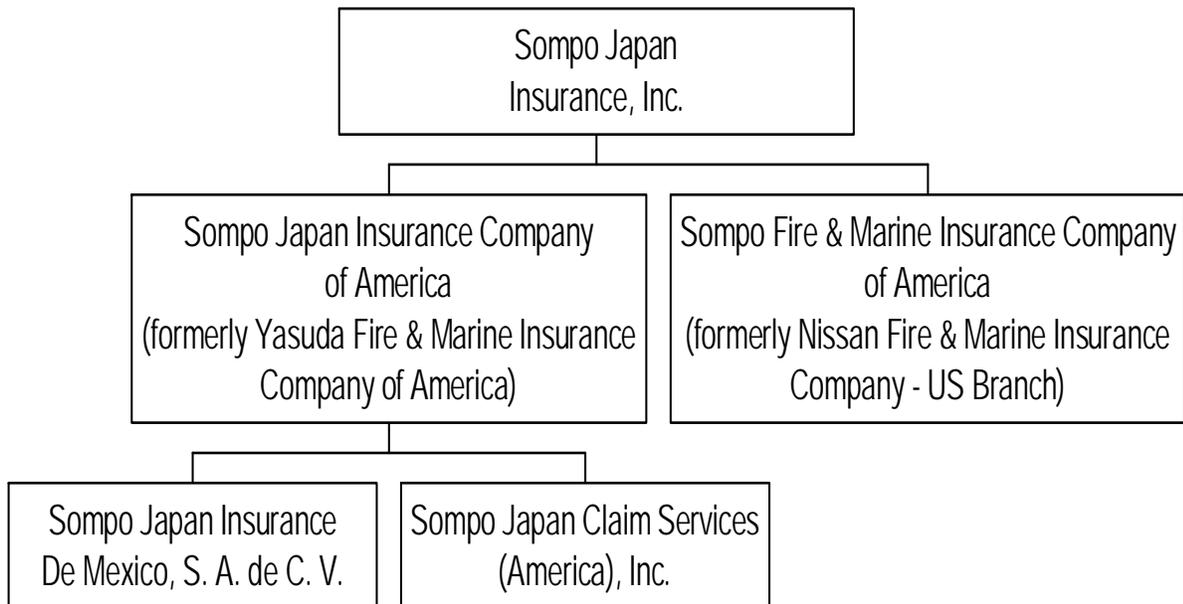
The letters of credit obtained by the Company in order to take credit for cessions made to unauthorized reinsurers were reviewed for compliance with Department Regulation 133. No exceptions were noted.

D. Holding Company System

The Company is a member of the Sompo Japan Insurance Group. The Company is 100% owned by Sompo Japan Insurance, Inc.

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 Regulation 52.

The following is a chart of the holding company system at December 31, 2002:



At December 31, 2002, the Company was party to the following agreements with other members of its holding company system:

Tax Allocation Agreement

The Company files its income tax return on a consolidated basis with its parent and affiliates pursuant to the terms and conditions of a tax allocation agreement dated September 7, 1989. This agreement was submitted to the Department prior to use as required by Article 15 of the New York Insurance Law. The tax allocation agreement conforms to the requirements of Circular Letter No. 33 (1979).

Salary Allocation Agreement

This agreement is between the Company, Sampo Claims Services and Sampo Japan Insurance, Inc. Pursuant to the terms of the agreement, the companies employ shared employees. The agreement provides for the allocation of their salaries to the respective party based upon the proportion of time that each employee performs services for each company.

Space Allocation Agreement

This agreement is between the Company, Sampo Claims Services and Sampo Japan Insurance, Inc. Pursuant to the terms of the agreement, the companies share office space. The agreement provides for the allocation of rent to the respective party based upon the proportion of time that each employee performs services for each company.

All agreements were filed with this Department pursuant to the provisions of Section 1505 of the New York Insurance law.

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 not filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law. It is again recommended that the Company file its abandoned property reports on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

Management has indicated that it has not filed any abandoned property reports with regulatory authorities for the last few years. It is recommended that the Company comply with the appropriate abandoned property laws for all of the jurisdictions in which it is licensed.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2002, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	.92 to 1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	86%
Premiums in course of collection to surplus as regards policyholders	10.8%

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	\$425,307,387	102.42%
Other underwriting expenses incurred	158,633,308	38.20
Net underwriting loss	<u>(168,684,682)</u>	<u>(40.62)</u>
Premiums earned	<u>\$415,256,015</u>	<u>100.00%</u>

It is recommended that the Company maintain full and complete claim files. A similar recommendation was contained in the prior examination report.

G. Accounts and records

During the course of the examination, a review was made of the Company's claim files. Claim files were often difficult to follow, and the examination verification of paid and outstanding loss amounts could not be accomplished without the assistance of claims department personnel.

It is recommended that the company maintain full and complete claim files. A similar recommendation was contained in the prior examination report.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination with those reported by the Company in its December 31, 2002 filed annual statement:

<u>Assets</u>	<u>Examination</u>		<u>Company</u>		<u>Surplus Increase (Decrease)</u>
	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>	<u>Net Admitted Assets</u>	
Bonds	\$230,196,209	\$	\$230,196,209	\$230,196,209	
Common stocks	6,152,067		6,152,067	6,152,067	
Cash and short-term investments	95,263,484		95,263,484	95,263,484	
Premiums and agents' balances in course of collection	13,310,718	5,915,507	7,395,211	7,395,211	
Premiums, agents' balances and installments booked but deferred and not yet due	8,926,248	22,705	8,903,543	8,903,543	
Funds held by or deposited with reinsured companies	144,009		144,009	144,009	
Reinsurance recoverables on loss and loss adjustment expense payments	7,722,334		7,722,334	7,722,334	
Federal and foreign income tax recoverable	604,323		604,323	604,323	
EDP equipment and software	470,026		470,026	470,026	
Interest, dividends and real estate income due and accrued	2,315,273		2,315,273	2,315,273	
Equities and deposits in pools and associations	16,000		16,000	16,000	
Other assets non-admitted	31,729	31,729			
Aggregate write-ins for other than invested assets	<u>1,442,141</u>	<u>680,223</u>	<u>761,918</u>	<u>761,918</u>	
Total Assets	<u>\$366,594,561</u>	<u>\$6,650,164</u>	<u>\$359,944,397</u>	<u>\$359,944,397</u>	<u>\$ 0</u>

Liabilities Surplus and Other Funds

<u>Liabilities</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase (Decrease)</u>
Losses and loss adjustment expenses	\$232,036,602	\$220,370,602	\$(11,666,000)
Reinsurance payable on paid losses and loss adjustment expenses	362,992	362,992	
Commissions payable, contingent commissions and other similar charges	150,000	150,000	
Other expenses (excluding taxes, licenses and fees)	840,512	840,512	
Taxes, licenses and fees (excluding federal and foreign income taxes)	607,453	607,453	
Unearned premiums	33,578,466	33,578,466	
Ceded reinsurance premiums payable (net of ceding commissions)	11,862,521	11,862,521	
Funds held by company under reinsurance treaties	17,492	17,492	
Amounts withheld or retained by company for account of others	640,749	640,749	
Provision for reinsurance	4,418,474	4,418,474	
Drafts outstanding	6,455,940	6,455,940	
Payable to parent, subsidiaries and affiliates	552,890	552,890	
Aggregate write-ins for liabilities	<u>184,875</u>	<u>184,875</u>	
Total liabilities	<u>\$ 291,708,966</u>	<u>\$ 280,042,966</u>	<u>\$ (11,666,000)</u>
<u>Surplus and Other Funds</u>			
Common capital stock	\$ 10,000,000	\$ 10,000,000	
Gross paid in and contributed surplus	106,500,000	106,500,000	
Unassigned funds (surplus)	<u>(48,264,569)</u>	<u>(36,598,569)</u>	<u>\$ (11,666,000)</u>
Surplus as regards policyholders	<u>\$ 68,235,431</u>	<u>\$79,901,431</u>	
Total Liabilities Surplus and Other Funds	<u>\$ 359,944,397</u>	<u>\$ 359,944,397</u>	

Note: The Internal Revenue Service has not completed its audit of the Company's consolidated federal income tax returns through tax year 1998. The Internal Revenue Service has not yet begun to audit tax returns covering tax years 1999 through 2002. 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 decreased \$29,654,251 during the five-year examination period January 1, 1998 through December 31, 2002, detailed as follows:

Underwriting Income

Premiums earned		\$415,256,015
Deductions:		
Losses incurred	\$425,307,389	
Other underwriting expenses incurred	<u>158,633,308</u>	
Total underwriting deductions		<u>583,940,697</u>
Net underwriting gain or (loss)		\$(168,684,682)

Investment Income

Net investment income earned	\$79,282,580	
Net realized capital gain	<u>14,742,219</u>	
Net investment gain or (loss)		94,024,799

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$1,046,058	
Finance and service charges not included in premiums	15,984	
Aggregate write-ins for miscellaneous income	<u>(123,826)</u>	
Total other income		<u>938,216</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$(73,721,667)
Federal and foreign income taxes incurred		<u>(9,466,612)</u>
Net income		<u>\$(64,255,055)</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1997			\$97,889,679
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income		\$64,255,055	
Net unrealized capital gains or (losses)		7,332,080	
Change in net unrealized foreign exchange capital gain	\$230,378		
Change in net deferred income tax		250,406	
Change in non-admitted assets		3,483,392	
Change in provision for reinsurance		3,056,085	
Cumulative effect of changes in accounting principles		1,507,611	
Surplus adjustments paid in	<u>50,000,000</u>	<u>                    </u>	
Total gains and losses	<u>\$50,230,378</u>	<u>\$79,884,629</u>	
Net increase (decrease) in surplus			<u>(29,654,251)</u>
Surplus as regards policyholders per report on examination as of December 31, 2002			<u>\$68,235,428</u>

#### **4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability, of \$232,036,602, for the captioned item is \$11,666,000 more than the \$220,370,602 reported by the Company as of December 31, 2002. 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. Underwriting
- C. Rating
- D. Claims and complaint handling

No problem areas were encountered.

## **6. SUBSEQUENT EVENTS**

Subsequent to the date of this examination, the Company received a surplus contribution of \$31.7 million in cash from its parent. The Company also issued an additional 82,312 shares of common stock to its parent, receiving 100% of the common stock of an affiliate, Sompo Japan Fire & Marine Insurance Company of America as consideration. The consideration received for issuing the additional stock was allocated as follow:

Common capital stock	\$ 2,057,800
Gross paid in and contributed surplus	20,641,343

## **7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The prior report on examination contained 12 recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It was recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.  The Company has complied with this recommendation.	4
ii. It is recommended that all officers, directors and responsible employees complete conflict of interest questionnaires annually and disclose all possible conflicts to the board of directors.  The Company has complied with this recommendation.	4-5
B. <u>Reinsurance</u>	
i. It is recommended that all reinsurance contracts contain insolvency clauses as required under Section 1308 of the New York Insurance Law.  The Company has not complied with this recommendation. This recommendation is repeated in this report.	7

<u>ITEM</u>	<u>PAGE NO.</u>
ii. It is also recommended that the Company amend its ocean marine excess reinsurance agreements to state that all arbitration shall be judged based upon New York Insurance Law.  The Company has not complied with this recommendation. This recommendation is repeated in this report.	7-8
iii. It is recommended that the Company comply with the general agreement concerning facultative reinsurance cessions and Section 1505 of the New York Insurance Law and submit all inter-company facultative placement slips to the Department.  The Company has complied with this recommendation	11
iv. It is also recommended that the Company comply with its general agreement concerning facultative reinsurance cessions by retaining the required minimum and maximum amounts on each cession.  The Company has complied with this recommendation.	11
v. It is recommended that the Company comply with Section 325 of the New York Insurance Law and accompany all files and records written in Japanese with an accurate English translation.  The Company has complied with this recommendation.	11
vi. It is recommended that the Company maintain better control over their reinsurance agreements and designate this responsibility to an officer of the Company.  The Company has complied with this recommendation.	12
C. <u>Abandoned Property Law</u>	
i. It is recommended that the Company file abandoned property reports on an annual basis as required by Section 1316 of the New York Abandoned Property Law and submit all abandoned property to the New York State Office of the Comptroller on an annual basis.  The Company has not complied with this recommendation. This recommendation is repeated in this report.	15
ii. It is also recommended that the Company submit all overdue abandoned property to the State of California.	15

<u>ITEM</u>		<u>PAGE NO.</u>
	The Company has not complied with this recommendation. This recommendation is repeated in this report.	
D.	<u>Accounts and Records</u>	
i.	It is recommended that the Company comply with the instructions for the preparation of the annual statement by reporting unpaid case loss adjustment expenses in Schedule P of the annual statement.	15-16
	The Company has complied with this recommendation.	
ii.	It is recommended that the Company maintain full and complete claim files to support all loss and loss adjustment expense payments.	16
	The Company has not complied with this recommendation. This recommendation is repeated in this report.	

## **8. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Reinsurance</u>	
i	It is again recommended that all reinsurance contracts contain insolvency clauses as required by Section 1308 of the New York Insurance Law.	7
ii	It is again recommended that the Company amend all of its reinsurance agreements to state that all arbitration shall take place in New York and be governed by New York Insurance Law.	7
iii	It is recommended that the Company have all ceded reinsurance contracts signed within nine months as required by the NAIC.	8
iv	It is also recommended that the Company keep all reinsurance agreements in New York and have them readily available upon request.	8
B.	<u>Abandoned Property Law</u>	
	It is again recommended that the Company file abandoned property reports pursuant to Section 1316 of the New York Abandoned Property Law.	11
	It is recommended that the Company comply with the appropriate abandoned property laws for all the jurisdictions in which it is licensed.	11

ITEMPAGE NO.C. Accounts and records

It is again recommended that the Company maintain full and complete claim files.

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Respectfully submitted,

\_\_\_\_\_  
/S/

James Murphy  
Associate Insurance Examiner

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

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

\_\_\_\_\_  
/S/

James Murphy

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2004.