

REPORT ON EXAMINATION

OF THE

PETER TURNER INSURANCE COMPANY

AS OF

DECEMBER 31, 2010

DATE OF REPORT

AUGUST 14, 2012

EXAMINER

WEI CAO

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawskey  
Superintendent

August 14, 2012

Honorable Benjamin M. Lawskey  
Superintendent of Financial Services  
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 30842 dated April 13, 2012, attached hereto, I have made an examination into the condition and affairs of Peter Turner Insurance Company as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” or “PTIC” appears herein without qualification, it should be understood to indicate Peter Turner Insurance Company.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## **1. SCOPE OF EXAMINATION**

The examination covers the period from Peter Turner Insurance Company's licensing on August 31, 2004 through December 31, 2010. The examination comprised a verification of assets and liabilities as of December 31, 2010. This 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 accountant ("CPA") and its opining actuary. Additionally, a review was performed to determine whether the Company was operating within its by-laws, as submitted to the New York State Department of Financial Services, and was in compliance with Article 70 of the New York Insurance Law.

Comments and recommendations are limited to those items requiring financial adjustment, procedural recommendations, or instances where the Company was not conforming to the application submitted to the Department or Article 70 of the New York Insurance Law.

## **2. DESCRIPTION OF COMPANY**

The Company was licensed by the Department under the laws of the State of New York on August 31, 2004 as a pure captive insurance company. The Company is a wholly-owned subsidiary of the Roman Catholic Diocese of Brooklyn (the "Parent"). Upon commencing operations, the Company assumed all of the assets and liabilities of the Peter Turner Insurance Company of Vermont.

### **A. Articles of Incorporation**

The Company is organized to transact the kinds of insurance specified in Section 7003 of the New York Insurance Law, subject at all times to the limitation on the business of a pure captive insurance company set forth in Article 70 of the New York Insurance Law.

### **B. By-Laws**

It appears that the Company, in all material respects, is in compliance with its by-laws.

C. Capital Structure

Pursuant to Section 7004(a)(1) of the New York Insurance Law, in order to be issued a license to do captive insurance business in New York State, a pure captive insurance company incorporated as a stock insurer is required to possess, and thereafter maintain, unimpaired paid-in-capital and surplus of not less than \$250,000, of which \$100,000 shall represent paid-in capital. Article V Section 2 of the Company's Charter states:

“The capital of the Company should be one hundred thousand dollars (\$100,000), which shall consist of one hundred thousand (100,000) shares of common stock with a par value of one dollar (\$1) each.”

The Company has issued the 100,000 shares of \$1 par value per share common stock; however, its 2007 through 2010 annual statements indicated paid-in capital of \$0. The Company indicated that it inadvertently included the paid-in capital in the contributed surplus line on its balance sheet. It is recommended that the Company properly reflect its paid-in capital in subsequent annual statements.

D. Corporate Records

The corporate records reviewed appeared to be substantially accurate and complete in all material respects.

E. Reinsurance

The Company does not assume business nor cede any of its captive insurance business.

F. Management and Control

(i) Captive Manager

Section 7003(b)(4) of the New York Insurance Law states:

“No captive insurance company shall do any captive insurance business in this state unless it utilizes a captive manager resident in this state who is licensed as an agent or a broker under the provisions of article twenty-one of this chapter; or any person approved by the superintendent. . .”

The Company is managed by Willis of New York Inc (“Willis”), an insurance agent licensed by the Department. Pursuant to the Management agreement between Peter Turner Insurance

Company and Willis of New York Inc., Willis provides management services to the Company as follows:

- Handle claims for losses made against the Company
- Maintain proper and accurate accounting records
- Arrange for the investment of the Company's funds
- Ensure Company compliance with the New York Insurance Law
- Maintain and operate bank accounts

(ii) Board of Directors

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 three or more than ten members. At December 31, 2010, the board of directors was comprised of the following six members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Rev. Msgr. David Cassato Brooklyn, NY	Priest and Pastor, Roman Catholic Diocese of Brooklyn
John Borgia Brooklyn, NY	Chief Financial Officer/Treasurer, Roman Catholic Diocese of Brooklyn
Rev. Msgr. Peter Kain Brooklyn, NY	Priest and Pastor, Roman Catholic Diocese of Brooklyn
John Dolan Brooklyn, NY	Assistant Vice President Casualty Claims, AIU/Chartis
Suzanne Holohan New York, NY	Senior Vice President & Associate Actuary, Transatlantic Reinsurance
Joseph Martuscello* New York, NY	Independent Consultant Roman Catholic Diocese of Brooklyn

\*Mr. Martuscello passed away subsequent to the examination date.

The Company's by-laws state that the board of directors shall hold at least one meeting in the State of New York every calendar year. During the period covered by this examination, the board met nine times. A review of the meeting minutes revealed that only two out of seven directors attended the board meeting in 2006.

(iii) Officers

Pursuant to the Company's by-laws, the Officers of the Company shall be the President, the Treasurer, the Secretary and such other Officers as the Board of Directors may determine, including, but not limited to, a Chairman of the Board of Directors, one or more Vice Presidents, one or more Assistant Treasurers and one or more Assistant Secretaries.

As of December 31, 2010, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Rev. Msgr. Peter Kain	President
John Borgia	Exec. Vice President
Brian T. Cosgrove	Secretary
Martin McManus	Treasurer

G. Certified Public Accountant and Actuarial Services

The Company was audited by the independent CPA firm Deloitte & Touche LLP for their 2004 financial statements and by the independent CPA firm Grant Thornton LLP, 666 Third Avenue, New York, NY 10017, for the subsequent years covered by this examination. The Company's opening actuary as of December 31, 2010, was from Actuarial & Technical Solutions, 3555 Veterans Memorial Highway, Ronkonkoma, NY 11779.

H. Growth of Company

The following schedule sets forth a summary of the Company's significant financial information for the period covered by this examination:

<u>Year</u>	<u>New Premiums Earned</u>	<u>Net Income</u>	<u>Assets</u>	<u>Shareholders' Equity</u>
2004	\$ 28,992,248	\$ 757,415	\$ 64,256,206	\$ 10,110,547
2005	\$ 12,831,333	\$ 188,331	\$ 68,259,256	\$ 6,686,051
2006	\$ 11,488,163	\$ 5,568,936	\$ 45,207,961	\$ 6,481,025
2007	\$ 7,742,924	\$ (4,553,157)	\$ 34,310,820	\$ 2,010,650
2008	\$ 9,825,902	\$ 1,313,140	\$ 44,898,135	\$ 7,945,970
2009	\$ 12,948,121	\$ (1,333,524)	\$ 58,091,900	\$ 14,897,841
2010	\$ 13,597,908	\$ 295,512	\$ 65,426,114	\$ 18,781,692

### **3. FINANCIAL STATEMENTS**

The financial statements of the Company have been prepared in conformity with generally accepted accounting principles, as permitted pursuant to Section 7006(a) of the New York Insurance Law. The Company's independent accounting firm concluded that the following financial statements present fairly, in all material respects, the financial position of Peter Turner Insurance Company as of December 31, 2010.

#### A. Balance Sheet

The following shows the assets, liabilities, and capital and surplus as of December 31, 2010 as determined by this examination and as reported by the Company:

#### BALANCE SHEET AS OF DECEMBER 31, 2010

##### Assets

Cash and cash equivalents	\$ 938,558
Bonds and stocks and other investment	36,703,425
Investments in and advances to affiliates	10,000,000
Accounts and Premiums Receivable	7,903,368
Restricted cash	9,473,865
Investment income due and accrued	178,508
Other assets	<u>228,390</u>
 Total assets	 <u>\$65,426,114</u>

##### Liabilities

losses and loss adjustment expenses	\$39,881,055
Accrued expenses	194,797
Unearned premium	6,483,217
Other liability	<u>\$ 85,353</u>
 Total liabilities	 <u>\$46,644,422</u>

##### Capital and Surplus

Paid in capital (par value)	\$ 100,000	
Additional paid-in capital	17,400,000	
Accumulated other comprehensive income (loss)	3,539,763	
Accumulated deficit	<u>(2,258,071)</u>	
Total capital and surplus		<u>18,781,692</u>
 Total liabilities and capital surplus		 <u>\$65,426,114</u>

B. Statement of Income

Capital and surplus increased \$14,281,692 during the five-year and four month period subsequent to the Company's initial capitalization on August 31, 2004 through December 31, 2010, detailed as follows:

STATEMENT OF INCOMEUnderwriting Income

Net premiums earned		\$ 97,426,599
Deductions:		
Net losses and net loss adjustment expense incurred	\$105,145,762	
General and administrative expenses	<u>1,419,383</u>	
Total underwriting deductions		<u>106,565,145</u>
Net underwriting gain or (loss)		\$ (9,138,546)

Investment Income

Net investment income earned		<u>12,093,309</u>
Net income before taxes		\$ 2,954,763
Taxes		<u>718,110</u>
Net income		<u>\$ 2,236,653</u>

C. Capital and Surplus Account

Capital and surplus as of August 31, 2004			\$6,005,276
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$2,236,653		
Net unrealized appreciation (depreciation) of investments, net of tax	3,539,763		
Dividend declared		\$(6,000,000)	
Additional paid-in capital	<u>13,000,000</u>	<u>0</u>	
Total gains and losses	<u>\$18,776,416</u>	<u>\$(6,000,000)</u>	
Net increase in surplus			<u>12,776,416</u>
Capital and surplus per report on examination as of December 31, 2010			<u>\$18,781,692</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$39,881,055 is the same as reported by the Company as of December 31, 2010. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and was based on the Company's actuarial information contained in the Statement of Actuarial Opinion.

The Company's opining actuary states the following in its "Statement of Actuarial Opinion":

"In my opinion, the amount recorded in the audited financial statement for Loss and Loss Adjustment Expenses of \$ 39,881,055:

- Meet the requirements of insurance laws of New York;
- Are consistent with reserves computed in accordance with Standards of Practice issued by the Actuarial Standards Board (including the casualty Actuarial Society's Statement of Principles regarding Property and Casualty Loss and Loss Adjustment Expenses Reserves); and

- Make a reasonable provision for all unpaid loss and loss expense obligations of the Company as of December 31, 2010 under the terms of its contracts and agreements subject to the following qualifications: the Opinion does not apply to a general liability group claim belonging to the 8/02-8/03 period and three open general liability claim situations which involve alleged abuse.”

## **5. ARTICLE 70 COMPLIANCE**

Article 70 of the New York State Insurance Law is the governing section of the law for the formation and continued operation of captive insurers in New York State. A review was performed to test the Company’s compliance with all applicable parts of Article 70 of the New York Insurance Law.

## **6. ORGANIZATIONAL STRUCTURE**

The Roman Catholic Diocese of Brooklyn is a charitable and religious entity that is exempt from federal income tax and is not a private foundation. The diocese includes parishes in Brooklyn and Queens, as well as oversight of numerous high schools, elementary schools and cemeteries.

## **7. INSURANCE PROGRAM**

The Company was formed to insure the Parent and its affiliates for various risks as a means to fund such potential losses and to provide greater flexibility within the corporate risk management program. The Company provides self-insured retention coverage on overlying policies issued by National Catholic RRG, United States Fidelity & Guaranty, Lexington Insurance Company and Great American for the Parent’s workers compensation, general liability, property, automobile liability, fidelity, director’s and officers’ legal liability, employment practices liability and errors & omissions risks.

The following are the limits of insurance provided by the Company under the policy as of December 31, 2010:

<u>Coverage</u>	<u>Per Occurrence</u>
General Liability	\$ 250,000
Workers Compensation	\$ 750,000
Automobile Liability	\$ 250,000
Commercial Property	\$ 250,000
	\$ 100,000
Fidelity/Commercial Crime	Plus 10% up to \$5,000,000
Director's and Officers' Legal Liability, Employment Practices Liability and Errors & Omissions	\$ 250,000

## 8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
1. <u>Capital Structure</u>	
It is recommended that the Company properly reflect its paid-in capital in subsequent annual statements.	3

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao  
Senior Insurance Examiner

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

WEI CAO, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**APPOINTMENT NO. 30842**

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, **BENJAMIN M. LAWSKY**, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

**Wei Cao**

as a proper person to examine the affairs of the

**PETER TURNER INSURANCE COMPANY**

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

**COMPANY**

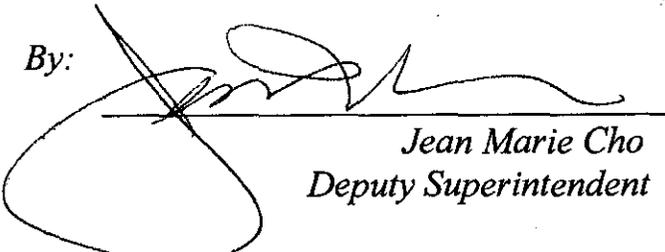
with such other information as he shall deem requisite.

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

this 13th day of April, 2012

**BENJAMIN M. LAWSKY**  
Superintendent of Financial Services

By:

  
\_\_\_\_\_  
Jean Marie Cho  
Deputy Superintendent

