

REPORT ON EXAMINATION

OF THE

PARK INSURANCE COMPANY

AS OF

DECEMBER 31, 2011

DATE OF REPORT

NOVEMBER 21, 2012

EXAMINER

LEO GARRITY

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

November 21, 2012

Honorable Benjamin M. Lawsky
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 30864 dated July 16, 2012 attached hereto, I have made an examination into the condition and affairs of Park Insurance Company as of December 31, 2011, and submit the following report thereon.

Wherever the designation "the Company" appears herein without qualification, it should be understood to mean Park Insurance Company.

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

The examination was conducted at the Company's administrative office located at 475 Park Avenue, New York NY 10016.

This examination has determined that as of December 31, 2011, the Company was insolvent in the amount of \$1,715,505 and its minimum required to be maintained surplus of \$700,000 was impaired in the amount of \$2,415,505.

1. SCOPE OF EXAMINATION

The Department has performed a single-state examination of Park Insurance Company. The previous examination was conducted as of December 31, 2009. This examination covered the two-year period from January 1, 2010 through December 31, 2011 and was limited in scope to those areas deemed necessary for review by the Department. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was limited to a review of the following items: utilization of Company assets; loss and loss adjustment expense reserves; ceded reinsurance; corporate governance and risk management practices; and a review of the Company's overall financial condition.

This report on examination is confined to financial statements and comments on those matters that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

2. DESCRIPTION OF COMPANY

Park Insurance Company was incorporated under the laws of the State of New York on November 23, 2004. It became licensed on December 6, 2007 and commenced business on January 1, 2008.

The Company's authorized capital of \$700,000 consists of 70,000 shares of \$10 par value per share common stock and its Gross paid in and contributed surplus was \$3,604,757. Gross paid in and contributed surplus increased by \$300,000 during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
12/31/2009	Beginning gross paid in and contributed surplus	\$3,304,757
2011	Surplus paid in	<u>300,000</u>
12/31/2011	Ending gross paid in and contributed surplus	<u>\$3,604,757</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 fifteen members. The board is required to meet four times during each calendar year. At December 31, 2011, the board of directors was comprised of the following twelve members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Andrew Barile Santa Fe, CA	Insurance Consultant, Andrew Barile Consulting Corp.
Dennis Carmen Melville, NY	Certified Public Accountant, Carmen & Pearl CPA Treasurer, Park Insurance Company
Corey B. Davis New York, NY	President, Barrington Capital Advisors, LLC
Salvatore DeSantis Manalapan, NJ	Partner, Molod Spitz & DeSantis P.C. Secretary, Park Insurance Company
John Mannix Island Park, NY	Reinsurance Intermediary, Aon Benfield
John Polsinelli Bellmore, NY	President, Atlas Companies
Paul Polsinelli Syosset, NY	Vice President, Atlas Companies
Thomas Polsinelli Atlantic Beach, NY	President and Chief Executive Officer, Park Insurance Company Secretary and Treasurer, Atlas Companies
Vincent Polsinelli Laurel Hollow, NY	Vice President, Atlas companies
David Salzman Greenlawn, NY	Self Employed, David Salzman Marketing and Advertising
Thomas J. Santorelli Highland, FL	Retired
Carl E. Terzer Chatham, NJ	President, Capvisor Associates, LLC

As of December 31, 2011, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Thomas Polsinelli	President
Salvatore DeSantis	Secretary
Dennis Carmen	Treasurer

B. Territory and Plan of Operation

As of December 31, 2011, the Company was licensed to write business in New York only.

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

<u>Paragraph</u>	<u>Line of Business</u>
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 \$700,000.

Additionally, as of December 31, 2011, the Company was licensed to write special risks in the "Free Trade Zone" pursuant to Section 6302 of the New York Insurance Law. Effective September 1, 2012, Section 6302(c)(1) of the New York Insurance Law was amended to provide that effective September 1, 2012, a special risk license may only be issued to "an authorized insurer that maintains at all times a surplus to policyholders of at least 200% of the authorized control level as set forth in article thirteen of this chapter, except that with respect to a policy issued pursuant to section 6303(a)(3) of this article, an authorized insurer that maintains at all times a surplus to policyholders of at least 250% of the authorized control level as set forth in article thirteen of this chapter." A review of the Company's 2012 renewal application indicated that the Company's surplus to policyholders did not meet the requirements of Section 6302 of the New York Insurance Law and its request for a renewal of its special risk license was denied.

The Company provides commercial auto and general liability coverage on a per occurrence basis to accounts involved in the ready-mix concrete business, trucking, towing, moving and storage, concrete, contractor, distributor, and ambulette business. The Company sells policies through retail brokers throughout the State of New York, with a concentration downstate and the five boroughs of New York City.

The following schedule shows the direct premiums written by the Company during the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums Written</u>
2009	\$12,118,281
2010	\$16,231,021
2011	\$19,190,203

C. Reinsurance

Assumed

The Company did not assume any business during the examination period.

Ceded

The Company had the following ceded reinsurance program in effect at December 31, 2011:

<u>Type of Treaty</u>	<u>Cession</u>
Commercial Automobile Liability and related General Liability and Automobile Physical Damage in force, or written or renewed during the period December 31, 2011 through January 1, 2013	\$500,000 excess of \$500,000 per risk with a deductible of \$1,750,000, limit of \$500,000 ultimate net loss each and every occurrence and further subject to a limit of \$2,000,000 for the term of the Contract.

Prior to December 31, 2011, the Company had a reinsurance program providing \$700,000 excess of \$300,000 per risk coverage; however, all reinsurance agreements in force prior to December 31, 2011 were commuted. Therefore, as of December 31, 2011, the Company has no reinsurance protection for losses incurred December 30, 2011 and prior.

The Company writes policies with limits up to \$1 million. The Company's reported surplus as regards policyholders at December 31, 2011 was \$4,584,495. The Company is in violation of Section 1115(a) of the New York Insurance Law by virtue of the fact that it is exposing itself to losses on any one risk, after consideration of cessions to authorized reinsurers, in excess of 10% of its surplus to policyholders. Section 1115(a) of the New York Insurance Law states:

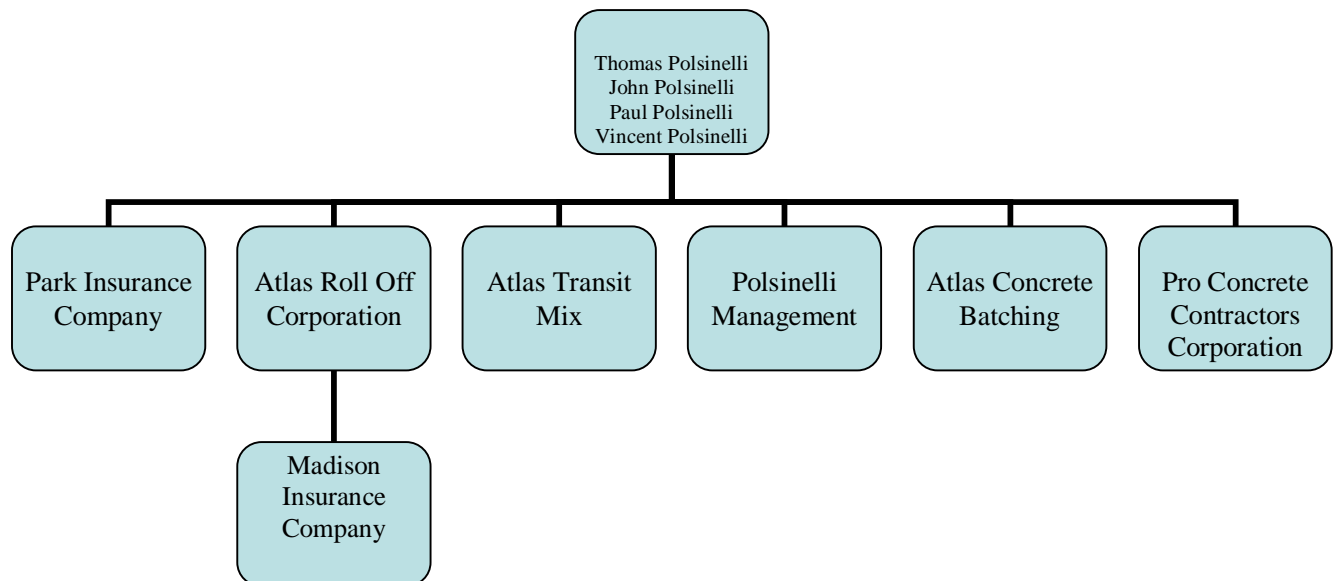
Except as otherwise provided in this chapter, no insurer doing business in this state shall expose itself to any loss on any one risk in an amount exceeding ten percent of its surplus to policyholders. In determining the amount of risk, any portion reinsured in an assuming

insurer authorized to do such business in this state or in an accredited reinsurer, as defined in subsection (a) of section one hundred seven of this chapter, shall be deducted.

By commuting its reinsurance coverage that was in effect prior to December 31, 2011, the Company is exposed to the full \$1 million limit on its policies written prior to that date. Additionally, although the Company has reinsurance in place at December 31, 2011 covering \$500,000 in excess of \$500,000 per risk, the \$500,000 per risk retention is still in excess of 10% of its reported surplus. Further, the deductible of \$1,750,000 limits the amount of reinsurance coverage available to the Company. Additionally, although the Company lists the two reinsurers who participate on the current reinsurance agreement as authorized on Schedule F of its filed 2011 annual statement, it is noted that one of the reinsurers, Citadel Reinsurance Company (Bermuda), is unauthorized; therefore, that portion of the cession could not be considered as reducing the per risk limitation pursuant to Section 1115(a) of the New York Insurance Law.

D. Holding Company System

The following is a chart of the holding company system at December 31, 2011:



Note: Ownership percentages of Park Insurance Company:	Thomas Polsinelli	33.4%
	John Polsinelli	27.4%
	Paul Polsinelli	27.4%
	Vincent Polsinelli	11.7%

Ownership percentages of all other companies:	Thomas Polsinelli	25.0%
	John Polsinelli	25.0%
	Paul Polsinelli	25.0%
	Vincent Polsinelli	25.0%

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2011, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	999*
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	124%*
Premiums in course of collection to surplus as regards policyholders	999*

The above ratios denoted with an asterisk fall outside the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners. The Net premiums written to surplus as regards policyholders and Premiums in course of collection to surplus as regards policyholders ratios are shown as “999” due to the fact that the examination surplus is negative.

The Company’s authorized control level risk-based capital at December 31, 2011 was \$1,921,891; therefore, based on the Company’s surplus as regards policyholders of \$(1,715,505) as determined by this examination, its risk-based capital ratio is (89.3)%, which is at the mandatory control level. In order for the Company to have a risk-based capital ratio of at least 200% (no action level), the Company would need \$5,559,287 of additional surplus.

The underwriting ratios presented below are on an earned/incurred basis and encompass the two-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$ 28,314,098	94.7%
Other underwriting expenses incurred	8,947,443	29.9
Net underwriting loss	<u>(7,366,387)</u>	<u>(24.6)</u>
Premiums earned	\$ <u>29,895,154</u>	<u>100.00%</u>

F. Accounts and Records

CPA Audit for the Year ended December 31, 2011

The Company was required to provide an audited financial statement as of December 31, 2011 to the Department no later than May 31, 2012, pursuant to Section 307(b)(1) of the New York Insurance Law, which states:

“Every licensed insurer, except an assessment co-operative property/casualty insurance company having direct premiums written in this state of less than \$250,000 in any calendar year and having less than 500 policyholders at the end of such calendar year, shall be required to file within five months of the end of such calendar year, an annual financial statement (including an annual financial statement of any subsidiary of the type described in section 1404(a)(9) or section 1407(a)(4)(B) of this chapter) together with an opinion thereon of an independent certified public accountant on the financial statement of such insurer and any such subsidiary, which statement and opinion shall be available for public inspection at the office of the superintendent and the principal office of the insurer. Each such insurer shall furnish the superintendent with an evaluation by such accountant of the accounting procedures and internal control systems of the insurer that are necessary to the furnishing of the opinion.

The Company’s independent certified public accountant did not issue its final audit report as of December 31, 2011 until October 5, 2012. Therefore, the Company was in violation of Section 307(b)(1) of the New York Insurance Law.

Additionally, the audit report issued by the Company’s independent certified public accountant contained the following statement:

In connection with our audit, we determined that capital and surplus reflected in the statement of admitted assets, liabilities, and capital and surplus of the Company as of December 31, 2011, as reported on the 2011 Annual Statement filed with the New York State Department of Financial Services is **materially misstated because of an understatement of the reserves for losses and loss adjustment expenses and an overstatement of deferred tax assets**. Statutory capital and surplus of \$4,584,495 reported on the 2011 Annual Statement should be reduced as a result of the matter in the preceding sentence. The amount of the reduction is not reasonably determinable at this time but it would cause a change in the risk based capital regulatory level. Emphasis added.

Improper Use of Company Assets:

In light of the significant decrease in the Company’s reported surplus as regards policyholders during 2012, a review was performed of the Company’s cash disbursements (including wire transfers) for claims, investments, operating expenses, taxes and miscellaneous expenses for the

period January 1, 2012 through July 31, 2012. In addition, the examiner made direct inquiries of the Company's senior management related to key processes and controls over claims, cash and investment management functions. The following was noted:

1. Utilization of the Company's Assets to Satisfy Obligations of Madison Insurance Company ("MIC"), an affiliated entity of Park Insurance Company

MIC was a captive insurance company of Atlas Roll-off Corp, a company owned by the owners of Park Insurance Company. MIC had a fronting arrangement with Markel Insurance Company ("Markel"), whereby MIC reinsured commercial automobile and automobile physical damage business. MIC has been in run-off since 2008.

On January 18, 2012, MIC and Markel entered into a commutation agreement, whereby MIC agreed to pay approximately \$1.1 million in satisfaction of its reinsurance obligations to Markel. An irrevocable standby letter of credit ("LOC") was established with Wachovia Bank by Atlas Roll-off Corp., naming Markel Insurance Company as the beneficiary. Wachovia held investments owned by Atlas Roll-Off Corp. as collateral for the LOC.

During 2012, a total of \$531,732.27 was paid by the Company to MIC in two payments: check #2111 in the amount of \$143,878.42, which was signed by Mr. Thomas Polsinelli and presented on March 15, 2012, and a wire transfer in the amount of \$387,853.85 on April 4, 2012. These payments represented the final installments due to Markel by MIC related to the commutation agreement. The Company recorded these payments as paid losses and loss adjustment expenses on its financial statements. The payments were processed outside of the Company's VCA system and were entered into QuickBooks with the description "Madison Insurance Company", with no further description or information.

The use of Company funds to pay the obligations of MIC would appear to be a holding company violation pursuant to Section 1505(a), which provides that transactions within a holding company system to which a controlled insurer is a party shall be subject to the following:

- (1) the terms shall be fair and equitable;
- (2) charges or fees for services performed shall be reasonable; and
- (3) expenses incurred and payments shall be allocated to the insurer on an equitable basis in conformity with customary insurance accounting practices consistently applied.

Additionally, the total of the two payments represented 1.9% of the Company's reported admitted assets at December 31, 2011. Therefore, the payments appear to be contrary to Section 1505(d)(1) of the New York Insurance Law, which states:

(d) The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period:

(1) Sales, purchases, exchanges, loans or extensions of credit, or investments, involving more than one-half of one percent but less than five percent of the insurer's admitted assets at last year-end.

Mr. Thomas Polsinelli indicated that the payments to MIC were made in error by one of the Company's accountants. It is noted that the check was signed by Mr. Polsinelli and that Mr. Polsinelli approves all wire transfers. On September 26, 2012, Park's owners reimbursed Park Insurance Company for the full amount of \$531,732.27 paid to MIC.

2. Assignment and Account Purchase Agreement between Park Insurance Company ("Company" or "Assignee"), James W. Stuckert Revocable Trust ("Assignor"), and J.J. Hilliard and W.G. Lyons, LLC ("Broker")

Effective March 14, 2012, the Company entered into the captioned agreement whereby it paid to the Assignor the sum of \$1,680,000 and received by assignment, an account with the Broker which contained shares of common stock of VHGI Holdings, Inc., Lachlan Star Ltd., and Royal Gold Inc. The amount paid by the Company for the assignment represented approximately 50% to 60% of the market value of the shares included in the account. The agreement provided that the Assignor had the absolute, irrevocable and unconditional right until March 30, 2012 to repurchase the account for the price of \$1,830,000. Until that date, the Broker held the executed stock powers and the Company could not transfer, sell or further assign or in any way encumber the account.

On April 2, 2012, the parties executed the first amendment to the Assignment and Account Purchase Agreement, which transferred the Royal Gold Inc. shares to an account at M&T Bank and released the other shares held by the Broker to the Assignor. Additionally, the first amendment extended the Assignor's right to repurchase the account until April 30, 2012 for the repurchase price of \$1,980,000 if the Assignor exercised its right to repurchase on or before April 18, 2012, or \$2,000,000 if the Assignor exercised its right to repurchase between April 19, 2012 and April 30, 2012.

On April 30, 2012, the parties executed the second amendment to the Assignment and Account Purchase Agreement, which extended the Assignor's right to repurchase the account until May 15, 2012, for which the Assignor agreed to pay an additional sum of \$5,600 per day for each day beyond May 1, 2012.

On June 18, 2012, the Company received the sum of \$2,257,600, representing \$2,000,000 plus \$5,600 per day for 46 days, and released the 42,750 shares of Royal Gold Inc. to the Assignor and the Agreement was concluded.

The Company reported this transaction as an acquisition of common stock at a cost of \$1,680,000 and a sale price of \$2,257,600. The Company reported a realized capital gain of \$577,600 as a result of this transaction on its June 30, 2012 quarterly statement. Additionally, it is noted that the Company purchased 7,400 shares of Royal Gold, Inc. common stock on June 15, 2012 at a cost of \$576,104 (or approximately \$78 per share).

Based on the fact that the shares of Royal Gold Inc. were not available for the Company to sell or transfer for the duration of the transaction, and that the acquisition cost and sale price were not related to the market value of the shares, this transaction should have been reported as a loan with collateral held, rather than a purchase and sale of common stock, and the \$577,600 realized capital gain should have been reported as loan interest received.

Additionally, the loan of \$1,680,000 to James W. Stuckert revocable trust is not the type of transaction that an insurer would normally enter into in the ordinary course of business, and would appear to be contrary to Section 1407(c) of the New York Insurance Law, which states:

Any investment pursuant to the provisions of this section shall be subject to other requirements of law (statutory or otherwise) that affect the standard of care of directors and officers of corporations, and in making investments under this section the insurer's directors and officers shall perform their duties in good faith and with that degree of care that an ordinarily prudent individual in a like position would use under similar circumstances.

3. Stock Purchase Agreement between Park Insurance Company ("Company" or "Purchaser"), Commercial Holding AG, LLC, and MLH Investments, LLC (collectively, "Sellers"), and Scott Haire ("Guarantor")

Effective May 7, 2012, the Company entered into the captioned Agreement whereby it paid to the Sellers the sum of \$170,000 in exchange for 4 million shares of common stock of Wound Management Technologies, Inc. ("WNDM Shares"), which were transferred to an account at M&T

Bank. The WNDM Shares had a market value of approximately \$940,000 (\$0.235 per share) as of the date of sale. The agreement provided that the Sellers had the absolute, irrevocable and unconditional right until May 15, 2012 to repurchase the WNDM Shares for the price of \$205,000. Until that date, the Company could not transfer, sell or further assign or in any way encumber the WNDM Shares.

According to Mr. Thomas Polsinelli, the Sellers' rights to repurchase the WNDM Shares have been extended through September 2012. As of September 26, 2012 the market value of the shares was approximately \$0.145 per share.

The Company reported this transaction as an acquisition of common stock at a cost of \$170,000. Based on the fact that the WNDM Shares were not available for the Company to sell or transfer for the duration of the transaction, and that the acquisition cost and sale price were not related to the market value of the shares, this transaction should have been reported as a loan with collateral held, rather than a purchase of common stock.

Additionally, the loan of \$170,000 to Commercial Holding AG, LLC and MLH Investments, LLC is not the type of transaction that an insurer would normally enter into in the ordinary course of business, and would appear to be contrary to Section 1407(c) of the New York Insurance Law.

4. Non-Employee Payroll Expenses

During the period January 1, 2012 through April 16, 2012, the Company paid John Polsinelli and Paul Polsinelli approximately \$52,000 each, which amounts were paid through the Company's ADP payroll system and were reported by the Company as salaries expense. It is noted that these individuals are directors and shareholders of the Company; however, neither is an employee.

The Company advised us that these individuals provide financial and strategic advice to Thomas Polsinelli and are signatories on the Company's bank accounts in the absence of Thomas Polsinelli. However, there was no employment agreement for either John Polsinelli or Paul Polsinelli, nor were there any vouchers indicating what services were performed by these individuals to support the payments made to them.

The salary payments of \$52,000 each to John Polsinelli and Paul Polsinelli are in violation of Section 1217 of the New York Insurance Law, which states "No domestic insurance company shall make any disbursement of one hundred dollars or more unless evidenced by a voucher signed by or

on behalf of the payee as compensation for goods or services rendered for the company, and correctly describing the consideration for the payment.” Additionally, the payments to John Polsinelli and Paul Polsinelli appear to be holding company violations pursuant to Section 1505(a)(2) of the New York Insurance Law, which states “charges or fees for services performed shall be reasonable.”

5. Non-Business Related Corporate Credit Card Expenses

A review was performed of the charges made to the Company’s corporate credit cards for the period January 2012 through June 2012. The review indicated that approximately \$20,000 was charged by Thomas Polsinelli for meals, travel and lodging expenses during that period, for non-business purposes. Additionally, it is noted that there were no reimbursements made by Thomas Polsinelli for any of these personal expenses charged to the corporate credit cards. The payment by the Company of non-business related expenses incurred by Thomas Polsinelli is in violation of Section 1217 of the New York Insurance Law.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2011 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 14,646,677	\$ -	\$ 14,646,677
Preferred stocks	1,831,232		1,831,232
Common stocks	5,783,330		5,783,330
Cash, cash equivalents and short-term investments	(213,785)		(213,785)
Other invested assets	300,000		300,000
Investment income due and accrued	251,039		251,039
Uncollected premiums and agents' balances in the course of collection	2,699,698	103,620	2,596,078
Deferred premiums, agents' balances and installments booked but deferred and not yet due	1,827,115		1,827,115
Other amounts receivable under reinsurance contracts	351,285		351,285
Net deferred tax asset	<u>463,744</u>	<u>0</u>	<u>463,744</u>
Totals	<u>\$ 27,940,335</u>	<u>\$ 103,620</u>	<u>\$ 27,836,715</u>
<u>Liabilities, Surplus and Other Funds</u>	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase / (Decrease)</u>
<u>Liabilities</u>			
Losses and loss adjustment expenses	\$ 19,923,306	\$ 13,623,306	\$ (6,300,000)
Other expenses (excluding taxes, licenses and fees)	376,404	376,404	
Taxes, licenses and fees (excluding federal and foreign income taxes)	270,815	270,815	
Current federal and foreign income taxes	323,000	323,000	
Unearned Premiums	8,442,228	8,442,228	
Ceded reinsurance premiums payable	<u>216,467</u>	<u>216,467</u>	<u>0</u>
Total liabilities	<u>\$ 29,552,220</u>	<u>\$ 23,252,220</u>	<u>\$ (6,300,000)</u>
<u>Surplus and Other Funds</u>			
Common capital stock	\$ 700,000	\$ 700,000	\$ 0
Surplus notes	225,000	225,000	
Gross paid in and contributed surplus	3,604,757	3,604,757	
Unassigned funds (surplus)	<u>(6,245,262)</u>	<u>54,738</u>	<u>(6,300,000)</u>
Surplus as regards policyholders	<u>(1,715,505)</u>	<u>4,584,495</u>	<u>\$ (6,300,000)</u>
Total liabilities, surplus and other funds	<u>\$ 27,836,715</u>	<u>\$ 27,836,715</u>	

NOTE: This examination has determined that as of December 31, 2011, the Company was insolvent in the amount of \$1,715,505 and its minimum required to be maintained surplus of \$700,000 was impaired in the amount of \$2,415,505.

NOTE: The Internal Revenue Service has not yet begun to audit tax returns covering tax years 2008 through 2011. The examiner is unaware of any potential exposure of the Company to any tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Income

Surplus as regards policyholders decreased \$2,037,053 during the two-year examination period January 1, 2010 through December 31, 2011, detailed as follows:

Underwriting Income

Premiums earned		\$ 29,895,154
Losses and loss adjustment expenses incurred	\$ 28,314,098	
Other underwriting expenses incurred	<u>8,947,443</u>	
Total underwriting deductions		<u>37,261,541</u>
Net underwriting gain (loss)		\$ (7,366,387)
Net investment income earned	\$ 1,707,967	
Net realized capital gains (losses)	<u>754,475</u>	
Net investment gain (loss)		2,462,442
Finance and service charges not included in premiums	\$ 331,591	
Aggregate write-ins for miscellaneous income	<u>3,454</u>	
Total other income		<u>335,045</u>
Net income before federal and foreign income taxes		\$ (4,568,900)
Federal and foreign income taxes incurred		<u>372,445</u>
Net income		\$ <u>(4,941,345)</u>

Surplus as regards policyholders per report on examination as of December 31, 2009		\$ 321,548
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	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>
Net income		\$4,941,345
Change in net unrealized capital gains or (losses)	\$ 409,265	
Change in net deferred income tax	200,331	
Change in nonadmitted assets	1,182,473	
Change in surplus notes	225,000	
Surplus adjustments paid in	80,554	
Prior period adjustment for premiums receivable	587,223	
Prior period adjustment for paid in surplus	<u>219,446</u>	<u>0</u>
Total gains and losses	<u>\$2,904,292</u>	<u>\$4,941,345</u>

Net increase (decrease) in surplus		\$ <u>(2,037,053)</u>
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Surplus as regards policyholders per report on examination as of December 31, 2011		\$ <u>(1,715,505)</u>
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4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for losses and loss adjustment expenses of \$19,923,306 is \$6,300,000 more than the \$13,623,306 reported by the Company as of the examination date. The examination change is based on analysis 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.

The examination reserve deficiency represents 46% of the Company's reported reserve as of December 31, 2011. Section 1303 of the New York Insurance Law states, in part:

Every insurer shall ... maintain loss and claim reserves in an amount estimated in the aggregate to provide for the payment of all losses or claims incurred on or prior to the date of the statement, whether reported or unreported, which are unpaid as of such date and for which such insurer may be liable.

It is recommended that the Company adequately reserve for losses and loss adjustment expenses in its future filed statements with the Department pursuant to the provisions of Section 1303 of the New York Insurance Law.

5. CONCLUSION

This examination has determined that as of December 31, 2011, the Company was insolvent in the amount of \$1,715,505 and its minimum required to be maintained surplus of \$700,000 was impaired in the amount of \$2,415,505.

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Surplus Impairment</u>	
This examination has determined that as of December 31, 2011, the Company was insolvent in the amount of \$1,715,505 and its minimum required to be maintained surplus of \$700,000 was impaired in the amount of \$2,415,505.	1, 14, 16
B. <u>Limitation of Risk</u>	
The Company is in violation of Section 1115(a) of the New York Insurance Law by virtue of the fact that it is exposing itself to losses on any one risk, after consideration of cessions to authorized reinsurers, in excess of 10% of its surplus to policyholders.	5
C. <u>Risk-Based Capital Action Level</u>	
Based on the Company's surplus as regards policyholders as determined by this examination, its risk-based capital ratio is (89.3)%, which is at the mandatory control level.	7
D. <u>Audited Financial Statement</u>	
i. The Company's independent certified public accountant did not issue its final audit report as of December 31, 2011 until October 5, 2012. Therefore, the Company was in violation of Section 307(b)(1) of the New York Insurance Law.	8
ii. The audit report issued by the Company's independent certified public accountant contained the following statement:	8
<p style="margin-left: 40px;">In connection with our audit, we determined that capital and surplus reflected in the statement of admitted assets, liabilities, and capital and surplus of the Company as of December 31, 2011, as reported on the 2011 Annual Statement filed with the New York State Department of Financial Services is materially misstated because of an understatement of the reserves for losses and loss adjustment expenses and an overstatement of deferred tax assets. Statutory capital and surplus of \$4,584,495 reported on the 2011 Annual Statement should be reduced as a result of the matter in the preceding sentence. The amount of the reduction is not reasonably determinable at this time but it would cause a change in the risk based capital regulatory level. Emphasis added.</p>	

<u>ITEM</u>	<u>PAGE NO.</u>
E. <u>Use of Company Funds to Pay the Obligations of MIC</u>	
The use of Company funds to pay the obligations of MIC would appear to be a holding company violation pursuant to Section 1505(a). Additionally, the total of the two payments represented 1.9% of the Company's reported admitted assets at December 31, 2011. Therefore, the payments appear to be contrary to Section 1505(d)(1) of the New York Insurance Law.	9
F. <u>Loan to James W. Stuckert Revocable Trust</u>	
The loan of \$1,680,000 to James W. Stuckert revocable trust is not the type of transaction that an insurer would normally enter into in the ordinary course of business, and would appear to be contrary to Section 1407(c) of the New York Insurance Law.	11
G. <u>Loan to Commercial Holding AG, LLC and MLH Investments, LLC</u>	
The loan of \$170,000 to Commercial Holding AG, LLC and MLH Investments, LLC is not the type of transaction that an insurer would normally enter into in the ordinary course of business, and would appear to be contrary to Section 1407(c) of the New York Insurance Law.	12
H. <u>Salary Payments to John Polsinelli and Paul Polsinelli</u>	
The salary payments of \$52,000 each to John Polsinelli and Paul Polsinelli are in violation of Section 1217 of the New York Insurance Law. Additionally, the payments to John Polsinelli and Paul Polsinelli appear to be holding company violations pursuant to Section 1505(a)(2) of the New York Insurance Law	12
I. <u>Payment of Non-business Expenses Incurred by Thomas Polsinelli</u>	
The payment by the Company of non-business related expenses incurred by Thomas Polsinelli is in violation of Section 1217 of the New York Insurance Law.	13
J. <u>Losses and Loss Adjustment Expenses</u>	
It is recommended that the Company adequately reserve for losses and loss adjustment expenses in its future filed statements with the Department pursuant to the provisions of Section 1303 of the New York Insurance Law.	16

Respectfully submitted,

/s/
Leo Garrity

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

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

/s/
Leo Garrity

Subscribed and sworn to before me

this _____ day of _____, 2012.

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:

Leo Garrity

as a proper person to examine the affairs of the

PARK INSURANCE COMPANY

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

COMPANY

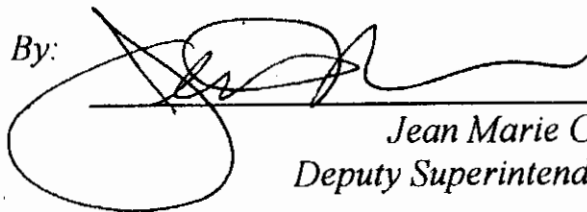
with such other information as he shall deem requisite.

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

this 16th day of July, 2012

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



Jean Marie Cho
Deputy Superintendent

