

REPORT ON EXAMINATION

OF THE

1177 INSURANCE COMPANY, INC

AS OF

DECEMBER 31, 2012

DATE OF REPORT

FEBRUARY 12, 2014

EXAMINER

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
Albany, New York 12257

February 12, 2014

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 31050 dated September 13, 2013, attached hereto, I have made an examination into the condition and affairs of 1177 Insurance Company, Inc. as of December 31, 2012, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate 1177 Insurance Company, Inc. Wherever the designation “Parent” appears herein without qualification, it should be understood Metro Fund LLC. 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 December 14, 2007 through December 31, 2012, and was limited in its scope to a review or audit of only those balance sheet items considered by this Department to require analysis, verification or description, including invested assets, and losses and loss adjustment expense reserves. The examination included a review of income, disbursements and Company records deemed necessary to accomplish such analysis or verification. Additionally, a review was performed to determine whether the captive insurer was operating within its by-laws, conforming with its plan of operation, 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.

The report utilized work performed by the Company's independent certified public accountants and its opining actuary to the extent considered appropriate.

2. DESCRIPTION OF COMPANY

The Company was incorporated under the laws of New York State as a captive insurance company on December 14, 2007 and commenced business on December 20, 2007. The Company is a wholly-owned subsidiary of Metro Fund LLC. Metro Fund LLC is a Delaware limited liability company which acquires, develops and operates properties located in the New York City metropolitan area. Metro Fund LLC acquires interests in real property either by investing or by holding title to the property through separate single-member limited liability companies.

A. Articles of Incorporation

The Company is organized to transact the kinds of insurance specified in Section 1113(a) of the New York Insurance Law, subject at all times to the limitations on the business of pure captive insurance companies set forth in Article 70 of the New York Insurance Law.

B. By-Laws

The examination revealed that the Company is in compliance with its by-laws in all material respects.

C. Capital Structure

As a pure captive insurance company incorporated as a stock insurer, the Company is required to maintain surplus as regards policyholders of not less than \$250,000 pursuant to the provisions of Section 7004(a)(1) of the New York Insurance Law.

As of December 31, 2012, the Company's paid in capital was \$100,000 consisting of 100,000 shares of \$1.00 par value per share common stock and its surplus as regards policyholders was \$290,732.

D. Corporate Records

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

E. Reinsurance

As of December 31, 2012, the Company provides Terrorism Insurance coverage as provided under the Terrorism Risk Insurance Program Reauthorization Act of 2007 ("TRIPRA) for the property located at 1177 Avenue of the Americas, New York, New York. TRIPRA is authorized to reimburse an aggregate limit of \$100 billion in any one calendar year for all certificated acts of domestic terrorism. The percentage of losses reinsured by the federal government under TRIPRA is 85%. The Company ceded the remaining 15% risk to Axis Re PLC (50%) and Lexington Insurance Company (50%). The Company's deductible under TRIPRA is 20% of prior year direct premiums earned on an annual basis.

The Company ceded 100% of the risk for non-certified acts of domestic terrorism equally to Axis Re PLC and Lexington Insurance Company.

Subsequent to the examination date, the Company ceded 15% of the risk for certified acts of domestic terrorism to Axis Re SE (50%), Lexington (25%) and Lloyds (25%). The change to the Plan of Operation was submitted to the Department for an approval on September 16, 2013.

F. Management and Control

(i) Captive Manager

Section 7003(b)(4) of the New York Insurance Law provides that no captive insurer shall do any captive insurance business in this state unless it utilizes a captive manager resident in the State of New York that is licensed as an agent or broker under the provisions of Article 21 of the New York Insurance Law, or any other person approved by the Superintendent.

During the examination period, the Company was managed by Willis of New York, Inc. (“Willis”), which is licensed as a broker for captive insurance companies by the New York Department of Financial Services.

Pursuant to the Management Agreement between the Company and Willis, Willis shall render the following services to the Company:

- Provide the Company with such services in connection with all business transactions relating to insurance operations and activities undertaken by the Company;
- Compiling, preparing and maintaining adequate underwriting policies and files to ensure the Company contracts of insurance are in conformity with the approved business plan;
- Assist the Company in initiating and maintaining in accordance with established accounting principles applicable to the business of insurance, proper accounting records of income and outgoings;
- Maintain and operate bank accounts on such terms and in accordance with the directions as may be agreed with the Company;
- Work with the Company to ensure that the books of account and records conform with the laws of the State of New York relating to captive insurance companies;
- Carry out on the Company’s behalf, and with the Company’s written approval, all reporting obligations imposed on captive insurance companies by the laws of the State of New York ;
- Advise the Company on all duties and obligations imposed on captive insurance companies by the laws of the State of New York;

The Management Agreement was amended on December 20, 2011 to reflect the revised management fee effective January 1, 2011.

(ii) Board of Directors

Pursuant to the Company's by-laws, management of the Company is vested in a board of directors consisting of not less than three members nor more than ten, of which, at least two shall at all times be residents of New York State. At December 31, 2012, the board of directors was comprised of the following three members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Larry A. Silverstein New York, NY	President and Chief Executive Officer, Silverstein Properties
Michael Levy Melville, NY	Executive Vice President, Silverstein Properties
Robbin Orbison New York, NY	Senior Vice President and Chief Financial Officer, Silverstein Properties

During the period covered by this examination, the board held one meeting each year. A review of the meeting minutes during the examination period indicated that all the board meetings were generally well attended, except Larry Silverstein, who did not attend any of the board meeting for which he was eligible to attend.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the insurer. It is recommended that board members who are unable to or unwilling to attend board meetings should resign or be replaced.

(iii) Officers

As of December 31, 2012, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Larry A. Silverstein	President
Michael Levy	Senior Vice President
Shari Natovitz	Vice President and Secretary
Robbin Orbison	Treasurer

G. Certified Public Accountant (“CPA”) and Actuarial Services

The Company was audited by the independent CPA firm WeiserMazars LLP for 2012. Friedman LLP was the Company’s auditor for the years 2008-2011. The Company’s opening actuary as of December 31, 2012 was Willis Casualty Actuarial, One World Financial Center, 7th Floor, NY, NY 10281.

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>Net Premiums Earned</u>	<u>Net Income</u>	<u>Assets</u>	<u>Shareholders’ Equity</u>
2007	\$ 8,750	\$ 5,138	\$708,256	\$255,138
2008	\$299,946	\$168,285	\$800,340	\$423,423
2009	\$288,966	\$150,217	\$600,922	\$400,217
2010	\$210,697	\$110,664	\$561,001	\$360,664
2011	\$221,769	\$112,990	\$717,546	\$362,990
2012	\$238,890	\$125,287	\$634,705	\$290,732

3. FINANCIAL STATEMENTS

With the Department's permission, the Company's financial statements have been prepared in conformity with generally accepted accounting principles, which differ from statutory accounting principles prescribed or permitted by the Department for insurance companies. The Company's independent CPA firm concluded that the following financial statements present fairly, in all material respects, the Company's financial position as of December 31, 2012.

A Balance Sheet

Assets

Cash	\$254,470	
Premium receivable	221,167	
Prepaid reinsurance premiums	142,310	
Deferred policy acquisition costs	3,534	
Income tax receivable	<u>13,224</u>	
Total Assets		<u>\$634,705</u>

Liabilities

Unearned premiums	\$315,372	
Accrued expenses	21,570	
Assessment tax payable	2,031	
Premium taxes payable	<u>5,000</u>	
Total liabilities		<u>\$343,973</u>

Capital and Surplus

Common stock (par value)	\$100,000	
Additional paid in capital	150,000	
Surplus (Accumulated earnings)	<u>40,732</u>	
Total capital and surplus		<u>\$290,732</u>
Total liabilities and capital surplus		<u>\$634,705</u>

B. Statement of Income

The Company's capital and surplus increased \$922,581 during the five-year and seventeen day period detailed as follows:

STATEMENT OF INCOMEUnderwriting Income

Net premiums earned	\$1,269,014	
Interest income	<u>4,342</u>	
Total underwriting income		\$1,273,356
Deductions:		
Policy acquisition and other underwriting expenses	\$ 314,255	
Total operating deductions		\$ <u>314,255</u>
Net income before tax		\$ 959,101
Current income tax		<u>286,520</u>
Net income		\$ <u>672,581</u>

C. Capital and Surplus Account

Capital and surplus as of December 14, 2007			\$ 0
	<u>Gains in surplus</u>	<u>Losses in surplus</u>	
Net income	\$672,581	\$ 0	
Issuance of common stock	100,000		
Additional paid in capital	150,000		
Shareholder dividend	<u>0</u>	<u>631,849</u>	
	<u>\$922,581</u>	<u>\$631,849</u>	
Net increase in surplus			<u>\$290,732</u>
Capital and surplus as of December 31, 2012			<u>\$290,732</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

As of December 31, 2012, the Company reported total loss and loss adjustment expense reserves of \$0. The Company's opining actuary stated the following in its Statement of Actuarial Opinion:

In my opinion, based on the information provided by Willis Captive Management and 1177 Insurance Company, Inc., the \$0 loss and loss expense reserve amount carried on the balance sheet as of 12/31/2012 makes reasonable provision for all unpaid loss and loss expense obligations for 1177 Insurance Company, Inc.

Totally, in my opinion, the amounts carried in Exhibit A: Scope on account of the items identified:

- A. Meet the relevant requirements of the insurance laws of New York;
- B. Are computed in accordance with accepted actuarial standards and principles;
- C. Make a reasonable provision in the aggregate for all unpaid loss and loss adjustment expense obligations of the Company under the terms of its contracts and agreements.

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. No significant areas of non-compliance were found.

6. ORGANIZATIONAL STRUCTURE

The Company is wholly owned subsidiary of Metro Fund LLC ("Parent"). The Parent is a Delaware limited liability company and was organized on July 14, 2006. The Parent acquires, develops and operates properties located in the New York City metropolitan area. It acquires interests in real property either by investing or by holding title to the property through separate single-member limited liability companies.

7. INSURANCE PROGRAM

As of December 31, 2012, the Company only provided Terrorism Insurance for the property located at 1177 Ave of the Americas, New York, New York. The property is owned by 1177 Avenue of the Americas Acquisition LLC., which in turn is 100% owned by 1177 Avenue of the Americas Holding LLC. 1177 Avenue of the Americas Holding LLC is 52% owned by the parent, Metro Fund LLC.

8. SUMMARY OF COMMENTS AND RECOMMENDATIONSITEMPAGE NOManagement and Control

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

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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 _____, 2014.

APPOINTMENT NO. 31050

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

1177 Insurance Company, Inc.

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

COMPANY

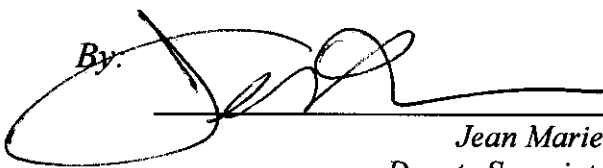
with such other information as he shall deem requisite.

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

this 13th day of September, 2013

BENJAMIN M. LAWSKY
Superintendent of Financial Services



By: 
Jean Marie Cho
Deputy Superintendent