

REPORT ON EXAMINATION
OF THE
MIDROX INSURANCE COMPANY
AS OF
DECEMBER 31, 2004

DATE OF REPORT

APRIL 3, 2006

EXAMINER

GERARD L. FRANCO



STATE OF NEW YORK
INSURANCE DEPARTMENT
ONE COMMERCE PLAZA
ALBANY, NEW YORK 12257

George E. Pataki
Governor

Howard Mills
Superintendent

April 3, 2006

Honorable Howard Mills
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 22431 date November 3, 2005 attached hereto, I have made an examination into the condition and affairs of the Midrox Insurance Company as of December 31, 2004, and submit the following report thereon.

Wherever the designation "the Company" or "MIC" appear herein without qualification, they should be understood to indicate the Midrox Insurance Company.

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

The examination was conducted at the Company's home office located at 56 Hillcrest Drive, Roxbury, New York 12474.

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1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1999. This examination covered the five-year period from January 1, 2000 through December 31, 2004, and was limited in scope to these balance sheet items considered by this Department to require analysis, verification or description, including; invested assets, inter-company balances, loss and loss adjustment expense reserves and the provision for reinsurance. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent public accountants.

A review 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 organized in May of 1936 for the purpose of transacting business as an assessment cooperative insurance company in the counties of Delaware, Greene, Otsego, Schoharie and Ulster in this State. Subsequently, the territorial limits were extended to cover all the counties in the State, excluding the counties of New York, Kings, Queens, Bronx and Richmond.

In 1988, a certificate was issued by this Department authorizing the Company to change its name from the Midrox Co-Operative Fire Insurance Company to the Midrox Insurance Company.

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 eleven nor more than fifteen members. As of the examination date, the board of directors was comprised of eleven members, which as stated in the Company's by-laws are to be divided into three groups as nearly equal as possible, with one group being elected at each annual policyholder's meeting for a term of three years. Article V of the Company's charter and Article II Section 1 of its by-laws both state that the board shall be not less than eleven nor more than fifteen directors and in no instance less than eleven. It is noted that for the years 2002 and 2003 the Company had only ten and nine directors, respectively. It is hereby noted that for the years 2002 and 2003 the Company was not in compliance with its charter or by-laws. Therefore, it is strongly urged that the Company comply with its charter and by-laws and have at least eleven directors serving on the board at all times. At the June 1, 2004, annual policyholders meeting two new directors were elected to the board to bring the total number of directors to eleven, which is in compliance with the Company's charter and by-laws.

Every member insured by the Company is entitled to one vote at any meeting of the members. The annual meeting of the board of directors is held immediately after the annual meeting of the Company.

The board of directors and executive committee met at least four times each year for the period under examination, with the exception of the year 2004, where only one board of director's and two executive committee meetings were held. The Company has stated it

calculates its four meetings from its June annual meeting of the board of director's to the following June. However, Section 6624 (b) of the Insurance Law states that the four meetings must be held on a calendar year basis. Although the Company has complied with Section 6624 (b) of the New York Insurance Law for four of the five years of the examination period, it is still recommended that the Company must be in compliance with the Section 6624(b) of the New York Insurance Law and have four board meetings in each calendar year. A similar recommendation was made in the previous examination report.

The directors as of December 31, 2004, were as follows:

<u>Director</u>	<u>Principal Business Affiliation</u>
Alton Brandow Schenevus, NY	Owner of feed store
Richard Bouton. Roxbury, NY	Vice President, MIC and Farmer
Eugene D. Cole Edmeston, NY	Insurance agent
Robert O. Goff Prattsville, NY	Owner, Goff Construction
Hugh I. Henderson Oneonta, NY	Farmer and Insurance agent
Robert O. Mable Delhi, NY	Insurance agent
Frederick J. Morse Margaretville, NY	President, MIC and Insurance agent
Harrison C. Morse Roxbury, NY	Chairperson of the Board, MIC
Lindon B. Morse Roxbury, NY	Executive Vice President, MIC

<u>Director</u>	<u>Principal Business Affiliation</u>
Joseph C. Ranc Otego, NY	CPA
Carol M. Wilson Roxbury, NY	Secretary and Treasurer, MIC

The minutes of all meetings of the Board of Directors and executive committee held during the examination period were reviewed. The average attendance by the board of directors during the examination period was approximately 89% with each individual director's attendance being adequate at these meetings with the exception of Robert O. Goff, who attended less than 50% of the meetings 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 essential that board members attend meetings consistently and set forth their views on relevant matters so that the board may reach appropriate decisions. Individuals who fail to attend at least one-half of the regular meetings do not fulfill such criteria. It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

Each of the directors' qualifications, as set forth in Article II Section 1 of the Company's by-laws, were reviewed, and each director is duly qualified, with the exception of director Joseph C. Ranc. Article II Section 1 states, in part, that directors "... each of whom shall be a member and resident of the territory in which it is authorized to transact business..." Mr. Ranc was elected to the board in June of 2004 and as of the examination date did not hold a policy with the Company. Therefore, it is recommended that the Company comply with Article II Section 1 of its by-laws by having all members of the board maintain a policy with the Company.

It is noted that the Company has issued a property dwelling coverage policy to Joseph C. Ranc effective February 22, 2006.

A review of the minutes of the board of directors for the examination period revealed that the Board approved the salaries of directors, officers and employees of the Company. It is noted during the review of expenses two directors who are also officers of the Company receive salaries. The total salaries of the two directors/officers were over ten percent of the Company's total payroll and approximately two percent of surplus for the year 2004. It is further noted that effective July 1, 2005, an Independent Contractor Agreement was entered into between these two directors/officers and Midrox Insurance Company. Section 3 of these Agreements state, in part, that "Consultant's daily schedule and hours worked under this Agreement on a given day shall generally be subject to Consultant's and Company's discretion...." Considering that no formal or written job descriptions or time sheets were available for review, it appears that their salaries are somewhat excessive compared to the \$400 board fees paid per meeting in 2004.

Section 717(a) of the New York Business Corporation Law states, in part, that "A director shall perform his duties as a director...in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances..."

In view of the above, it is recommended that, henceforth, the directors of Midrox Insurance Company remain mindful of their fiduciary responsibilities to the Company and its policyholders, as set forth in Section 717 of the New York Business Corporation Law. In addition, the policyholders should replace any director of the Company who cannot or does not fulfill his/her duties in good faith and with that degree of care, which an ordinarily prudent person in a like position would use under similar circumstances.

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

Chairperson of the Board	Harrison C. Morse
President	Frederick J. Morse
Executive Vice President	Lindon B. Morse
Secretary and Treasurer	Carol M. Wilson
Vice President	Richard Bouton

B. Territory and Plan of Operation

As of December 31, 2004, the Company was licensed to write business in New York only, excluding the Counties of New York, Kings, Queens, Bronx and Richmond.

As of the examination date, the Company was authorized to transact the kinds of insurance 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
12	Collision
13	Personal injury liability
14	Property damage liability
15	Worker's compensation and employer's liability (excluding worker's compensation)
19	Motor vehicle and aircraft physical damage (excluding aircraft physical damage)
20	Marine and inland marine (inland marine only)

The Company was also licensed as of December 31, 2004, to accept and cede reinsurance as provided in Section 6606 of the New York Insurance Law.

The following schedule shows the direct premiums written by the Company in New York for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums Written</u>
2000	\$2,609,732
2001	2,962,389
2002	3,469,394
2003	4,186,394
2004	4,789,064

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 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$100,000.

At December 31, 2004, the Company wrote insurance through approximately 100 independent agents.

The Company's predominate lines of business are commercial multiple peril, farm owners multiple peril and fire which accounted for 40.4%, 24.0% and 23.4%, respectively, of the Company's 2004 direct written business.

C. Reinsurance

During the period covered by this examination, the Company did not assume any reinsurance business.

The company has structured its ceded reinsurance program to limit its maximum exposure to any one risk as follow:

Property Lines 2 layers	\$325,000 x/s \$55,000 ultimate net loss each risk; liability of reinsurer not to exceed \$285,000 and \$460,000 ultimate net loss any one loss occurrence for 1 st and 2 nd layers, respectively
Casualty Lines 3 layers	\$1,010,000 x/s \$40,000 ultimate net loss in any one-loss occurrence

Property Facultative	\$500,000 x/s \$280,000 pro-rata each loss, plus reinsurer's pro-rata share of loss expense, liability of reinsurer not to exceed \$2,000,000 in any one loss occurrence
Casualty Facultative	\$1,000,000 x/s \$1,000,000 ultimate net loss in any one-loss occurrence
Property Catastrophe 4 layers	\$1,600,000 x/s \$150,000 ultimate net loss in any one loss occurrence, liability of reinsurer not exceed \$700,000, \$1,000,000 and \$1,500,000 ultimate net loss during the term of the agreement for the 1 st , 2 nd and 3 rd layers, respectively
	100% x/s \$1,750,000 ultimate net loss each loss occurrence
Aggregate	95% of \$300,000 of the amount of the ultimate net loss in the aggregate exceeds an amount equal to 77.5% of net earned premiums in the agreement year

In the review of the Multiple Line Excess of Loss Reinsurance Agreements for the examination period, it was noted that in several instances the Company was found to be in violation of Sections 6610(c) and 6610(d) of the New York Insurance Law. This has occurred because of the following two reasons: 1) The Company's retention, as stated in the reinsurance agreements, was found to be greater than the limitations of 3% (6610(c)) and 2% (6610(d)) of surplus; and 2) The reinsurance agreements containing an annual aggregate deductible clause, which when added to individual claims caused the Company's loss payments to exceed their retention. It is further noted that subsequent to the examination period the Company retention, as stated in the 2005 reinsurance agreements, has also been greater than the specified limitations as indicated above in the first three quarters of 2005.

It is, therefore, recommended that in the future, the Company comply with Sections 6610(c) and 6610(d) and not exceed any of the limitations specified in the above-cited Sections of the Insurance Law.

It is noted that for the 2006 reinsurance agreement year the Company has changed reinsurer's and has been able to lower its retention to an amount, which is in compliance with the requirements of Sections 6610(c) and 6610(d) of the Insurance Law. Also, the annual aggregate deductible has also been deleted from the reinsurance agreement.

Section 1308(e)(1)(A) of the New York Insurance Law states, that "During any period of twelve consecutive months, without the superintendent's permission: no domestic insurer, except life, shall by any reinsurance agreement or agreements cede an amount of its insurance on which total gross reinsurance premiums are more than fifty percent of the unearned premiums on the net amount of its insurance in force at the beginning of such period..."

Through the review of the Company's annual statements for the examination period it was observed that for all years the 50% limitation required by Section 1308(e)(1)(A) was exceeded. During the examination period, the Department did not granted approval for the Company to cede an amount in excess of the 50% limitation prescribed by Section 1308(e)(1)(A) of the New York Insurance Law. Also, during the period covered by this examination, the Company failed to submit to the Department for review, various reinsurance agreements, and subsequent amendments to the reinsurance agreements as required by Section 1308(e)(1)(A) of the Insurance Law.

It is recommended that the Company comply with the requirements of Section 1308(e)(1)(A) of the New York Insurance Law. A similar recommendation was made in the previous report on examination.

Section 6606(a)(1) of the New York Insurance Law states; "Subject to the provisions of section six thousand six hundred ten of this article, any co-operative property/casualty insurance company shall have the power, whether or not expressed in its charter, to accept reinsurance of the kind or kinds of insurance it is licensed to do directly, and to cede reinsurance subject to

applicable provisions of section one thousand three hundred eight of this chapter." and Section 6610(a) states in part; "Subject to the other provisions of this section, the maximum amount of insurance less reinsurance in other authorized insurers or in accredited reinsurers as defined in subsection (a) of section one hundred seven of this chapter which may be assumed by a co-operative property/casualty insurance company...." When entering into a reinsurance agreement, as required by the above sections of law, the reinsurer must be authorized in New York.

During the review of the reinsurance agreements for the examination period it was discovered that all reinsurers were authorized with the exception of a reinsurer for the First, Second, Third and Fourth Property Catastrophe Excess of Loss Reinsurance Agreement for the year 2004. The reinsurer, Endurance Specialty Insurance LTD. was found not to be authorized or accredited in New York State.

It is recommended that the Company comply with Sections 6606 and 6610 of the Insurance Law and only have authorized reinsurers participating in its reinsurance agreements.

The reinsurance agreements in place for the year 2004 were executed by Aon Reinsurance Services for and on behalf of the reinsurers. However, the Company was not able to produce any documentation showing that Aon had been appointed by the reinsurers for the purpose of procuring, underwriting, and servicing property and casualty reinsurance in the name and on behalf of those reinsurers. Regulation 98 (11NYCRR 32.1(b)(1) and (2)) states that "When a reinsurance intermediary procures a reinsurance contract on behalf of a licensed ceding insurer directly from any assuming insurer or insurers, written evidence must be furnished to the ceding insurer, that the assuming insurer or insurers have agreed to assume the risk; or from a representative, other than an employee of the assuming insurer or insurers, the reinsurance intermediary shall obtain written evidence from the assuming insurer or insurers of the fact that

such insurer or insurers have given authority to the representative to bind risks in their name and the scope of such authority. The written evidence shall be submitted to the ceding insurer.”

As evidenced from the above information no documentation was made available that the assuming insurer or insurers agreed to assume the risks or that such insurer or insurers had given authority to the reinsurance intermediary to bind risks in their name and the scope of such authority.

Therefore, it is recommended that the Company comply with Regulation 98 (11NYCRR Part 32.1(b)(1) and (2)) and obtain written evidence from its intermediary that the assuming insurer or insurers agreed to assume the risks or that such insurer or insurers had given authority to the reinsurance intermediary to bind risks in their name and the scope of such authority.

All ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer pursuant to Department Circular Letter No. 8 (2005). All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraph 25 of SSAP No. 62.

D. Holding Company System

As of December 31, 2004, the Company is in control of a subsidiary known as the Midrox Insurance Agency, which is doing business as Statewide Underwriters Agency, Inc. The subsidiary acts as an insurance broker for the policyholders of the Midrox Insurance Company for the placement of certain lines of business that are not being written by the parent Company. The Company and its subsidiary share the use of personnel, property and services.

Also, Midrox Insurance Company has both a Real Estate Lease and an Expense Sharing Agreement with the Morse-Wilson Agency Inc. The Agency is owned by the President and Secretary-Treasurer of MIC. The Agency does maintain its own office staff but does share office space with MIC. The Agency pays a monthly rent and shares in expenses for the use of office space in the Company's home office. The lease and agreement are renewed on a yearly basis.

E. Abandoned Property Law

Section 1316 of the New York State 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 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 all filed on a timely basis pursuant to the provisions of Section 1316 of the New York State Abandoned Property Law.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2004, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	140%
Liabilities to liquid assets(cash and invested Assets less investments in affiliates)	68%
Premiums in course of collection to surplus as regards policyholders	7%

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 a 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	\$7,332,337	74.19%
Other underwriting expenses Incurred	3,590,670	36.34%
Net underwriting loss	<u>(1,040,250)</u>	<u>(10.53)%</u>
Premiums earned	<u>\$9,882,757</u>	<u>100.00%</u>

G. Accounts and Records

Custodial Agreement

After a review of the Company's current custodial agreement, several provisions and safeguards suggested by Department guidelines, as set forth in the National Association of Insurance Commissioners (NAIC) Financial Condition Examiners Handbook and reinforced by the Department's Circular Letter No. 2 of 1977, were not included in the agreement. Therefore,

it is recommended that the Company comply with Department guidelines, as set forth by NAIC guidelines and reinforced by Circular Letter No. 2 of 1977, and obtain a custodial agreement that includes the suggestions specified by the New York Insurance Department.

Before the examination was completed, the Company management had contacted the custodial bank and was in the process of revising the custodial agreement to comply with the suggestions specified by the New York Insurance Department.

3. FINANCIAL STATEMENTSA. Balance Sheet

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

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$4,229,167	\$ 0	\$4,229,167
Common stocks	165,881	0	165,881
Properties occupied by the company	236,052	0	236,052
Cash, cash equivalents and short-term investments	<u>101,707</u>	<u>0</u>	<u>101,707</u>
Subtotals, cash and invested assets	\$4,732,807	\$ 0	\$4,732,807
Investment income due and accrued	40,689	0	40,689
Uncollected premiums and agents' balances in the course of collection	172,243	29,882	142,361
Deferred premiums, agents' balances and installments booked but deferred and not yet due	838,783	5,115	833,668
Amounts recoverable from reinsurers	118,756	0	118,756
Net deferred tax assets	182,720	122,371	60,349
Furniture and equipment	28,577	28,577	0
Receivables from parent, subsidiaries and affiliates	1,893	0	1,893
Aggregate write-ins for other than invested assets	<u>80,454</u>	<u>0</u>	<u>80,454</u>
Totals	<u>\$6,196,922</u>	<u>\$185,945</u>	<u>\$6,010,977</u>

Liabilities, surplus and other funds

Losses and loss adjustment expenses	\$1,239,661
Commission payable, contingent commissions and other similar Charges	281,908
Other expenses (excluding taxes, licenses and fees)	19,239
Taxes, licenses and fees (excluding federal and foreign income taxes)	4,421
Unearned premiums	1,720,541
Advance premiums	24,198
Ceded reinsurance premiums payable (net of ceding commissions)	391,251
Remittance and items not allocated	31,707
Aggregate write-ins for liabilities	<u>173,757</u>
Total liabilities	\$3,886,683
Aggregate write-ins for special surplus funds	\$100,000
Unassigned funds (surplus)	<u>2,024,294</u>
Surplus as regards policyholders	<u>2,124,294</u>
Totals	<u>\$6,010,977</u>

Note: The Internal Revenue Service has not yet begun to audit tax returns covering tax years 2000-2004. 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 \$302,117 during the five-year examination period January 1, 2000 through December 31, 2004, detailed as follows:

Underwriting Income

Premiums earned		\$ 9,882,757
Deductions:		
Losses and loss adjustment expenses incurred	\$7,332,337	
Other underwriting expenses incurred	<u>3,590,670</u>	
Total underwriting deductions		<u>10,923,007</u>
Net underwriting gain or (loss)		\$(1,040,250)

Investment Income

Net investment income earned	\$435,306	
Net realized capital gain	<u>305,360</u>	
Net investment gain or (loss)		740,666

Other Income

Net gain or (loss) from agents' or premium balances charged off	(36,760)	
Finance and service charges not included in premiums	119,809	
Aggregate write-ins for miscellaneous income	<u>32,083</u>	
Total other income		<u>115,132</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$ (184,452)
Federal and foreign income taxes incurred		<u>0</u>
Net Income		<u>\$ (184,452)</u>

Surplus as regards policyholders per report on examination as of December 31, 1999			\$2,426,411
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net loss	\$ -0-	\$184,452	
Net unrealized capital gains or (losses)	36,575	-0-	
Change in net deferred income tax	138,096	-0-	
Change in nonadmitted assets	-0-	153,390	
Cumulative effect of changes in accounting principles	46,068	-0-	
Aggregate write-ins for gains and losses in surplus	<u>-0-</u>	<u>185,014</u>	
Net decrease in surplus			<u>\$ (302,117)</u>
Surplus as regards policyholders per report on examination as of December 31, 2004			<u>\$2,124,294</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$1,239,661 is the same as reported by the Company as of December 31, 2004. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Companies 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

A sample of twelve claim files was reviewed regarding Company compliance with Section 318(a) of the New York Insurance Law and Regulation 96(NYCRR Part 62-2.2). In the review, it was determined that four of these files were applicable to Section 318(a) of the NYIL. Section 318(a) which states,"(a) Insurers shall report all fire losses in excess of five hundred dollars or such larger amount as prescribed by the superintendent, arising under policies covering property located in this state to a central organization engaged in property loss registration, as designated by the superintendent, in accordance with regulations promulgated by the superintendent." There was no indication found in two of the files reviewed that fire losses over \$1,000, as required by Regulation 96(NYCRR Part 62-2.2), were reported to the Property Insurance Loss Register (PILR). Therefore, it is recommended that the Company comply with Section 318(a) of the New York Insurance Law and Regulation 96(NYCRR Part 62-2.2) and report all fire losses in excess of \$1,000 to the PILR.

A sample of twelve claims files were reviewed regarding Company compliance with Section 331 of the New York Insurance Law and Circular Letter 34 of 1999. In the review, it was determined that three of these files were applicable. Section 331 and Circular Letter 34 of 1999 require the Company, before proceeding with payment on fire losses, to give written notice to Tax Districts who have filed with the Department notice of intent to claim against fire insurance proceeds. In the three files reviewed, no notice was given to the Tax Districts, who had filed their intent to claim against fire insurance proceeds with the Department. It is

recommended that the Company comply with Section 331 of the New York Insurance Law and Circular Letter 34 of 1999 and before payment is made on fire losses send written notice to Tax Districts who have informed the Department of their intent to claim against fire insurance proceeds.

It is noted that before the examination was completed the Company instituted procedures whereby all Tax Districts will be notified, where applicable, to comply with the above cited Insurance Law and Circular Letter.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained the following recommendations (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that the Company comply with Section 6624(b) of the New York Insurance Law and hold at least four meetings each year, with a minimum of one full board meeting.	3
The Company has not complied with this recommendation. See item A of this report.	
ii. It is recommended that the Company comply with Article II Section 2 of its by-laws and hold the annual director's meet after the annual policyholders meeting.	4
The Company has complied with this recommendation.	

B. Reinsurance

It is recommended that the Company submit its currently effective reinsurance contracts to this Department, and any subsequent amendments thereto, as well as any new contracts it becomes a party to, for Department review, in accordance with Section 1308(e)(1)(A) of the New York Insurance Law. 6

The Company has not complied with this recommendation. See item C of this report.

C. Regulation 30 Review (NYCRR 105-109)

It is recommended that the Company follow the procedures as required by Regulation No. 30 (NYCRR 105-109). 10

The Company has substantially complied with this recommendation.

D. Investments

i. It is recommended that the Company comply with Section 1411(a) of the New York Insurance Law and have all purchases and sales of investments approved by the board of directors. 10

The Company has complied with this recommendation.

ii. It is recommended that the Company comply with the Department guidelines as regards incorporating the nine provisions in their custodial agreements, henceforth. 10

The Company has not complied with this recommendation. See item i of Section G of this report.

E. Section 1411(c) of the Insurance Law

It is recommended the Company comply with Section 1411(c) and lower the pledged amount to within the stated limitation. 11

The Company has complied with this recommendation.

F. Books and Records

It is recommended that the Company comply with Section 6611(a)(4)(C) and have either two signatures on all checks or have one officer sign upon the order of another officer. 15

The Company has complied with this recommendation.

G. Market Conduct Activities

It is recommended that the Company comply with the provisions of the New York Standard Mortgage Clause, henceforth, when canceling policies, with mortgagees, at the request of the insured. 16

The Company has complied with this recommendation.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. Although the Company has complied with Section 6624(b) of the New York Insurance Law for four of the five years of the examination period, it is still recommended that the Company must be in compliance with the Section 6624(b) of the New York Insurance Law and have four board meetings in each calendar year. A similar recommendation was made in the previous examination report.	4
ii. It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	5
iii. It is recommended that the Company comply with Article II Section 1 of its by-laws by having all members of the board maintain a policy with the Company.	5
iv. It is recommended that, henceforth, the directors of Midrox Insurance Company remain mindful of their fiduciary responsibilities to the Company and its policyholders, as set forth in Section 717 of the New York Business Corporation Law. In addition, the policyholders should replace any director of the Company who cannot or does not fulfill his/her duties in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.	6
B. <u>Reinsurance</u>	
i. It is, therefore, recommended that in the future, the Company comply with Sections 6610(c) and 6610(d) and not exceed any of the limitations specified in the above cited Sections of the Insurance Law.	9
ii. It is recommended that the Company comply with the requirements of Section 1308(e)(1)(A) of the New York Insurance Law. A similar recommendation was made in the previous examination report.	10

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- iii. It is recommended that the Company comply with Sections 6606 and 6610 of the Insurance Law and only have authorized reinsurers participating in its reinsurance agreements. 11
- iv. It is recommended that the Company comply with Regulation 98 (11NYCRR Part 32.1(b)(1) and (2)) and obtain written evidence from its intermediary that the assuming insurer or insurers agreed to assume the risks or that such insurer or insurers had given authority to the reinsurance intermediary to bind risks in their name and the scope of such authority. 12
- C. Accounts and Records
- It is recommended that the Company comply with Department guidelines, as set forth by NAIC guidelines and reinforced by Circular Letter No. 2 of 1977, and obtain a custodial agreement that includes the suggestions specified by the New York Insurance Department. 14-15
- D. Market Conduct
- i. It is recommended that the Company comply with Section 318(a) of the New York Insurance Law and Regulation 96 (NYCRR Part 62-2.2) and report all fire losses in excess of \$1,000 to the PILR. 20
- ii. It is recommended that the Company comply with Section 331 of the New York Insurance Law and Circular Letter 34 of 1999 and before payment is made on fire losses send written notice to Tax Districts who have informed the Department of their intent to claim against fire insurance proceeds. 20-21

Appointment No 22431

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, Howard D Mills, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

GERARD FRANCO

as proper person to examine into the affairs of the

Midrox Insurance Company

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

Company

with such other information as he 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 Albany,*

this 3rd day of November 05



A handwritten signature in cursive script, appearing to read "Howard D. Mills".

Howard D. Mills
Superintendent of Insurance