

REPORT ON EXAMINATION

OF THE

OSWEGO COUNTY MUTUAL INSURANCE COMPANY

AS OF

DECEMBER 31, 2008

DATE OF REPORT

SEPTEMBER 8, 2009

EXAMINER

FRANK P. SCHIRALDI

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1	Scope of Examination	2
2.	Description of Company	3
	A. Management	3
	B. Territory and plan of operation	5
	C. Reinsurance	7
	D. Holding company system	9
	E. Significant operating ratios	9
	F. Accounts and records	10
3.	Financial Statements	12
	A. Balance sheet	12
	B. Underwriting and investment exhibit	14
4.	Losses and loss adjustment expenses	15
5.	Market conduct activities	16
6.	Compliance with prior report on examination	18
7.	Summary of comments and recommendations	20



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

September 8, 2009

Honorable James J. Wrynn  
Acting 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 30301 dated March 11, 2009 attached hereto, I have made an examination into the condition and affairs of Oswego County Mutual Insurance Company as of December 31, 2008, and submit the following report thereon.

Wherever the designations “the Company” or “OCMIC” appear herein without qualification, they should be understood to indicate Oswego County Mutual 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 2975 W. Main Street, Parish, New York 13131.

## 1. SCOPE OF EXAMINATION

The Department has performed a single-state examination of Oswego County Mutual Insurance Company. The previous examination was conducted as of December 31, 2003. This examination covered the five-year period from January 1, 2004 through December 31, 2008. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook. The Handbook requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

This examination report includes a summary of significant findings for the following items as called for in the Financial Condition Examiners Handbook of the NAIC:

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements
- Summary of recommendations

This examination report also includes a summary of significant findings regarding market conduct activities.

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations contained in the prior report on examination.

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

## **2. DESCRIPTION OF COMPANY**

The Company was organized in March of 1878 for the purpose of transacting business as an assessment co-operative fire insurance company in Oneida and Oswego counties in New York State.

On August 12, 1970, a certificate was issued by this Department authorizing the Company to change its name from The Fire Relief Association of Oswego County to Oswego County Mutual 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 twelve nor more than eighteen members. The board met at least four times during each calendar year thereby complying with Section 6624(b) of the New York Insurance Law. At December 31, 2008, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Andrew James Banach Lacona, NY	Assistant Secretary and Underwriter OCMIC
Cynthia Lou Banach Altmar, NY	Secretary/Treasurer OCMIC; Owner Banach Insurance Agency
Dan Thomas Gardner Union Springs, NY	Retired
Frederick Joseph Hill Camden, NY	Owner Hill Insurance Agency
Charles Jewell Hinman Pulaski, NY	President and Chief Executive Officer OCMIC; Director Central Co-operative Insurance Company

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Eric Jewell Hinman Syracuse, NY	Commercial Insurance Broker Hinman Associates, LLC.
Jerald Wade Hollister Mexico, NY	Owner Hollister Agency, Inc.
David Clifford LaRose Dryden, NY	Owner LaRose-Palumbo Professional Adjusters
Douglas Gordon MacIlvennie Mannsville, NY	Retired; Vice President OCMIC
James Gilbert Poindexter, Jr. Hastings, NY	Insurance Agent Oswego Valley Insurance Agencies
John Edmund Seymour Marietta, NY	Retired; Director Central Co-operative Insurance Company
Jacquelyn Belle Upwood Central Square, NY	Owner Cronk Insurance Agency
Patricia Casselman Worden Adams Center, NY	Retired

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member had an acceptable record of attendance.

#### Fiduciary Responsibilities of Directors

During the review of the Company's compliance with Sections 6615(a)(1) and (a)(3) of the New York Insurance Law the examiner determined that the Company charged rates that were not approved by the Board of Directors for certain policies written by the Company. See Section 5 of this report, "Market Conduct Activities" for additional information regarding this review. At least four members of the Board of Directors were aware that unapproved rates were being used; however, no evidence was found in any of the board minutes that these board members brought these violations of law to the attention of the full board of directors.

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 Oswego County Mutual 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 Company is directed to replace any director 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.

As of December 31, 2008, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Charles Jewell Hinman	President/CEO
Cynthia Lou Banach	Secretary/Treasurer
Douglas Gordon MacIlvennie	Vice President
Mandy Case Morison	Assistant Treasurer
Andrew James Banach	Assistant Secretary

B. Territory and Plan of Operation

As of December 31, 2008, the Company was licensed as an assessment cooperative property/casualty insurance company to transact business within all the Counties of the State of New York, excluding the Counties of Bronx, Kings, New York, Queens and Richmond.

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

<u>Paragraph</u>	<u>Line of Business</u>
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability (excluding workers' compensation)
19	Motor vehicle and aircraft physical damage (excluding aircraft physical damage)
20	Marine and inland marine (inland marine only)

Paragraphs 5, 6, 7, 8, 13, 14 and 15 can be written solely in conjunction with fire insurance written under the same policy and covering the same premises. The Company is also licensed to accept and cede reinsurance as provided in Section 6606 of the Insurance Law of the State of New York.

Section 6605(b) of the New York Insurance Law states, in part, that “Any licensed assessment corporation may amend its charter and be licensed to do the kinds of insurance specified in paragraphs nine, thirteen, fourteen and fifteen (except workers’ compensation insurance) of subsection (a) of section one thousand one hundred thirteen of this chapter solely in conjunction with fire insurance written under the same policy and covering the same premises...”

Upon examination, it was noted that the Company provided liability insurance coverage to additional insureds that do not have an insurable interest in the property covered by fire insurance under the policy.

It is recommended that the Company comply with Section 6605(b) of the New York Insurance Law and its own license by only writing liability insurance for additional insureds, who have an insurable interest in the property, in conjunction with fire insurance written under the same policy and covering the same premises.

Section 6608(b) of the New York Insurance Law states, in part, that “The superintendent, upon application by any assessment corporation, may issue a license pursuant to section one thousand one hundred two of this chapter to such corporation to do business in adjoining counties additional to those in which it is then authorized or in the entire state with the exception of the counties of New York, Kings, Queens, Bronx and Richmond...”

Upon examination it was noted that the Company wrote a policy under which there were additional insureds that were located in New York County.

It is recommended that the Company comply with New York Insurance Law Section 6608(b) and its license by only doing business, including the adding of additional insureds to any policies, in all counties of New York State with the exception of New York, Kings, Queens, Bronx and Richmond.

In correspondence dated September 8, 2009, the Company agreed with the finding and recommendation.



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

<u>Calendar Year</u>	<u>Direct Premiums Written</u>
2004	\$4,625,734
2005	\$4,986,638
2006	\$5,306,791
2007	\$5,656,767
2008	\$5,705,894

Based on the lines of business for which the Company is licensed 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.

The Company writes predominantly commercial multiple peril, homeowners multiple peril, and fire policies, which accounted for 55%, 20% and 10%, respectively, of the 2008 direct premiums written. The business is produced through approximately 19 independent agents or brokers, and six agents or brokers who are directors of the Company as reported in Section 2 A. "Management", of this report.

#### C. Reinsurance

During the period under examination, the Company did not assume any reinsurance business.

As of December 31, 2008, the Company had the following multi-line excess of loss reinsurance program in place:

<u>Type of treaty</u>	<u>Cession</u>
Property Excess of loss 3 layers	\$1,350,000 in excess of \$150,000 ultimate net loss, each loss, each risk, subject to a further limit of liability to the Reinsurer for each layer, respectively of \$200,000, \$700,000 and \$1,800,000 in respect of each occurrence.
Casualty Excess of loss 3 layers	\$1,875,000 in excess of \$125,000 ultimate net loss, each loss occurrence, subject to a further limit of liability to the Reinsurer for each layer, respectively of \$125,000, \$250,000 and \$1,500,000 in respect of each occurrence.
Casualty clash Excess of loss	\$2,000,000 in excess of \$2,000,000 ultimate net loss, each loss occurrence.

<u>Type of treaty</u>	<u>Cession</u>
Property Casualty Combined Excess of loss	If a loss occurrence involves at least one property and one casualty policy, \$125,000 in excess of \$150,000 ultimate net loss each loss occurrence. This shall be reduced by recoveries in the property and casualty layers noted above.
Property Catastrophe excess of loss First layer	95% of \$1,025,000 in excess of \$225,000 each loss occurrence, subject to limit of liability to the reinsurer of \$973,750. No claim shall be made unless the loss occurrence involves three or more risks.
Catastrophe excess of loss Second layer	100% of each loss occurrence over and above an initial ultimate net loss of \$1,250,000. No claim shall be made unless the loss occurrence involves three or more risks.
Aggregate excess of loss (Property and Casualty)	95% of \$1,500,000 in excess of 72% of net premium earned, subject to a maximum recovery under this treaty of \$1,425,000.

As of December 31, 2008, the Company had the following property facultative reinsurance coverage for one policy:

Property Facultative	100% of \$2,985,000 each occurrence in excess of \$1,500,000 each occurrence
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The Company also had a quota share reinsurance agreement in effect at December 31, 2008 whereby all of the Company's boiler and machinery liability was ceded to the reinsurer.

All of the Company's cessions during the examination period were to authorized or accredited reinsurers.

The Company retention has increased from \$100,000 to \$150,000 on property lines and from \$85,000 to \$125,000 on casualty lines of business during the examination period.

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.

The Schedule F - Part 3 included in the Company's filed 2008 annual statement was found to be inaccurate. In particular, the Company did not report items recoverable from certain reinsurers, but instead combined these amounts with amounts due from other reinsurers. It is noted that the total amount of reinsurance recoverable reported was correct.

The Schedule F - Part 8 included in the Company's filed 2008 annual statement was found to be incomplete. In particular, the Company did not show the effects of reinsurance ceded as required.

It is recommended that the Company comply with the NAIC Annual Statement Instructions by completing Schedule F correctly in all future filings with this Department. A similar recommendation regarding following statement instructions was included in the prior report.

In correspondence dated May 8, 2009, the Company agreed with the findings and the recommendation regarding Schedule F.

Management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in the NAIC's Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles ("SSAP") No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer and Chief Financial Officer pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraph 18 through 25 of SSAP No. 62.

During the period covered by this examination, the Company did not commute any reinsurance agreements.

D. Holding Company System

As of December 31, 2008, the Company was not a member of any holding company system.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2008, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	.65:1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	44%
Premiums in course of collection to surplus as regards policyholders	.4%

All of the above ratios fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

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

Losses and loss adjustment expenses incurred	\$11,251,706	51.20%
Other underwriting expenses incurred	8,947,111	40.71%
Net underwriting gain	<u>1,776,821</u>	<u>8.09%</u>
Premiums earned	<u>\$21,975,638</u>	<u>100.00%</u>

F. Accounts and Records

i. Conflict of Interest

In the General Interrogatories, Part 1 Common Interrogatories, for the annual statements for examination years 2004 and 2005, the Company indicated that it had “an established procedure for disclosure to its board of directors or trustees of any material interest or affiliation on the part of any of its officers, directors, trustees or responsible employees that is in conflict or is likely to conflict with the official duties of such person.”

Upon examination, it was noted that one director in 2004 and another director in 2005 had not completed the conflict of interest form. It was also noted that many of the directors were agents or brokers and produced business for the Company during the examination period. This was not revealed on their conflict of interest forms submitted during the examination period.

It is recommended that the Company comply with its own established procedure by having each officer and director complete a conflict of interest form for each year. It is also recommended that each officer and director disclose any material interest or affiliation that is in conflict or is likely to conflict with his or her official duties.

In correspondence dated April 19, 2009, the Company stated that it agreed with the finding and the recommendations regarding the filing of conflict of interest forms.

ii. Allocation of expenses

SSAP No. 70 sets forth the rules and methods governing the allocation of expenses among the major expense groups (loss adjustment, other underwriting and investment).

Management could not provide detailed worksheets to support the allocation of each expense category to a particular expense group. Instead, the Company allocated each of the expenses primarily on the basis of estimates made by management.

Management is directed to establish and maintain written documentation supporting the allocation of each expense category to the major expense groups as required by SSAP No. 70. A similar recommendation was made in the previous report on examination.

In correspondence dated July 9, 2009, the Company agreed to the finding and the recommendation regarding SSAP No.70.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2008. This statement is the same as the balance sheet filed by the Company: (Due to rounding, the columns may not total exactly.)

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$10,280,122	\$ 0	\$10,280,122
Common stocks	1,251,007		1,251,007
Real Estate: Properties occupied by the company	72,914		72,914
Cash, cash equivalents and short-term investments	1,185,969		1,185,969
Investment income due and accrued	109,463		109,463
Uncollected premiums and agents' balances in the course of collection	29,503		29,503
Deferred premiums, agents' balances and installments booked but deferred and not yet due	1,093,872	1,947	1,091,925
Current federal and foreign income tax recoverable and interest thereon	46,272		46,272
Net deferred tax asset	532,253	297,345	234,908
Furniture and equipment, including health care delivery assets	<u>116,549</u>	<u>116,549</u>	<u>0</u>
Total assets	<u>\$14,717,925</u>	<u>\$415,841</u>	<u>\$14,302,083</u>

Liabilities, surplus and other funds

Losses and loss adjustment expenses		\$ 3,296,353
Commissions payable, contingent commissions and other similar charges		333,328
Other expenses (excluding taxes, licenses and fees)		48,437
Taxes, licenses and fees (excluding federal and foreign income taxes)		3,528
Unearned premiums		2,908,353
Advance premium		81,175
Ceded reinsurance premiums payable (net of ceding commissions)		7,232
Amounts withheld or retained by company for account of others		<u>1,285</u>
Total liabilities		\$ 6,679,691

Surplus and Other funds

Unassigned funds (surplus)	\$7,522,392	
Required surplus	<u>100,000</u>	
Surplus as regards policyholders		<u>7,622,392</u>
Total liabilities, surplus and other funds		<u>\$14,302,083</u>

Note: The Internal Revenue Service did not audit the Company's federal income tax returns for the years under examination. Audits covering subsequent tax years have yet to commence. 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 increased \$2,746,683 during the five-year examination period January 1, 2004 through December 31, 2008, detailed as follows:

Underwriting Income

Premiums earned		\$21,975,638
Deductions:		
Losses and loss adjustment expenses incurred	\$11,251,706	
Other underwriting expenses incurred	<u>8,947,111</u>	
Total underwriting deductions		<u>20,198,817</u>
Net underwriting gain or (loss)		\$ 1,776,821

Investment Income

Net investment income earned	\$ 1,940,454	
Net realized capital gain	<u>67,322</u>	
Net investment gain or (loss)		2,007,776

Other Income

Finance and service charges not included in premiums	\$ 403,994	
Aggregate write-ins for miscellaneous income	<u>(66,386)</u>	
Total other income		<u>337,608</u>
Net income before federal and foreign income taxes		\$ 4,122,205
Federal and foreign income taxes incurred		<u>1,096,544</u>
Net Income		<u>\$ 3,025,661</u>



Surplus as regards policyholders per report on examination as of December 31, 2003			\$4,875,709
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$3,025,661	\$ 0	
Net unrealized capital gains or losses		555,816	
Change in net deferred income tax	286,097		
Change in nonadmitted assets		277,273	
Aggregate write-ins for gains and losses in surplus	<u>268,014</u>	<u>0</u>	
Total gains or losses in surplus	<u>\$3,579,772</u>	<u>\$833,089</u>	
Net increase (decrease) in surplus			<u>\$2,746,683</u>
Surplus as regards policyholders per report on examination as of December 31, 2008			<u>\$7,622,392</u>

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

The examination liability for the captioned items of \$3,296,353 is the same as reported by the Company as of December 31, 2008. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

SSAP No. 55, paragraph 5 c. requires that certain loss adjustment expenses be categorized as Defense and Cost Containment (DCC) and other loss adjustment expenses be categorized as Adjusting and Other (AO) when reported on Schedule P in filed statements with this Department.

Upon examination, it was noted that the Company did not comply with SSAP No. 55, paragraph 5 c. in that it did not categorize expenses correctly in all cases as DCC or AO.

It is recommended that the Company comply with SSAP No. 55, paragraph 5 c. by categorizing all loss adjustment expenses as DCC or AO correctly in all future filings with this Department.

In correspondence dated June 2, 2009, the Company stated that it agreed with the findings and the recommendation regarding SSAP No. 55.

## 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
- E. Privacy

### i. Reporting of Fire Losses to Property Insurance Loss Register (PILR)

Department Regulation 96, Part 62-2.2(b) states, in part, that “Insurers shall report all fire losses in excess of \$1,000 involving applicable property, except losses to vehicles registered for use on public highways, to PILR within five business days following receipt of notice of loss...”

Upon examination, it was noted that eleven of the fourteen fire losses examined were either reported late or that the Company did not document the reporting to PILR.

It is recommended that the Company comply with Regulation 96 by reporting all fire losses in excess of \$1,000 to PILR within five business days following receipt of notice of loss. It is further recommended that the Company maintain documentation for each reporting to PILR.

In correspondence dated May 5, 2009, the Company stated that it concurs with the finding and will be taking corrective action.

### ii. Levying of assessments – commercial lines policies

Section 6615(a)(1) of the New York Insurance Law states, in part, "Every assessment corporation may, if so directed by its board of directors levy an assessment upon all of its members..." Section 6615(a)(3) of the New York Insurance Law states, “If issuing policies on more

than one class of property, rates of assessment shall be in proportion to the several amounts of insurance held by each member and on the basis of classifications adopted by its board of directors to express the relative hazards of the properties insured.”

During the examination period, the Company used rates for commercial lines policies for which it was not directed by the board of directors, and which were not in proportion to the several amounts of insurance held by each member nor were these rates on the basis of classifications adopted by the board of directors to express the relative hazards of the properties insured.

It is recommended that the Company comply with Sections 6615(a)(1) and (3) of the New York Insurance Law by only using rates for commercial line policies for which the board of directors has directed that it levy assessments and which are in proportion to the several amounts of insurance held by each member and which are based on classifications adopted by the board of directors.

In correspondence dated August 24, 2009, the Company stated that there were policies written during 2008 using rates that were not approved by the Board of Directors in violation of Section 6615 of the New York Insurance Law.

iii. Non-renewal and cancellation commercial lines policies

Sections 3426(b), 3426(c) and 3426(e)(1) of the New York Insurance Law require that a notice of cancellation or non-renewal of commercial lines policies be sent to the first-named insured and to the insured’s agent or broker.

Upon examination, it was determined that no documentation was kept that would indicate that the required notices were sent to the insured’s agent or broker.

It is recommended that the Company maintain documentation of notices sent to the insured’s agent or broker regarding non-renewal or cancellation of commercial lines policies in order for its compliance with Sections 3426(b), 3426(c) and 3426(e)(1) of the New York Insurance Law to be verified.

In correspondence dated July 13, 2009, the Company stated that it agreed with the findings and the recommendation regarding Section 3426 of the New York Insurance Law.

No other problem areas were encountered.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained ten (10) recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Reinsurance</u>	
It was recommended that the Company continue to comply with Section 6606(a)(2) by ceding to authorized or accredited reinsurers only, unless otherwise permitted by the superintendent.	8
The Company has complied with this recommendation.	
B. <u>Accounts and Records</u>	
i.     It was recommended that Management establish and maintain written documentation supporting the allocation of each expense category to the major expense groups as required by this Department's Regulation No. 30 and by SSAP No.70.	10
The Company has not complied with this recommendation. A similar recommendation is made in this report.	
ii.    It was recommended that the Company allocate its expenses to each expense category in accordance with Department Regulation 30.	10
The Company has complied with this recommendation.	
iii.   It was recommended that the Company comply with Section 6611(a)(4)(C) of the New York Insurance Law by having the order to pay presented to the officer signing the check and both the officer signing the check and the officer signing the order to pay be provided with the supporting documentation for the payment so that the accuracy and legitimacy of said disbursement can be verified.	11
The Company has complied with this recommendation.	
iv.    It was recommended that the Company ensure that the contract with its CPA firm complies with the provisions of Department Regulation 118 and Section 307(b) of the New York Insurance Law.	11
The Company has complied with this recommendation.	

<u>ITEM</u>		<u>PAGE NO.</u>
v.	It was recommended that the Company comply with the requirements of Section 1411(a) of the New York Insurance Law by having all of its investments authorized or approved as indicated in such section.  The Company has complied with this recommendation.	12
vi.	It was recommended that the Company complete all financial statements filed with this Department in accordance with such statement's instructions, henceforth.  The Company has not complied with this recommendation. A similar recommendation is made in this report.	12
C	<u>Market Conduct Activities</u>	
i.	It was recommended that the Company comply with Circular Letter No. 11 (1978) by adding the missing required columnar headings to its complaint log and also preparing and forwarding the quarterly reports from the complaint log to the heads of the respective operating units and to the company president.  The Company has complied with this recommendation.	18
ii.	It was recommended that the Company comply with Sections 3425(d)(1) and 3426(e)(2) of the New York Insurance Law regarding including the specific reason for the non-renewal of the policy on the notice and that the Company ensure that all such reasons be true statements in the future.  The Company has complied with this recommendation.	18
iii.	It was recommended that the Company comply with Section 6609(b) of the New York Insurance Law by filing all of its policy forms with the Superintendent for approval.  The Company has complied with this recommendation.	19

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
i. It is recommended that, henceforth, the directors of Oswego County Mutual 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 Company is directed to replace any director 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.	5
B. <u>Territory and Plan of Operation</u>	
i. It is recommended that the Company comply with Section 6605(b) of the New York Insurance Law and its own license by only writing liability insurance for additional insureds, who have an insurable interest in the property, in conjunction with fire insurance written under the same policy and covering the same premises.	6
ii. It is recommended that the Company comply with New York Insurance Law Section 6608(b) and its license by only doing business, including the adding of additional insureds to any policies, in all counties of New York State with the exception of New York, Kings, Queens, Bronx and Richmond.	6
C. <u>Reinsurance</u>	
It is recommended that the Company comply with the NAIC Annual Statement Instructions by completing Schedule F correctly in all future filings with this Department.	9
A similar recommendation regarding following statement instructions was included in the prior report.	
D. <u>Accounts and Records</u>	
i. It is recommended that the Company comply with its own established procedure by having each officer and director complete a conflict of interest form for each year. It is also recommended that each officer and director disclose any material interest or affiliation that is in conflict or is likely to conflict with his or her official duties.	10
ii. Management is directed to establish and maintain written documentation supporting the allocation of each expense category to the major expense groups as required by SSAP No. 70.	11
A similar recommendation was included in the previous report on examination.	

<u>ITEM</u>	<u>PAGE NO.</u>
E. <u>Loss and loss adjustment expenses</u>	
It is recommended that the Company comply with SSAP No. 55, paragraph 5 c. by categorizing all loss adjustment expenses as DCC or AO correctly in all future filings with this Department.	15
F. <u>Market Conduct</u>	
i.   It is recommended that the Company comply with Regulation 96 by reporting all fire losses in excess of \$1,000 to PILR within five business days following receipt of notice of loss. It is further recommended that the Company maintain documentation for each reporting to PILR.	16
ii.  It is recommended that the Company comply with Sections 6615(a)(1) and (3) of the New York Insurance Law by only using rates for commercial line policies for which the board of directors has directed that it levy assessments and which are in proportion to the several amounts of insurance held by each member and which are based on classifications adopted by the board of directors.	17
iii. It is recommended that the Company maintain documentation of notices sent to the insured's agent or broker regarding non-renewal or cancellation of commercial lines policies in order for its compliance with Sections 3426(b), 3426(c) and 3426(e)(1) of the New York Insurance Law to be verified.	17

Respectfully submitted,

Frank P. Schiraldi  
Senior Insurance Examiner

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

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

\_\_\_\_\_  
Frank P. Schiraldi

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2010.



*Appointment No 30301*

*STATE OF NEW YORK  
INSURANCE DEPARTMENT*

*I, ERIC R DINALLO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:*

*FRANK SCHIRALDI*

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

**OSWEGO COUNTY MUTUAL 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 New York,*

*this 11<sup>th</sup> day of March 2009*



*Eric Dinallo*

ERIC R DINALLO  
*Superintendent of Insurance*