

REPORT ON EXAMINATION

OF THE

NATIONAL TITLE INSURANCE OF NEW YORK INC.

AS OF

DECEMBER 31, 2003

DATE OF REPORT

JANUARY 5, 2005

EXAMINER

MAX VEGA

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

January 5, 2005

Honorable Gregory V. Serio  
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 22116 dated January 6, 2004 attached hereto, I have made an examination into the condition and affairs of the National Title Insurance of New York, Inc. as of December 31, 2003 and submit the following report thereon.

Wherever the designation "the Company" appears herein without qualification, it should be understood to indicate the National Title Insurance of New York Inc.

Whenever the designation "the Department" appears herein, without qualification, it should be understood to indicate the New York Insurance Department.

The examination was conducted at the Company's administrative offices located at 4050 Calle Real, Santa Barbara, California and 601 Riverside Avenue, Jacksonville, Florida.

## **1. SCOPE OF EXAMINATION**

The previous examination was conducted as of December 31, 1998. This examination covered the five-year period from January 1, 1999 through December 31, 2003. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination comprised of a complete verification of assets and liabilities as of December 31, 2003, a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountants. A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of the Company
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Officers' and employees' welfare and pension plans
- Territory and plan of operation
- Growth of the Company
- Business in force
- Loss experience
- Reinsurance
- Market conduct activities
- Accounts and records
- Financial statements

A review was also made to ascertain what actions were taken by the Company with regard to comments and recommendations 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 incorporated under the laws of New York on March 14, 1929 and commenced business on December 31, 1936. Paid in capital is \$1,007,258, consisting of 127,949 shares of \$8 par value per share common stock. The Company has 200,000 authorized shares of \$8 par value per share common stock, of which 127,949 shares are issued and outstanding.

On January 10, 1994, the Nations Holding Group purchased all of the issues and outstanding shares of the Company's immediate parent, TRW Title Inc. Subsequently, TRW Title Inc. changed its name to Nations Title Inc. and the Company, then named New York TRW Title Insurance Inc., changed its name to National Title Insurance of New York Inc.

The Company is currently a wholly-owned subsidiary of Ticor Title Company of California, which is ultimately owned by Fidelity National Financial, Inc., a Delaware company.

### A. Management

Pursuant to the Company's charter and by-laws, as amended, management of the Company is vested in a board of directors consisting of not less than seven nor more than fifteen members. As of the examination date, the board of directors was comprised of seven members.

The directors as of December 31, 2003, were as follows:

| <u>Name and Residence</u>                 | <u>Principal Business Affiliation</u>                                      |
|---|--|
| Wayne Diaz<br>Irvine, CA                  | President,<br>National Title Insurance of New York Inc.                    |
| Danielle Ferrara<br>Ronkonkoma, NY        | Director,<br>National Title Insurance of New York Inc.                     |
| William P. Foley, II<br>Santa Barbara, CA | Chairman and Chief Executive Officer,<br>Fidelity National Financial, Inc. |
| Noreen Laub-Fricz<br>Ronkonkoma, NY       | Director,<br>National Title Insurance of New York Inc.                     |
| Michael Lowther<br>Irvine, CA             | Director,<br>National Title Insurance of New York Inc.                     |
| Vincent Prandi<br>Ronkonkoma, NY          | Director,<br>National Title Insurance of New York Inc.                     |
| Christopher J. Quintero<br>Lynbrook, NY   | Vice President,<br>National Title Insurance of New York Inc.               |

The minutes of all meetings of the board of directors and committees thereof, held during examination were reviewed. The meetings were generally well attended; however, the overwhelming majority of the board's resolutions were effectuated through the unanimous written consent of directors in place of actual board meetings.

The Company's by-laws require an annual meeting of the board and one regular meeting as well as special meetings of the board. The by-laws do not specifically allow the Company to take action by unanimous written consent in lieu of actual meetings. In accordance with the provision of Section 708 (b) of the Business Corporation Law (“BCL”) wherein it states, unless otherwise restricted by the certificate of incorporation or the bylaws, any action required or permitted to be taken by the board may be taken without a meeting if all the members of the board consent in writing to the adoption of a resolution authorizing the action.

Article VI of the Company's amended and restated by-laws states:

“MEETINGS OF THE BOARD OF DIRECTORS”

Section 1

Meetings of the Board of Directors, regular or special, may be held within or outside the State of New York.

Section 2

The first meeting of each newly elected Board of Directors shall be held on the date and at the place at which the annual meetings of shareholders is held, immediately following the adjournment of such annual meeting of shareholders. No notice of meeting shall be necessary to the newly elected director in order legally to constitute the meeting, providing a quorum shall be present, or it may convene at such place and time and shall be fixed by consent in writing of all the directors.

Section 3

Regular meetings of the Board of Directors may be held upon such notice, all without notice and at such time and at such place as from time to time be determined by the board. There will be at least one regular meeting of the Board of Directors each year.

Section 4

Special meetings of the Board of Directors may be called by the President on to this notice to each director, either personally or by mail or by telegram; special meetings shall be called by the President or the Secretary in like manner and unlike notice upon written request to directors.”

The Department's Office of General Counsel Opinion 75-3 states, in part:

“The Department was asked whether an insurance company may adopt by-laws to carry out the intention of a recent amendment to Section 708(b) of the Business Corporation Law (BCL). Section 708(b) of the BCL now permits corporate action required or permitted to be taken by the board of directors or a committee thereof to be taken without a meeting if all members of the Board or committee consent in writing to the adoption of a resolution optimizing the action. However, Section 708(b) of the BCL is not self-executing. For a Corporation to avail itself of the advantages offered by this section, it must amend its by-laws or certificate of incorporation.”

It is recommended that if the Company wishes to act under the provisions of Section 708(b) of the Business Corporation Law, it should amend its by-laws or certificate of incorporation to provide for such

actions in accordance with Section 1206 of the New York Insurance Law. Additionally, it is recommended that the Company utilized this provision in limited emergency situations, as set forth in the opinion issued by the Department's Office of General Counsel.

#### Conflict of Interest

The examiner was unable to determine if any director, officer or key employees had any conflict of interests. The Company has a comprehensive policy on ethical practices and conflict of interest, which all employees are required to sign. In addition, all directors, officers and key personnel are required to complete conflict of interest questionnaires annually. However, the Company was unable to provide any statements signed by its directors or officers.

It is recommended that the Company obtain and keep on file signed conflict of interest statements for all directors, officers and key employees.

The principal officers of the Company as of December 31, 2003, were as follows:

| <u>Name</u>       | <u>Title</u>   |
|-------------------|--|
| Wayne Diaz        | President  |
| Todd Johnson      | Senior Vice President and Corporate Secretary        |
| Alan Stinson      | Executive Vice President and Chief Financial Officer |
| Peter T. Sadowski | Executive Vice President                             |
| Barbara Ferguson  | Executive Vice President                             |
| William Unkel     | Executive Vice President                             |
| Stephen Yavorsky  | Executive Vice President                             |

#### B. Territory and Plan of Operation

At December 31, 2003, National Title Insurance of New York Inc. was licensed to transact the



business of title insurance, as defined in Paragraph 18 of Section 1113(a) of the New York Insurance Law. As of the examination date, the Company was licensed in thirty-four states, the District of Columbia, and the United States Virgin Islands.

A comparison between direct premiums written in New York and nationwide during the examination period is detailed below:

DIRECT PREMIUMS WRITTEN

| <u>Calendar Year</u> | <u>New York State</u> | <u>Total United States</u> | <u>Premiums Written in New York State as a Percentage of United States Premiums Written</u> |
|----------------------|-----------------------|----------------------------|---|
| 1999                 | \$0                   | \$0                        | 0.00%   |
| 2000                 | \$921,742             | \$3,883,713                | 23.73%  |
| 2001                 | \$2,701,276           | \$8,886,540                | 30.40%  |
| 2002                 | \$7,641,827           | \$21,732,190               | 35.16%  |
| 2003                 | \$13,976,836          | \$39,224,534               | 35.63%  |

Based upon the lines of business for which the Company is licensed, the Company's current capital structure, and pursuant to the requirements of Article 64 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$250,000.

The Company is engaged primarily in the business of issuing title insurance policies in connection with real estate transactions. Secondary services are provided through the Company's independent agents who issue policies on the Company's behalf.

C. Reinsurance

The Company assumes a relatively minor volume of business compared to its direct writings (less than one percent). The majority of these assumptions is on a facultative basis and is non-obligatory.

All ceded reinsurance contracts effective during the examination period were reviewed. These contracts all contain an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

As of December 31, 2003, the Company had the following ceded excess of loss reinsurance program in place:

| <u>Contract</u>                 | <u>Cession</u>   |
|---------------------------------|--|
| First Layer<br>100% authorized  | \$1,000,000 excess \$1,000,000 each risk,<br>each occurrence.  |
| Second Layer<br>100% authorized | \$18,000,000 excess \$2,000,000 each risk,<br>each occurrence. |

D. Holding Company System

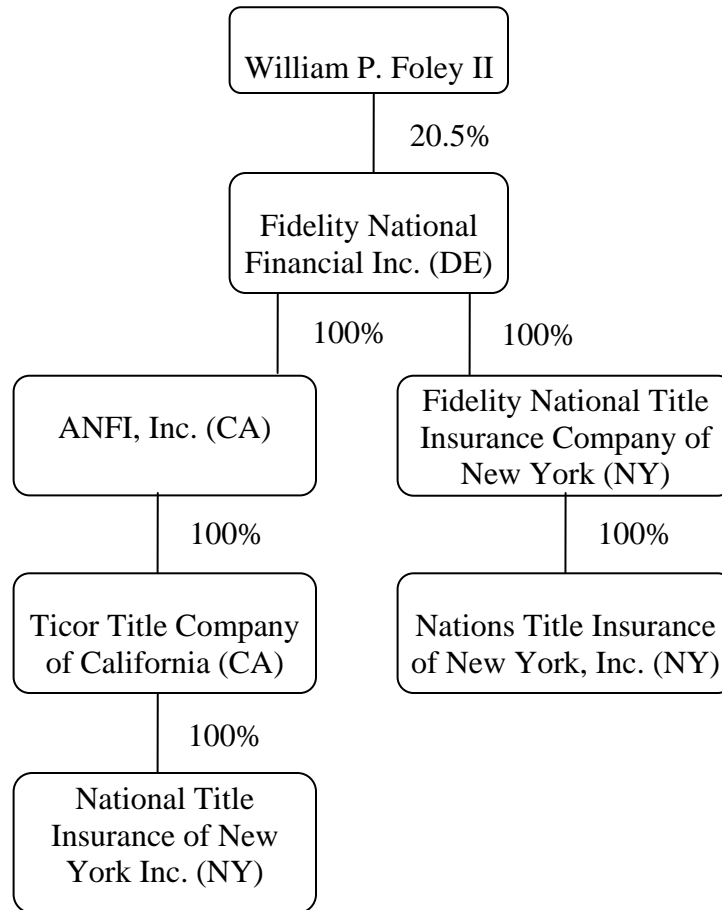
The Company is a wholly-owned subsidiary of Ticor Title Company of California, which is ultimately owned by Fidelity National Financial, Inc. ("FNFI"), a Delaware company. William P. Foley II is the stockholder of record of approximately 20.5% of the issued and outstanding shares of FNFI; no other person owns more than 5% of the outstanding shares.

The Company became part of the current holding company system on April 1, 1996, pursuant to a stock purchase agreement, which was approved by this Department.

A review of the holding company registration statements filed with this Department indicated that such filings were complete and were filed in a timely manner pursuant to Article 15 of the New York

## Insurance Law and Department Regulation 52.

The following is an abbreviated chart of the holding company system at December 31, 2003:



At December 31, 2003, the Company was party to several cost reimbursement agreements with affiliated entities. These agreements provided that various members of the holding company system would provide services on behalf of, or pay for services to other affiliated entities. The agreements were not filed with this Department.

It is recommended that the Company file its cost reimbursement agreements with the Department pursuant to Section 1505(d) of the New York Insurance Law.

The Company has not shown that it has prepared written guidelines for the allocation of non-overhead expenses which are in accordance with Department Regulations 30 as recommended in the prior report on examination.

It is recommended that the Company prepare written guidelines for the allocation of non-overhead expenses, which are in accordance with Department Regulation No. 30.

E. Abandoned Property Law

Section 1317 of the New York Abandoned Property Law provides that any amounts held or owing by a domestic or foreign title insurer or by an agent or representative of such insurer as a security deposit, relating to the transfer or financing of real property located in the state, made as an inducement to issue a title insurance policy shall be deemed abandoned property if unclaimed as of December thirty-first in any year for three years from the date of deposit, unless there has been written communication from the depositor or other person entitled thereto to the insurer to its agent or representative within said three-year period. Any such property deemed abandoned as of the preceding December thirty-first shall be paid and delivered to the Comptroller within the first 10 days of March in each year, together with the report of said property, including a listing of depositors and lien holders, in such form as the Comptroller may prescribe.

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 1317 of the New York Abandoned Property Law.

F. Significant Operating Ratios

The operating ratios presented below are on an 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 | \$ 2,752,382        | 3.69%          |
| Other underwriting expenses incurred         | 82,735,157          | 88.00          |
| Net underwriting gain                        | <u>6,202,274</u>    | <u>8.31</u>    |
| Premiums earned                              | <u>\$91,689,813</u> | <u>100.00%</u> |

G. Segregated Funds Held for Others

At December 31, 2003, the Company reported \$7,992,301 as custodial funds set aside in special accounts, and excluded from the Company's assets and liabilities. The Company maintains such funds in cash and other cash equivalents.

Escrow funds are taken by the Company at title closing for minor defects in title such as unpaid real estate taxes, franchise taxes, judgments or liens against the insured property and are held until such defects are eliminated. In view of the fiduciary responsibility for such funds, a review was made of underlying escrow deposit accounts to ascertain if the Company was fulfilling its contractual obligations and to test the Company's controls over these accounts.

The Company has demonstrated that escrow funds are under constant review for settlement and disposal of objections cited in the title report and that the Company is properly refunding balances after the title objections are alleviated in a timely and efficient manner.

H. Accounts and records

(i) Approval of Investments

The examiner noted that although the Company answered General Interrogatory No. 12, “Is the purchase and sale of all investments of the reporting entity passed upon by the board of directors or a subordinate committee thereof?” in the affirmative, the Company did not have a formal process for board approval of investments.

Section 1411(a) of the New York Insurance Law states:

“No domestic insurer shall make any loan or investment, except as provided in subsection (h) hereof, unless authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investment or loan. The committee's minutes shall be recorded and report submitted to the board of directors at its next meeting”.

It is recommended that the Company’s board of directors regularly document its review and approval of the Company’s investment activities in compliance with Section 1411(a) of the New York Insurance Law.

(ii) Cash

The examiner noted that the Company did not clear long outstanding checks from its bank reconciliations on a timely basis.

It is recommended that the Company segregate outstanding checks to a separate control account on a periodic basis.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination. This statement is the same as the balance sheet in the Company's filed annual statement:

| <u>Assets</u>  | <u>Assets</u>       | <u>Assets Not<br/>Admitted</u> | <u>Net Admitted<br/>Assets</u> |
|--|---------------------|--------------------------------|--------------------------------|
| Bonds  | \$ 8,770,222        | \$ 0                           | \$ 8,770,222                   |
| Common stocks  | 1,472               | 0                              | 1,472                          |
| Cash, cash equivalents and<br>short-term investments                     | 6,882,301           | 0                              | 6,882,301                      |
| Receivable for securities  | 159,896             | 0                              | 159,896                        |
| Investment income due and accrued  | 128,154             | 0                              | 128,154                        |
| Uncollected premiums and agents'<br>balances in the course of collection | 1,726,216           | 967,757                        | 758,459                        |
| Net deferred tax asset   | 184,821             | 0                              | 184,821                        |
| Furniture and equipment  | 207,932             | 207,932                        | 0                              |
| Receivables from parent, subsidiaries<br>and affiliates                  | 14,258              | 9,503                          | 4,755                          |
| Title Plants   | 15,000              | 0                              | 15,000                         |
| Prepaid Expenses and Other Assets  | 129,597             | 129,597                        | 0                              |
| State Tax and Premium Tax Receivable                                     | <u>203,455</u>      | <u>0</u>                       | <u>203,455</u>                 |
| Total assets   | <u>\$18,423,324</u> | <u>\$1,314,789</u>             | <u>\$17,108,535</u>            |

Liabilities, Surplus and Other FundsLiabilities

|   |                  |
|---|------------------|
| Known claims reserve                                | \$ 1,958,594     |
| Statutory premium reserve                           | 3,793,860        |
| Other expenses (excluding taxes, licenses and fees) | 670,552          |
| Current federal and foreign income taxes            | 1,240,998        |
| Payable to parent, subsidiaries and affiliates      | <u>2,788,840</u> |
| Total liabilities                                   | \$10,452,844     |

Surplus and Other Funds

|   |                     |
|---|---------------------|
| Common capital stock                        | \$1,007,258         |
| Gross paid in and contributed surplus       | 5,532,330           |
| Unassigned funds (surplus)                  | 286,718             |
| (1) Shares common (treasury stock, at cost) | <u>(170,615)</u>    |
| Surplus as regards policyholders            | <u>6,655,691</u>    |
| Total liabilities, surplus and other funds  | <u>\$17,108,535</u> |

NOTE: The Internal Revenue Service has not yet begun to audit tax returns covering the period under examination. 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 \$5,500,938 during the five-year examination period January 1, 1999 through December 31, 2003, detailed as follows:

Underwriting Income

|  |                   |                   |
|--|-------------------|-------------------|
| Premiums and fees earned                     |                   | \$91,689,813      |
| Deductions:                                  |                   |                   |
| Losses and loss adjustment expenses incurred | \$2,752,382       |                   |
| Operating expenses incurred                  | <u>82,735,157</u> |                   |
| Total underwriting deductions                |                   | <u>85,487,539</u> |
| Net underwriting gain or (loss)              |                   | \$6,202,274       |

Investment Income

|   |                |                    |
|---|----------------|--------------------|
| Net investment income earned              | \$1,706,993    |                    |
| Net realized capital gains (losses)       | <u>136,643</u> |                    |
| Net investment gain or (loss)             |                | <u>1,843,636</u>   |
| Net income before federal income taxes    |                | \$8,045,910        |
| Federal and foreign income taxes incurred |                | <u>2,498,213</u>   |
| Net income                                |                | <u>\$5,547,697</u> |

Capital and Surplus Account

|   |                             |                              |                    |
|---|-----------------------------|------------------------------|--------------------|
| Surplus as regards policyholders per report<br>on examination as of December 31, 1998 |                             |                              | \$1,154,753        |
|   | <u>Gains in<br/>Surplus</u> | <u>Losses in<br/>Surplus</u> |                    |
| Net income  | \$5,547,697                 |                              |                    |
| Net unrealized capital gains  | 483,269                     |                              |                    |
| Change in net unrealized foreign exchange<br>capital gain                             | 1,618,161                   |                              |                    |
| Change in net deferred income tax   | 136,550                     |                              |                    |
| Change in non-admitted assets   |                             | \$1,237,163                  |                    |
| Cumulative effect of changes in accounting<br>principles                              | 48,270                      |                              |                    |
| Paid in capital changes   | 30,000                      |                              |                    |
| Aggregate write-ins for gains and losses in<br>surplus                                | <u>                    </u> | <u>1,125,846</u>             |                    |
| Total gains and losses  | <u>\$7,863,947</u>          | <u>\$2,363,009</u>           |                    |
| Net increase (decrease) in surplus  |                             |                              | <u>5,500,938</u>   |
| Surplus as regards policyholders per report<br>on examination as of December 31, 2003 |                             |                              | <u>\$6,655,691</u> |

**4. KNOWN CLAIMS RESERVES**

The examination liability for the captioned items of \$1,958,594 is the same as that reported by the Company as of December 31, 2003. 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.

## 5. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Company conducted its business practices 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 the market conduct examination, which is the responsibility of the Market Conduct Unit of the Property Bureau of this Department.

The general reviewed was directed at practices of the Company in the following areas:

- A. Sales and advertising
- B. Underwriting
- C. Rating
- D. Treatment of policyholders and claimants

The examiner reviewed the Company's advertising material, application and policy forms, audit reports, and correspondence files. In addition, the examiner performed an analysis of the approved rates charged on title policies and reviewed the Company's claim register.

No problem areas were encountered.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

A review was made into the actions taken by the Company with regards to the comments and recommendations contained in the prior report on examination. The item, letters and page numbers shown below refer to that of the prior report:

| <u>ITEM</u>  | <u>PAGE NO.</u> |
|--|-----------------|
| A  |                 |
| <u>Management</u>  |                 |
| i.   | 5               |
| <p>It was recommended that if the Company wishes to act under provisions of Section 708(b) of Business Corporation Law, it should amend its by-laws or certificate of incorporation to provide for such actions in accordance with Section 1206 of the New York Insurance Law. Additionally, it is recommended that the Company utilize this provision in limited emergency situations as set forth in the opinion issued by the Office of General Counsel.</p> <p>The Company has not complied with this recommendation. A similar recommendation is made in the current examination.</p> |                 |
| ii.  | 6               |
| <p>It was recommended that the Company adhere to the provisions of Section 1411(a) of the New York Insurance Law with regard to the board of directors' approval of investment transactions.</p> <p>The Company has not complied with this recommendation. A similar recommendation was made in the current examination.</p>   |                 |
| B  |                 |
| <u>Reinsurance</u>   |                 |
|  | 9               |
| <p>It was recommended that the Company maintain documentation of its evaluation of transfer of risk for all ceded reinsurance contracts to support management's accounting positions relative to these contracts in accordance with Chapter 22 of the NAIC Accounting Practices and Procedures Manual.</p> <p>The Company has complied with this recommendation.</p>   |                 |

| <u>ITEM</u> |   | <u>PAGE NO.</u> |
|-------------|---|-----------------|
| C           | <u>Holding Company System</u>   |                 |
| (i)         | It was recommended that the Company maintain documentation to ensure that inter-company account balances are settled in a timely manner.<br><br>The Company has complied with this recommendation.  | 10              |
| (ii)        | It was recommended that the Company modify its general ledger system to track and accumulate affiliate transactions by each affiliated company on a rolling twelve-month basis. This will enable the Company to determine if transactions exceed the reporting and prior approval thresholds as set forth in Section 1505(d) of the New York Insurance Law.<br><br>The Company has complied with this recommendation. | 10              |
| (iii)       | It was recommended that the Company file its cost reimbursement agreements with the Department pursuant to the provisions of Section 1505(d) of the New York Insurance Law.<br><br>The Company has not complied with this recommendation. A similar recommendation is made in the current examination.  | 11              |
|             | It was recommended that the Company prepare written guidelines for the allocation of non-overhead expenses, which are in accordance with Department Regulation 30.<br><br>The Company has not complied with this recommendation. A similar recommendation is made in the current examination.   | 12              |
| (iv)        | It was recommended that the Company amend its tax allocation agreement to comply with the guidelines set forth in Department Circular Letter No. 33 (1979) and submit it to the Insurance Department pursuant to Section 1505(d) of the New York Insurance Law.<br><br>The Company has complied with this recommendation.   | 12              |

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|-------------|---|-----------------|
| D           | <u>Section 1307 Loan Agreement</u>  |                 |
|             | It was recommended that the Company comply with the provisions of Section 1307(c) of the New York Insurance Law, with respect to the loan and the accrued interest being disclosed as part of the standard footnote.                                  | 14              |
|             | The Company has complied with this recommendation.  |                 |
| E           | <u>Audit Engagement Contracts</u>   |                 |
|             | It was recommended that the Company comply with the provisions of Section 89.2 of the Department Regulation 118.  | 14              |
|             | The Company has complied with this recommendation.  |                 |
| F           | <u>Conflict of Interest</u>   |                 |
| (i)         | It was recommended that the Company establish written procedures that detail the specific actions to be taken by the board of directors if conflicts of interest arise.   | 15              |
|             | It appears that the Company has established written procedures for conflicts of interest; however the Company was unable to furnish conflict of interest statements signed by its officers and directors. Therefore the Company is not in compliance. |                 |
| (ii)        | It was recommended that the Company maintain complete minutes of its proceedings on such matters.   | 15              |
|             | The Company has not complied with this recommendation. A similar recommendation is made in this report.   |                 |
| G           | <u>Accounts and Records</u>   |                 |
| (i)         | It was recommended that in the future the Company maintain adequate documentation for all amounts reported in every statement filed with this Department.   | 16              |
|             | The Company has complied with this recommendation.  |                 |
| (ii)        | It was recommended that the Company book its cash adjustments to the general ledger in a timely manner.   | 17              |

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The Company has complied with this recommendation.

- (iii) It was recommended that the Company research and resolve all “stale” outstanding checks. 17

The Company has not complied with this recommendation. A similar recommendation was made in the current examination.

- (iv) It was recommended that the Company maintain accurate and complete workpapers supporting amounts reported in its filed annual statements. 17

The Company has complied with this recommendation.

- (v) It was recommended that the Company adhere strictly to the standard provisions of the agreements with its agents, as regards to the maintenance of escrow accounts. 17

The Company has complied with this recommendation.

- (vi) It was recommended that the Company seek to ensure that the agents maintain accurate records of all escrow deposits held and that the Company seek to obtain timely remittances of escrow deposits and premiums from its agents. 17

The Company has complied with this recommendation.

- (vii) It was recommended that the Company maintain admitted assets of a value at least equal to the amount required for the statutory premium reserve as a segregated reserve fund, pursuant to the provisions of Section 6405(c) of the New York Insurance Law. 17

The Company has complied with this recommendation.

## **7. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

| <u>ITEM</u> | <u>PAGE NO.</u>   |
|-------------|---|
| A           | <b><u>Management</u></b>  |
| (i)         | It is recommended that if the Company wishes to act under the provisions of section 708(b) of the Business Corporation Law, it should amend its by-laws or certificate of incorporation to provide for such actions in accordance with Section 1206 of the New York Insurance Law. <span style="float: right;">5</span> |
| (ii)        | Additionally, it is recommended that the Company utilized this provision in limited emergency situations, as set forth in the opinion issued by the Department's Office of General Counsel. <span style="float: right;">6</span>  |
| (iii)       | <b><u>Conflict of Interest</u></b>  |
|             | It is recommended that the Company obtain and keep on file signed conflict of interest statements for all directors, officers and key employees. <span style="float: right;">6</span>   |
| B           | <b><u>Holding Company System</u></b>  |
| (i)         | It is recommended that the Company file its cost reimbursement agreements with the Department pursuant to the provisions of section 1505(d) of the New York Insurance Law. <span style="float: right;">9</span>   |
| (ii)        | It is recommended that the Company prepare written guidelines for the allocation of non-overhead expenses, which are in accordance with Department Regulation 30. <span style="float: right;">10</span>   |
| C           | <b><u>Accounts and records</u></b>  |
| (i)         | <b><u>Approval of Investments</u></b>   |
|             | It is recommended that the Company's board of directors regularly document its review and approval of the Company's investment activities in compliance with Section 1411(a) of the New York Insurance Law. <span style="float: right;">12</span>   |
|             | <b><u>Cash</u></b>  |
| (ii)        | It is recommended that the Company segregate its outstanding checks to separate control accounts on a periodic basis. <span style="float: right;">12</span>   |



Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Max Vega, CFE

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

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

\_\_\_\_\_/s/\_\_\_\_\_

Max Vega

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Appointment No 22116

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, GREGORY V.SERIO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Max Vega**

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

**NATIONAL TITLE INSURANCE COMPANY OF NEW YORK**

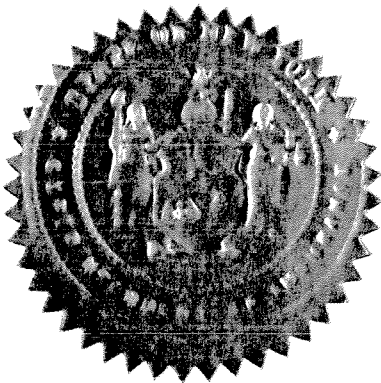
*and to make a report to me in writing of the condition of the said*

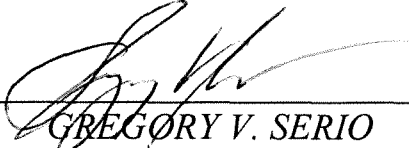
**Company**

*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 6th day of January, 2004*



  
\_\_\_\_\_  
GREGORY V. SERIO  
Superintendent of Insurance