

REPORT ON EXAMINATION
OF THE
AXA ART INSURANCE CORPORATION
AS OF
DECEMBER 31, 2002

DATE OF REPORT

JULY 8, 2003

EXAMINER

ADEBOLA AWOFESO

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

George E. Pataki
Governor

Gregory V. Serio
Superintendent

July 8, 2003

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 22006 dated February 10, 2003 attached hereto, I have made an examination into the condition and affairs of AXA Art Insurance Corporation as of December 31, 2002, and submit the following report thereon.

The examination was conducted at the Company's administrative offices located at 4 West 58th Street, New York, N.Y. 10019.

Wherever the designation "the Company" appears herein without qualification, it should be understood to indicate AXA Art Insurance Corporation.

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

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1998. This examination covered the four-year period from January 1, 1999 through December 31, 2002. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2002. 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 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 Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

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 organization.

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

AXA Art Insurance Corporation, formerly AXA Nordstern Art Insurance Corporation was incorporated under the laws of the State of New York on September 17, 1986, under the original name of Nordstern Insurance Company of America and commenced business on February 9, 1987. Its capital paid in is \$3,000,000 consisting of 3,000 shares of common stock at \$1,000 par value per share and its gross paid in and contributed surplus is \$6,500,000.

A. Management

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of not less than thirteen nor more than twenty-one members. The board met four times during each calendar year. At December 31, 2002, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Christopher M. Condron New York, NY	President & Chief Executive Officer, AXA Financial
Alexander T. Ercklentz Greenwich, CT	Senior Partner, Brown Brothers Harriman & Co.
Dr. Ulrich Guntram Wachtberg, Germany	Chief Executive Officer, AXA Art Versicherung AG
Class Kleyboldt Cologne, Germany	Chairman of the Supervisory Board, AXA Konzern AG
Robert Lippincott III Newtown, PA	President & Chief Executive Officer, AXA Corporate Solution Reinsurance Co.
Dr. Lois de Menil New York, NY	Philanthropist

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Timotheus R. Pohl New York, NY	Collector
Ernest Reifenhauer Montrose, NY	Treasurer, AXA Art Insurance Corporation
Marc M. Tract, Esqu. Brookville, NY	Partner, Katten, Muchin, Zavis and Roseman
Dr. Dietrich von Frank New York, NY	President & Chief Executive Officer, AXA Art Insurance Corporation
Werner Walbrol New York, NY	President, German American Chamber of Commerce, Inc.
Dr. John Walsh Santa Monica, CA	Director Emeritus, J. Paul Getty Museum
Bruce Wolmer New York, NY	Editor-in-Chief and Publisher, Art and Auction Magazine

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 has an acceptable record of attendance.

As of December 31, 2002, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Dr. Dietrich von Frank	President & Chief Executive Officer
Christiane Fischer	Chief Operating Officer
Ernest Riefenhauer	Treasurer
Gary Kerr	Secretary

B. Territory and Plan of Operation

As of December 31, 2002, the Company was licensed to write business in the District of Columbia and all states except Vermont.

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>
3	Accident & health
4	Fire
5	Miscellaneous property damage
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
12	Collision
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

In addition, the Company is licensed to transact such workers' compensation insurance as may be incident to coverages relating to ocean marine contemplated under paragraphs 20 and 21 of Section 1113(a), including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69th Congress, as amended; 33 USC Section 901 et. seq. as amended).

Based on the lines of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$3,200,000.

The Company specializes principally in underwriting inland marine and related lines of business, with an emphasis on personal and commercial fine art coverage and other insurance floaters.

The following schedule shows the direct premiums written in New York State as well as countrywide by calendar year within the examination period, and the percentage which the New York premiums bear to the countrywide premiums:

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</u>
1999	\$6,465,575	\$21,136,515	30.59%
2000	\$7,080,703	\$23,986,921	29.52%
2001	\$7,103,437	\$25,187,290	28.20%
2002	\$7,258,058	\$25,748,089	28.19%

C. Reinsurance

Assumed

The Company assumes a relatively minor volume of business as compared to its direct writings.

Ceded

The Schedule F data as contained in the Company's filed annual statements was found to accurately reflect its reinsurance transactions.

The examiner reviewed all ceded reinsurance contracts in effect at December 31, 2002. The contracts all contained the required standard clauses including insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.

The Company had the following ceded reinsurance program in effect at December 31, 2002:

<u>Type of treaty</u>	<u>Cession</u>
<u>Property / Casualty:</u>	
Per Occurrence Excess of Loss Two Layers 100% Unauthorized	\$50,377,000 excess of \$2,500,000.
Fine Arts Surplus 100% Unauthorized	\$57,282,000 excess of \$52,877,000.
Per Occurrence Excess of Loss Earthquake 100% Unauthorized	\$44,065,000 excess of \$52,877,000.

The Company's retention increased from \$666,667 to \$2,500,000, and its limits decreased from \$79,333,332 to \$50,377,000, compared with the prior examination period. The percentage of cessions to authorized reinsurers has also decreased compared with the prior examination period. The fine arts surplus and per occurrence excess of loss earthquake coverages that reduce the Company's exposure originated in this examination period.

Unauthorized Reinsurance

The letters of credit obtained by the Company in order to take credit for cessions made to unauthorized reinsurers were reviewed for compliance with Department Regulation 133. No exceptions were noted.

D. Holding Company System

The Company is 100% owned by, AXA Art Holdings, Inc., a New York State corporation, which is ultimately controlled by AXA (France).

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 Company reported in its filed annual statement as of December 21, 2002, \$192,593 for net admitted receivable from parent and \$429,238 for payable to its parent, AXA Holdings. Section 1505(d) of the New York Insurance Law states:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period: (1) sales, purchase, exchanges, loans or extensions of credit, or investments, involving more than one-half of one percent but less than five percent of the insurer’s admitted assets at last year end...”

A review of the Company’s related party accounts indicated that the Company does not have a written agreement to support the basis for those transactions and neither did the Company notify the

At December 31, 2002, the Company was party to the following agreement with other members of its holding company system:

Tax Allocation Agreement

On October 1, 1994, the Company entered into tax allocation and tax reimbursement agreements with AXA Art Holding, Inc and Fine Art Service. Under this agreement the Company will file a consolidated federal income tax return with its affiliated group. The agreement was filed with this Department pursuant to Section 1505 of the New York Insurance Law.

E. Abandoned Property Law

Section 1316 of the New York 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 to be 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 not filed. The Company indicated that no report was filed due to not having unclaimed insurance proceeds to report. Upon review, the examiner noted several checks outstanding more than three years on Company's outstanding check report as of January 2003. It is recommended that the Company file its abandoned property reports on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

F. Accounts and Records

During the course of this examination, it was noted that the Company's treatment of certain items was not in accordance with generally accepted statutory accounting principles and Department guidelines.

Descriptions of such items follows:

1. Custodial Agreement

The Company's custodial agreement with State Street Bank was reviewed during the examination and found to be lacking the following provisions, which are deemed to be representative of good business practices for the contents of such agreements:

- The custodian will maintain records sufficient to verify information the insurer is required to report in Schedule D of its annual statement blank filed with the Department.
- The custodian will furnish the insurer with the appropriate affidavits in the form as may be acceptable to the insurer and to the Department in order for the assets to be recognized as admitted assets of the insurer.

It is recommended that the Company amend its custodial agreement to include the above mentioned provisions.

2. Check Signing

The Company's procedure for check signing requires two signatories. From the selected sample of checks tested, the examiner noted five checks with only one signature. It is recommended that the Company adhere to its check signing procedures in order to maintain proper safeguards and control of its cash account.

3. Agents' Balances

The reported amount of agents' balances over 90 days past due of \$797,207 is \$794,573 less than the examination amount of \$1,591,780. The Company was unable to produce evidence in the form of detailed schedules to support the difference. The prior examination recommended that the Company maintain detailed records to substantiate reported amount over 90 days past due. The Company has not complied with this recommendation and it is reiterated herein.

4. Security Deposits

The Company's required deposits for the State of New York were held with a bank in Massachusetts. Section 1314 (a) (1) of the New York Insurance Law stipulates that:

“such deposits shall be keptwith a bank, trust company or national bank in this state which may be designated by the depositing insurer, subject to the approval of the superintendent.”

It is recommended that the Company comply with Section 1314 (a) (1) of the New York Insurance Law.

G. Significant Operating Ratios

The following ratios have been computed as of December 31, 2002, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	96%
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	76%
Premiums in course of collection to surplus as regards policyholders	18%

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 four-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$32,422,920	40.28%
Other underwriting expenses incurred	45,304,185	56.28
Net underwriting gain	<u>2,776,556</u>	<u>3.45</u>
Premiums earned	<u>\$80,503,661</u>	<u>100.00%</u>

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2002 and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$39,603,998	\$	\$39,603,998
Common stocks (stocks)	5,669,857		5,669,857
Cash and short-term investments	5,060,198		5,060,198
Other invested assets	1,850,082		1,850,082
Premiums and agents' balances in course of course of collection	4,414,483	797,207	3,617,276
Federal and foreign income tax recoverable	1,995,307		1,995,307
Interest, dividends and real estate income due and accrued	495,447		495,447
Receivable from parent, subsidiaries and affiliates	810,190	617,597	192,593
Security deposit	<u>115,108</u>	<u> </u>	<u>115,108</u>
Total Assets	<u>\$60,014,670</u>	<u>\$1,414,804</u>	<u>\$58,599,866</u>

Liabilities

Losses		\$17,554,000
Loss adjustment expenses		494,581
Commissions payable, contingent commissions and other similar charges		436,192
Other expenses (excluding taxes, licenses and fees)		544,960
Unearned premiums		12,102,352
Ceded reinsurance premiums payable (net of ceding commissions)		2,707,230
Funds held by company under reinsurance treaties		4,333,332
Drafts outstanding		103,217
Payable to parent, subsidiaries and affiliates		429,238
Deferred rent		<u>94,311</u>
Total liabilities		\$38,799,413
Common capital stock	\$3,000,000	
Gross paid in and contributed surplus	6,500,000	
Unassigned funds (surplus)	<u>10,300,453</u>	
Surplus as regards policyholders		<u>19,800,453</u>
Total liabilities, surplus and other funds		<u>\$58,599,866</u>

Note: The Internal Revenue Service has not audited tax returns covering tax years 1999 through 2002. 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 \$1,624,080 during the four-year examination period January 1, 1999 through December 31, 2002, detailed as follows:

Underwriting Income

Premiums earned		\$80,503,661
Deductions:		
Losses incurred	\$29,572,317	
Loss adjustment expenses incurred	2,850,603	
Other underwriting expenses incurred	<u>45,304,185</u>	
Total underwriting deductions		<u>77,727,105</u>
Net underwriting gain		\$2,776,556

Investment Income

Net investment income earned	\$8,404,882	
Net realized capital gains	<u>(604,398)</u>	
Net investment gain		<u>7,800,484</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$10,577,040
Federal and foreign income taxes incurred		<u>3,115,000</u>
Net income		<u>\$7,462,040</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1998			\$18,176,373
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$7,462,038		
Net unrealized capital losses		\$1,388,693	
Change in net unrealized foreign exchange capital losses		604,500	
Change in non-admitted assets		562,979	
Cumulative effect of changes in accounting principles	1,418,214		
Capital changes transferred to surplus		500,000	
Dividends to stockholders	<u> </u>	<u>4,200,000</u>	
Net increase in surplus	<u>\$8,880,252</u>	<u>\$7,256,172</u>	<u>1,624,080</u>
Surplus as regards policyholders per report on examination as of December 31, 2002			<u>\$19,800,453</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liabilities for losses and loss adjustment expenses of \$17,554,000 and \$494,581 respectively, are the same as reported by the Company as of December 31, 2002. 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 conducts 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 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

No problem areas were encountered.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. It was recommended that the Company comply with Section 325(a) of the New York Insurance Law and accompany all records kept in a language other than English with accurate translations.</p> <p>The Company has complied with this recommendation.</p>	7
<p>It was recommended that the Company have its reinsurance agreements signed and submitted to the Department for approval in accordance with Section 1505 of the New York Insurance Law.</p> <p>The Company has complied with this recommendation.</p>	8
<p>B. It was recommended that the Company comply with Section 1505(b) of the New York Insurance Law and maintain appropriate documentation of the transactions within its holding company system.</p> <p>The Company has complied with this recommendation.</p>	9
<p>It was recommended that the Company comply with Section 1505(d) of the New York Insurance Law and notify the Department in writing of transactions within its holding company system.</p> <p>The Company has not complied with this recommendation. A similar comment is made in this report.</p>	9
<p>C. It was recommended that the Company maintain detailed records to substantiate reported amounts.</p> <p>The Company has not complied with this recommendation. A similar comment is made in this report.</p>	12

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Holding Company System</u>	
It is recommended that the Company comply with Section 1505(d) of the New York Insurance Law and notify the Department in writing of transactions within its holding company system.	8
B. <u>Abandoned Property Law</u>	
It is recommended that the Company file its abandoned property reports on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.	10
C. <u>Accounts and Records</u>	
1. <u>Custodial Agreement</u>	
It is recommended that the Company amend its custodial agreement to include the required provisions.	11
2. <u>Check Signing</u>	
It is recommended that the Company adhere to its check signing procedures in order to maintain proper safeguards and control of its cash account.	11
3. <u>Agents' Balances</u>	
It is recommended that the Company maintain detailed records to substantiate reported amounts over 90 days past due.	12
4. <u>Security Deposits</u>	
It is recommended that the Company comply with Section 1314 (a)(1) of the New York Insurance Law.	12

Respectfully submitted,

_____/S/
Adebola Awofeso,
Senior Insurance Examiner

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

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

_____/S/
Adebola Awofeso

Subscribed and sworn to before me

this _____ day of _____, 2003.

Appointment No 22006

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:

Adebola Awofeso

as proper person to examine into the affairs of the

AXA ART INSURANCE CORPORATION

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

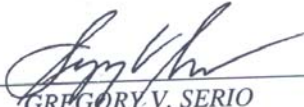
Corporation

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 10th day of February, 2003





GREGORY V. SERIO
Superintendent of Insurance