

REPORT ON EXAMINATION

OF THE

MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORPORATION

AS OF

DECEMBER 31, 2004

DATE OF REPORT

SEPTEMBER 16, 2005

EXAMINER

MOSES EGBON

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

September 16, 2005

Honorable Howard Mills
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 22276 dated January 12, 2005 attached hereto, I have made an examination into the condition and affairs of Motor Vehicle Accident Indemnification Corporation as of December 31, 2004, and submit the following report thereon.

Wherever the designations “the Corporation” or “MVAIC” appear herein without qualification, they should be understood to indicate Motor Vehicle Accident Indemnification Corporation.

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 110 William Street, New York, New York 10038.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1999. This examination covered the five year period from January 1, 2000 through December 31, 2004. 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, 2004. 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 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 ("NAIC"):

- 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 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 CORPORATION

MVAIC is a non-profit corporation created by the New York State legislature and is comprised of all motor vehicle liability insurers doing business in New York State. The Corporation's revenues are derived from assessments levied upon its member companies in proportion to their respective premium writings. It was created by enactment of Article 52 of the New York Insurance Law, entitled, "Motor Vehicle Accident Indemnification Corporation Act". The purpose of the Corporation, as set forth in Section 5201(b) of the New York Insurance Law, is to provide compensation for injury or death to persons who, through no fault of their own, were involved in motor vehicle accidents occurring in New York State on or after January 1, 1959, caused by:

1. Uninsured motor vehicles registered in a state other than New York;
2. Unidentified motor vehicles which leave the scene of the accident;
3. Motor vehicles registered in New York State, which did not have a policy of liability insurance in effect at the time of the accident;
4. Stolen motor vehicles;
5. Motor vehicles operated without the permission of the owner;
6. Insured motor vehicles where the insurer disclaims liability or denies coverages;
7. Unregistered motor vehicles.

From January 1, 1959 through July 1, 1965, anyone involved in an accident caused by any of the above was entitled to proceed with a claim against MVAIC. Effective July 1, 1965, Section 3420(f)(1) of the New York Insurance Law requires an individual's automobile insurance policy to include an uninsured motorist endorsement. Thus, claims of insured individuals which were previously the responsibility of MVAIC, now rest with the individual's own insurer.

Effective July 16, 1995, the New York State Legislature amended Section 3420(f)(1) of the New York Insurance Law to increase the New York financial responsibility limits from \$10,000 per person and \$20,000 per accident to \$25,000 per person and \$50,000 per accident. These limits are equally applicable to uninsured claims submitted to MVAIC. This law was effective for accidents occurring after January 1, 1996.

Pursuant to the 1977 Automobile Reform Act (Chapter 892 of the Laws of 1977), MVAIC was required to provide no-fault benefits to qualified persons who are victims of uninsured motor vehicle accidents in New York State on or after December 1, 1977. Protection was also extended to pedestrians injured by insured motorcycles. Beginning July 23, 1982, such pedestrians who are insured individuals receive no-fault benefits from their own insurer and not MVAIC. Effective July 22, 1989, the New York State Legislature amended Section 5208(a)(1) of the New York Insurance Law to extend the time in which a claimant must file an affidavit of “intention to make claim” with the Corporation for accidents wherein the defendant is identifiable.

A. Management

Pursuant to the Company’s charter and by-laws, management of the Company is vested in a board of directors consisting of nine persons: seven members representing motor vehicle liability insurers and two members representing the public. The industry directors are elected from the member corporations and the public members are appointed by the Superintendent of Insurance with one of such director being an insurance broker and agent and the other director having no affiliation with insurers or insurance producers.

As of December 31, 2004, the Corporation’s board consisted of eight members. One of the two positions on the board, which is to be filled by a public member appointed by the Superintendent, has remained vacant.

At December 31, 2004, the board of directors was comprised of the following eight members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Gerald M. Curran Woodbury, NY	Assistance Vice President - Underwriting, GEICO Insurance Company
Dean Barry Melville, NY	Claims Manager, State Farm Insurance Company
Maura Clancy Garden City, NY	Public Member, Clancy and Clancy Brokerage Ltd.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Richard P. Creedon Utica, New York	Senior Vice President-General Counsel, Utica National Insurance Group
Scott D. Kantor Elmsford, New York	New York Regional Underwriting and Marketing Manager, Liberty Mutual Insurance Group
Margo Palermo Lake Success, NY	Claim Field Director, Allstate Insurance Company
V. Daniel Robinson II Edmeston, NY	President and CEO, New York Central Mutual Fire Ins. Co.
Greg Toczydlowski Hartford, CT	Senior Vice President, Auto and Property Product Personal Lines, St. Paul Travelers

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.

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

<u>Name</u>	<u>Title</u>
Jeffrey A. Rubinton	President and Chief Executive Officer
Victor Fetaya	Chief Financial Officer, Secretary and Treasurer

B. Territory and Plan of Operation

As of December 31, 2004, the Company was licensed to write business in New York only. MVAIC was created by act of the New York State Legislature to provide uninsured motorist liability and no-fault basic economic loss benefits to New York residents who are victims of uninsured motor vehicle accidents occurring in New York State. The Corporation will provide similar benefits to residents of other states or countries if those localities provide comparable coverage to New York residents injured in their jurisdiction. Currently, MVAIC has signed reciprocity agreements with the following jurisdictions:

Maryland
 Michigan
 New Jersey
 Ontario, Canada
 Quebec, Canada

Informal understandings have been reached with Pennsylvania and British Columbia, in Canada.

C. Abandoned Property Law

Section 1316 of the New York State Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed 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. However, MVAIC was created by an act of the legislature to operate as a non-profit entity for the purpose of protecting innocent accident victims of financially irresponsible motorists. Acting under this mandate, the Corporation functions as a quasi-state organization and as such is not required to escheat abandoned funds to the Office of the State Comptroller. Therefore, MVAIC recognizes as income any checks of claimants, health providers and other payees that have not been cashed for more than six years.

D. Significant Operating Ratios

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

Assessments to Surplus as regards policyholders	3:1
Liabilities to liquid assets (cash and invested assets less investment in affiliates)	84.01%
Assessments receivable to Surplus as regards policyholders	**

** The ratio of "Assessments receivable to surplus" was not computed due to the non-admissibility of assessments receivable.

The underwriting 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	\$160,102,993	111%
Net underwriting gain (loss)	<u>(15,800,380)</u>	<u>(11)</u>
Assessments earned	<u>\$144,302,613</u>	<u>100%</u>

E. Accounts and Records

Due to the unique nature of MVAIC's business, it was determined that the NAIC annual statement blank was not applicable to its operations. Section 307(a)(1) and Article 52 of the New York Insurance Law provides that the Department has discretion in determining the form and timing of the Corporation's annual filing of financial statements. Therefore, the Department and MVAIC agreed that MVAIC would file, by March 1 of each year, a CPA audited financial statement, an internal control letter, and an actuarial report. Additionally, MVAIC would file, by June 1 of each year, an annual report with executed jurat page, and Schedules D and DA.

A review of the Corporation's annual filings indicated that all of the required items were filed at the same time on or around June 1 of each year. It is recommended that the Corporation file its financial statements, in the agreed upon format, pursuant to the timeframes prescribed by this Department.

F. Disaster Recovery Plan

The Corporation does not have a formal written disaster recovery plan to ensure that its services and resources can be restored in the event of a disaster. It is recommended that the Corporation establish a formal written disaster recovery plan.

G. Custodian Agreement

As of the examination date, the Corporation's securities were held with a bank pursuant to a custodian agreement. A review of the agreement showed that it lacked the following safeguards and controls required by the National Association of Insurance Commissioners'

Handbook:

1. That during regular business hours, and upon reasonable notice, an officer or employee of the insurance company, an independent accountant selected by the insurance company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, its records relating to securities, if the custodian is given written instructions to that effect from an authorized officer of the insurance company
2. That the custodian shall secure and maintain insurance protection in an adequate amount.

It is recommended that the Corporation amend its custodian agreement to include the above provisions in compliance with National Association of Insurance Commissioners' Handbook Part-1 Section IV (J).

3. FINANCIAL STATEMENTS

A Balance Sheet

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

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$54,413,313	\$	\$54,413,313
Short-term investments	15,346,790		15,346,790
Cash, cash equivalents	1,908,174		1,908,174
Investment income due and accrued	522,603		522,603
Other investment assets	121,022		121,022
Assessments receivable	<u>2,740,721</u>	<u>2,740,154</u>	<u>567</u>
Total assets	<u>\$75,052,623</u>	<u>2,740,154</u>	<u>\$72,312,469</u>
<u>Liabilities</u>			
Losses and loss adjustment expenses			\$57,095,911
Reserves -FASB 106			2,706,060
Assessment income deferred			139,240
Uncashed checks			<u>806,957</u>
Total liabilities			<u>\$60,748,168</u>
<u>Surplus and Other Funds</u>			
Unassigned funds (surplus)		<u>11,564,301</u>	
Surplus as regards policyholders			<u>11,564,301</u>
Total liabilities, surplus and other funds			<u>\$72,312,469</u>

NOTE: The Corporation is exempt from federal and state income taxes.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$1,232,708 during the five year examination period January 1, 2000 through December 31, 2004, detailed as follows:

Underwriting Income

Assessment income earned		\$144,302,613
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Deductions:

Losses and loss adjustment expenses incurred	<u>\$160,102,993</u>	
Total underwriting deductions		<u>160,102,993</u>

Net underwriting gain or (loss)		\$(15,800,380)
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Investment Income

Net investment income earned	<u>\$14,815,001</u>	
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Net investment gain or (loss)		14,815,001
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Other Income

Amounts uncollectible and charged off	<u>\$630,527</u>	
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Total other income		<u>630,527</u>
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Net Income (loss)		<u>\$(354,852)</u>
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Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 1999			\$10,331,593
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income		\$354,852	
Net unrealized capital gains or (losses)	<u>\$1,587,560</u>	<u>0</u>	
Total gains and losses	<u>\$1,587,560</u>	<u>\$354,852</u>	
Net increase (decrease) in surplus as regards policyholders			<u>1,232,708</u>
Surplus as regards policyholders per report on examination as of December 31, 2004			<u>\$11,564,301</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$57,095,911 is the same as reported by the Company as of December 31, 2004. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the 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 obligations to 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 Corporation in the claims and complaint handling. No problem areas were encountered.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained one comment and eight recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A <u>Management</u></p> <p>As of December 31, 1999, the Corporation's board of directors consisted of eight members. One of the two positions on the board to be filled by a public member appointed by the superintendent remains vacant.</p> <p>The appointed position remains vacant as of the current date. A similar comment is contained herein.</p>	<p>5</p>
<p>B <u>Conflict of Interest</u></p> <p>It was recommended that the Corporation require all of its directors and officers to complete conflict of interest statements on an annual basis and retain such statements for record purposes.</p> <p>The Corporation has complied with this recommendation.</p>	<p>6</p>
<p>C. <u>Custodian Agreement</u></p> <p>It was recommended that the Corporation amend its custodian agreement to include the provisions deemed by this Department to be representative of good business practices for the contents of such agreements.</p> <p>The Corporation has not complied with this recommendation. A similar recommendation is included in this report.</p>	<p>9</p>
<p>D. <u>Accounts and Records</u></p> <p>It was recommended that MVAIC submit an annual report to the superintendent by March 1, of each year, amended to include a jurat page and a Schedule D and Schedule DA, in order to comply with Section 307(a) of the New York Insurance Law.</p> <p>The Corporation has not complied with this recommendation. A similar recommendation is included in this report.</p>	<p>10</p>

<u>ITEM</u>	<u>PAGE NO.</u>
E.	
<u>Internal Control</u>	
i. <u>Loss and Benefit Cycle</u>	
(a)	11
It was recommended that the Corporation continue to correct or reconcile existing data conversion problems.	
The Corporation has complied with this recommendation.	
(b)	11
It was recommended that the Corporation amend its “Tort and No- Fault Best Practices” manuals to include more precise reserving methods.	
The Corporation has complied with this recommendation.	
ii. <u>Investment Cycle</u>	
It was recommended that the Corporation adhere to its check signing procedures in order to maintain proper safeguards and control of its cash account.	12
The Corporation has complied with this recommendation.	
iii <u>Disaster Recovery Plan</u>	
It was recommended that the Corporation establish a formal written agreement with its hardware software vendor to ensure that such entity will provide service and resources to the Corporation in the event of a disaster.	12
The Corporation has not complied with the above recommendation and it is repeated in this report herein.	

7. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>		<u>PAGE NO.</u>
A	<p><u>Management</u></p> <p>As of December 31, 2004, the Corporation's board of directors consisted of eight members. One of the two positions on the board which is to be filled by a public member appointed by the superintendent has remained vacant.</p>	4
B	<p><u>Accounts and Records</u></p> <p>It is recommended that the Corporation file its financial statements, in the agreed upon format, pursuant to the timeframes prescribed by this Department.</p>	7
C	<p><u>Disaster Recovery Plan</u></p> <p>It is recommended that the Corporation establish a formal written disaster recovery plan.</p>	7
D	<p><u>Custodian Agreement</u></p> <p>It is recommended that the Corporation amend its custodian agreement to include the above provisions in compliance with National Association of Insurance Commissioners' Handbook Part-1 Section IV (J).</p>	8

Appointment No 22276

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, HOWARD MILLS, Acting Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Moses Egbon

as proper person to examine into the affairs of the

MOTOR VEHICLE ACCIDENT INDEMNIFICATION 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 12th day of January, 2005



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

HOWARD MILLS
Acting Superintendent of Insurance