

REPORT ON EXAMINATION

OF THE

MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORPORATION

AS OF

DECEMBER 31, 2008

DATE OF REPORT

MAY 26, 2010

EXAMINER

ROBERT VARGAS

TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Corporation	3
	A. Management	4
	B. Territory and plan of operation	5
	C. Significant operating ratios	6
	D. Accounts and records	6
3.	Financial statements	8
	A. Balance sheet	8
	B. Underwriting and investment exhibit	9
4.	Losses and loss adjustment expenses	10
5.	Compliance with prior report on examination	11
6.	Summary of comments and recommendations	12



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

May 26, 2010

Honorable James J. Wrynn
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 30384 dated October 6, 2009, attached hereto, I have made an examination into the condition and affairs of Motor Vehicle Accident Indemnification Corporation as of December 31, 2008, 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 Corporation's home office located at 110 William Street, New York, New York 10038.

1. SCOPE OF EXAMINATION

The Department has performed an examination of Motor Vehicle Accident Indemnification Corporation. The previous examination was conducted as of December 31, 2004. This examination covered the four-year period from January 1, 2005 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 (“Handbook”), which requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Corporation by obtaining information about the Corporation including corporate governance, identifying and assessing inherent risks within the Corporation 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 Corporation were considered in accordance with the risk-focused examination process. The examiners also relied upon audit work performed by the Corporation’s independent public accountants when appropriate.

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

- Corporate history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Pensions and insurance plans
- Territory and plan of operation
- Growth of Corporation
- Loss experience
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Corporation 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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

2. DESCRIPTION OF CORPORATION

MVAIC is a non-profit corporation consisting of all insurers authorized in New York State that write motor vehicle liability insurance. It was created by enactment of Article 17-A (now 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 are involved, through no fault of their own, in accidents occurring in New York State on or after January 1, 1959, caused by any one of the following classes of motor vehicles:

- A. Uninsured out-of-state motor vehicles
- B. Unidentified motor vehicles which leave the scene of the accident
- C. Uninsured motor vehicles registered in New York State
- D. Stolen motor vehicles
- E. Motor vehicles operated without the permission of the owner
- F. Insured motor vehicles where the insurer disclaims liability or denies coverage
- G. 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 167, now 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 uninsured 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 Corporation’s charter and by-laws, its management 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, 2008, 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 was vacant. Subsequently, on January 1, 2010 the position was filled.

At December 31, 2008, the board of directors was comprised of the following eight members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Gerard M. Curran Saint James, NY	Assistant Vice-President - Underwriting, Geico Insurance Company
Margaret Palermo Malverne, NY	Claims Field Director –NY CSA, Allstate Insurance Company
Greg Tczydlowski North Grany, CT	Senior Vice-President, St. Paul Travelers
V. Daniel Robinson II Oneonta, NY	President and Chief Executive Officer, New York Central Mutual Fire Insurance Co.
Darryl B. Rahn New Hartford, CT	Assistant Vice-President of Liability Claims, Utica National Insurance Group
Jim DeVito Shaker Heights, OH	Product Manager, Progressive Insurance Company

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Virginia Gonzales South Setauket, NY	Claims Manager, State Farm Insurance Company
Maura Clancy Williston Park, NY	Public Member, Clancy & Clancy Brokerage Ltd.

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, 2008 the principal officer of the Corporation was as follows:

<u>Name</u>	<u>Title</u>
Jeffrey Rubinton	President and Chief Executive Officer

B. Territory and Plan of Operation

As of December 31, 2008, the Corporation administered claims for individuals without access to automobile insurance.

MVAIC was created by an 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 reciprocity agreements with the following jurisdictions:

Maryland
New Jersey
Michigan
Pennsylvania
Ontario, Canada
Quebec, Canada
British Columbia, Canada
New Brunswick, Canada
Nova Scotia, Canada

England
Norway

C. Significant Operating Ratios

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

Liabilities to liquid assets 0.9: 1

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	\$98,313,716	120%
Net underwriting gain (loss)	<u>(15,381,632)</u>	<u>(20)%</u>
Assessments earned	<u>\$82,392,084</u>	<u>100%</u>

D. Accounts and Records

Actuarial Analysis of Loss Adjustment Expense Reserves

A review of MVAIC's actuarial report as of December 31, 2008, disclosed errors that required revisions. The loss and allocated loss adjustment expense reserves were understated by \$40,000 for the prior accident years due to the omission of estimated unallocated loss adjustment expense reserves. The report was resubmitted with the above revision after notification by the Department. Notwithstanding the corrective action, it is recommended that the Corporation's actuary exercise greater care and ensure that all actuarial data and calculations are accurate and complete.

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) To the extent that certain information maintained by the custodian is relied upon by the insurance Corporation in preparation of its annual statement and

supporting schedules, the custodian agrees to maintain records sufficient to determine and verify such information.

2) That the custodian shall provide, upon written request from a regulator or an authorized officer of the insurance Corporation, the appropriate affidavits, with respect to the insurance Corporation's securities held by the custodian;

It is recommended that the Corporation amend its custodian agreement to include the above provisions in compliance with the National Association of Insurance Commissioners' Handbook.

3. FINANCIAL STATEMENTS

A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2008 as determined by this examination and as reported by the Corporation:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$68,936,989		\$68,936,989
Short-term investments	41,616		41,616
Cash and cash equivalents	2,177,389		2,177,389
Investment income due and accrued	600,735		600,735
Other assets	75,296		75,296
Assessments receivable	7,846		7,846
Fixed assets, net	413,346	0	413,346
Total assets	<u>\$72,253,217</u>	<u>\$0</u>	<u>\$72,253,217</u>
 <u>Liabilities, Surplus and Other Funds</u>			
 <u>Liabilities</u>			
Losses and loss adjustment expenses			\$59,216,053
Reserves -FASB 106 (Accrued pension and postretirement benefits)			3,577,086
Assessment income deferred			36,692
Other liabilities			341,114
Uncashed checks			<u>1,211,493</u>
Total liabilities			\$64,382,438
 <u>Surplus and Other Funds</u>			
Unassigned funds (surplus)		<u>\$7,870,779</u>	
Surplus as regards policyholders			<u>7,870,779</u>
Total liabilities, surplus and other funds			<u>\$72,253,217</u>

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

B. Underwriting and Investment Exhibit

Surplus as regards policyholders decreased \$3,693,522 during the four-year examination period January 1, 2005 through December 31, 2008, detailed as follows:

Underwriting Income

Assessment income earned		\$82,932,084
Deductions:		
Losses and loss adjustment expenses incurred	98,313,716	
Total underwriting deductions		<u>98,313,716</u>
Net underwriting gain or (loss)		\$(15,381,632)

Investment Income

Net investment income earned	<u>\$11,818,028</u>	
Net investment gain or (loss)		<u>11,818,028</u>
Net income (loss) after dividends to policyholders but before federal and foreign income taxes		\$(3,563,604)
Federal and foreign income taxes incurred		<u>0</u>
Net income (loss)		<u>\$(3,563,604)</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on examination as of December 31, 2004			\$11,564,301
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss		\$3,563,604	
Change in additional minimum pension liability		21,295	
Change due to adoption of FAS 158 (Pension plan adjustment)	\$ 0	<u>108,623</u>	
Total gains and losses	<u>\$ 0</u>	<u>\$3,693,522</u>	
Net increase (decrease) in surplus as regards policyholders			<u>(3,693,522)</u>
Surplus as regards policyholders per report on examination as of December 31, 2008			<u>\$7,870,779</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$59,216,053 is the same as reported by the Corporation 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 Corporation's internal records and in its filed annual statements.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained four 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, 2004, 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 has remained vacant.</p> <p>As of December 31, 2008 the open position still remained vacant. Subsequently, on January 1, 2010 the position was filled.</p>	<p>5</p>
<p>B. <u>Accounts and Records</u></p> <p>It was recommended that the Corporation file its financial statements, in the agreed-upon format, pursuant to the timeframes prescribed by this Department.</p> <p>The Corporation has complied with this recommendation.</p>	<p>7</p>
<p>C. <u>Disaster Recovery</u></p> <p>It was recommended that the Corporation establish a formal written disaster recovery plan.</p> <p>The Corporation has complied with this recommendation.</p>	<p>7</p>
<p>D. <u>Custodian Agreement</u></p> <p>It was recommended that the Corporation amend its custodian agreement to include the above provisions in compliance with the National Association of Insurance Commissioners' Handbook Part-1 Section IV (J).</p> <p>The Corporation has complied with this recommendation.</p>	<p>7</p>

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Actuarial Analysis of Loss Adjustment Expense Reserves</u>	
	It is recommended that the Corporation's actuary exercise greater care and ensure that all actuarial data and calculations are accurate and complete.	6
B.	<u>Custodian Agreement</u>	
	It is recommended that the Corporation amend its custodian agreement to include the above provisions in compliance with the National Association of Insurance Commissioners Handbook.	7

Respectfully submitted,

Robert Vargas, CPA
Sr. Insurance Examiner

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

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

Robert Vargas, CPA

Subscribed and sworn to before me

this _____ day of _____, 2010

Appointment No. 30384

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, James J. Wrynn Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Robert Vargas

as proper person to examine into the affairs of the

MOTOR VEHICLE ACCIDENT INDEMNITY 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 6th day of October, 2009



James J. Wrynn

JAMES J. WRYNN
Superintendent of Insurance