



**REPORT ON EXAMINATION  
OF  
CHERRY VALLEY COOPERATIVE INSURANCE COMPANY  
AS OF DECEMBER 31, 2018**

**EXAMINER:  
DATE OF REPORT:**

**SUSAN WEIJOLA  
JUNE 18, 2020**

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KATHY HOCHUL  
Governor



ADRIENNE A. HARRIS  
Superintendent

January 2, 2024

Honorable Adrienne A. Harris  
Superintendent  
New York State Department of Financial Services  
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 31965 dated September 8, 2019, attached hereto, I have made an examination into the condition and affairs of Cherry Valley Cooperative Insurance Company as of December 31, 2018, and submit the following report thereon.

Wherever the designation "the Company" appears herein without qualification, it should be understood to indicate Cherry Valley Cooperative Insurance Company.

Wherever the term "Department" appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## 1. SCOPE OF EXAMINATION

The Department has performed an examination of Cherry Valley Cooperative Insurance Company, a single-state insurer. The previous examination was conducted as of December 31, 2013. This examination covered the five-year period from January 1, 2014 through December 31, 2018. 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, which requires that we plan and perform the examination to evaluate the financial condition and identify current and prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with New York laws, statutory accounting principles, and annual statement instructions.

This examination report includes, but is not limited to, the following:

- Company history
- Management and control
- Territory and plan of operation
- Reinsurance
- Affiliated group description
- Financial statement presentation
- Loss review and analysis
- Significant subsequent events
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company with regard to the 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 COMPANY

The Company was organized on April 17, 1880, for the purpose of transacting business as an assessment cooperative fire insurance company in the Towns of Cherry Valley, Roseboom, and Westfield in Otsego County of New York State.

By means of a charter amendment dated May 3, 1983, the Company changed its name to its current title and increased its territory to include all the counties of New York State, excluding the counties of Bronx, Kings, New York, Queens, and Richmond.

On April 1, 1985, the Company converted to an advance premium corporation. At the time of conversion, the Company became qualified to write non-assessable policies and extended its territory to include all of New York State.

### A. Corporate Governance

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 seven members. The board meets four times during each calendar year. At December 31, 2018, the board of directors was comprised of the following seven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Gordon Paul Assad East Aurora, New York	Retired
Donald Raymond Crosby Williamsville, New York	Retired
James Walter Fulmer LeRoy, New York	Chairman, Tompkins Insurance Agencies, Inc.
Robert Harmon Lowe Geneseo, New York	Retired
John Alan Noble LeRoy, New York	Vice President, Noblehurst Farms, Inc.
Norman John Orłowski, Jr. East Amherst, New York	Chief Executive Officer and President, Cherry Valley Cooperative Insurance Company Chief Executive Officer and President, Erie and Niagara Insurance Association
Linwood Dean Poelma East Amherst, New York	Retired

As of December 31, 2018, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Norman John Orłowski, Jr.	Chief Executive Officer and President
Maureen Ann Mulcahy	Vice President and Secretary
Gina Marie Cartenuto	Vice President and Treasurer

B. Territory and Plan of Operation

As of December 31, 2018, the Company was licensed to write business solely in New York.

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

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

The Company was also licensed to accept and cede reinsurance as provided in Section 6606 of the New York Insurance Law. Based on the lines of business for which the Company is licensed and pursuant to the requirements of Articles 13, 41, and 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$383,152.

The following schedule shows the direct written premiums and premiums assumed by the Company for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums</u>	<u>Assumed Premiums</u>	<u>Total Gross Premiums</u>
2014	\$211,807	\$202,535	\$414,342
2015	\$197,149	\$233,486	\$430,635
2016	\$191,294	\$391,928	\$583,222
2017	\$193,243	\$416,761	\$610,004
2018	\$208,089	\$312,319	\$520,408

The Company primarily writes umbrella policies that complement its affiliate, Erie and Niagara Insurance Association (“ENIA”), applicable personal and commercial lines of business. In 2018, E & N Financial Services (“ENFS”), a wholly owned subsidiary of ENIA, and one independent agent controlled approximately 74% and 26%, respectively, of the Company’s direct business.

The Company assumes business pursuant to its property per risk reinsurance assumption agreement with ENIA. In 2018, the Company agreed to indemnify ENIA the ultimate net loss paid by ENIA in excess of \$425,000 as a result of property losses, subject to a limit of \$25,000 each risk, each loss. This agreement was submitted to the Department for approval pursuant to Circular Letter No. 10 (2010).

### C. Reinsurance Ceded

The Company has structured its ceded reinsurance program as follows:

<u>Type of Treaty</u>	<u>Cession</u>
<u>Property</u> Excess of Loss (Three layers)	\$2,985,000 excess of \$15,000 each loss, each risk. Subject to a limit of liability to the reinsurer of \$5,000,000 each loss occurrence.
<u>Casualty</u> Excess of Loss (Three layers)	\$3,985,000 excess of \$15,000 each loss, each risk.
<u>Combined Property and Casualty</u> Excess of Loss	In the event of a loss occurrence involving at least one casualty and one property policy subject to the contract, the reinsurer shall be liable in respect of each loss occurrence for the ultimate net loss over and above an initial ultimate net loss of \$15,000 each loss occurrence subject to a limit of liability to the reinsurer of \$4,000,000 each loss occurrence.
<u>Property Catastrophe</u> Excess of Loss	\$200,000 excess of \$100,000 each loss occurrence. The reinsurer shall not be liable unless two or more risks are involved in the same occurrence.

The Company also has in place an umbrella facultative reinsurance contract. All significant ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the

required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law. All ceded business was to authorized reinsurers.

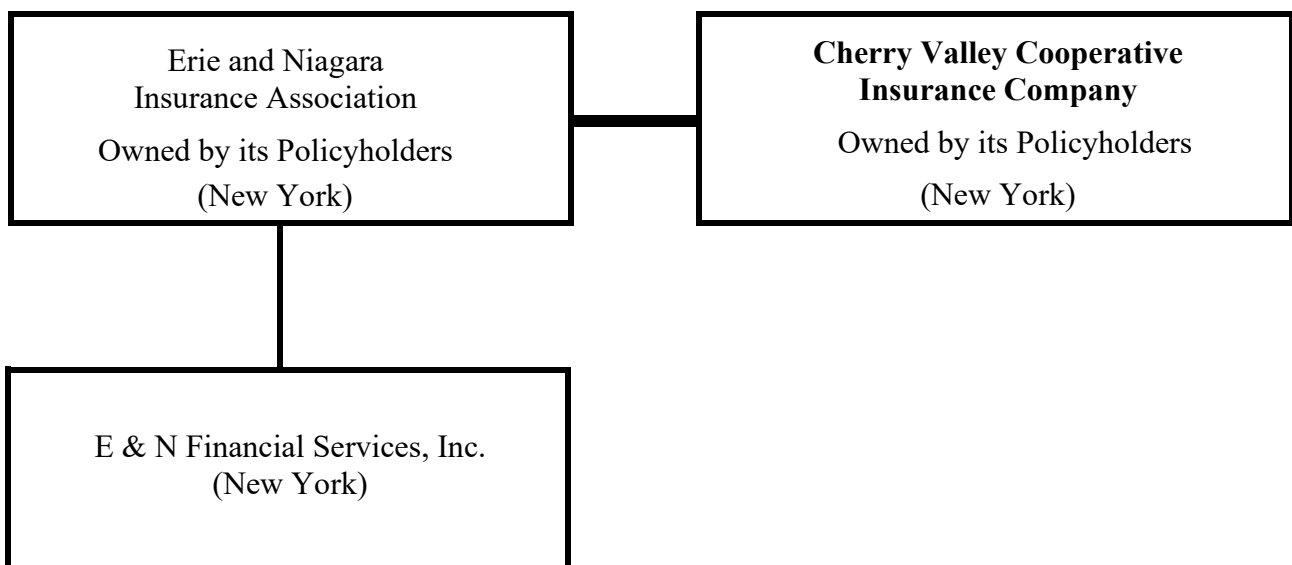
Examination review found that the Schedule F data reported by the Company in its filed annual statement accurately reflected its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in the NAIC Accounting Practices and Procedures Manual, Statement of Statutory Accounting Principles (“SSAP”) No. 62R. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer and Chief Financial Officer pursuant to the NAIC annual statement instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in SSAP No. 62R.

D. Affiliated Group

As of December 31, 2018, the Company was affiliated with the Erie and Niagara Insurance Association by virtue of common officers, directors, and management.

The holding company registration statements were filed with the Department pursuant to Circular Letter No. 10 (2010).

The following is an unabridged chart of the affiliated group at December 31, 2018:





At December 31, 2018, the Company was party to the following agreement with its affiliate:

Management Agreement

Effective January 1, 2010, the Company entered into an intercompany management and service agreement with its affiliate, ENIA, whereby all of the Company's administrative services are performed by ENIA. Expenses incurred and paid for by ENIA are to be allocated between the two companies in a manner consistent with Department Regulation 30. The agreement requires intercompany balances to be settled within 30 days. This Department issued a letter of non-objection relative to the implementation of the agreement on January 27, 2010.

E. Significant Ratios

The Company's operating ratios, computed as of December 31, 2018, fall within the benchmark ranges set forth in the Insurance Regulatory Information System of the NAIC.

<u>Operating Ratios</u>	<u>Result</u>
Net premiums written to policyholders' surplus	22%
Adjusted liabilities to liquid assets	27%
Two-year overall operating	84%

Underwriting Ratios

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

	<u>Amount</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$1,256,395	68.28%
Other underwriting expenses incurred	545,645	29.66%
Net underwriting gain (loss)	<u>37,964</u>	<u>2.06%</u>
Premiums earned	<u>\$1,840,004</u>	<u>100.00%</u>

The Company's reported risk-based capital ("RBC") score was 3,069.8% at December 31, 2018. The RBC score is a measure of the minimum amount of capital appropriate for a reporting entity to support its overall business operations in consideration of its size and risk profile. An RBC score of 200% or below can result in regulatory action. There were no financial adjustments in this report that impacted the Company's RBC score.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2018, as reported by the Company:

#### Assets

	<u>Assets</u>	<u>Assets not Admitted</u>	Net Admitted <u>Assets</u>
Bonds	\$1,487,896	\$ 0	\$1,487,896
Cash, cash equivalents and short-term investments	627,064		627,064
Investment income due and accrued	9,925		9,925
Uncollected premiums and agents' balances in the course of collection	74,397	60	74,337
Deferred premiums, agents' balances and installments booked but deferred and not yet due	2,411		2,411
Current federal and foreign income tax recoverable and interest thereon	792		792
Equities and deposits in pools and associations	319		319
Finance charges receivable	<u>65</u>	<u>65</u>	<u>0</u>
Total assets	<u>\$2,202,869</u>	<u>\$125</u>	<u>\$2,202,744</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and Loss Adjustment Expenses	\$ 474,612
Reinsurance payable on paid losses and loss adjustment expenses	25,000
Commissions payable, contingent commissions and other similar charges	2,890
Other expenses (excluding taxes, licenses and fees)	8,220
Taxes, licenses and fees (excluding federal and foreign income taxes)	364
Unearned premiums	27,391
Advance premium	7,429
Ceded reinsurance premiums payable (net of ceding commissions)	9,183
Amounts withheld or retained by company for account of others	(124)
Remittances and items not allocated	275
Payable to parent, subsidiaries and affiliates	13,941
Total liabilities	\$ 569,181

Surplus and Other Funds

Special contingent surplus	\$ 384,552
Unassigned funds (surplus)	<u>1,249,011</u>
Surplus as regards policyholders	<u>\$1,633,563</u>
Total liabilities, surplus and other funds	<u>\$2,202,744</u>

Note: The Internal Revenue Service has not audited tax returns covering tax years 2014 through 2018. 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. Statement of Income

The net income for the examination period as reported by the Company was \$110,112, as detailed below:

Underwriting Income

Premiums earned		\$1,840,004
Deductions:		
Losses and loss adjustment expenses incurred	\$1,256,395	
Other underwriting expenses incurred	<u>545,645</u>	
Total underwriting deductions		<u>1,802,040</u>
Net underwriting gain or (loss)		\$ 37,964

Investment Income

Net investment income earned	\$ <u>75,656</u>	
Net investment gain or (loss)		75,656

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ (1,097)	
Finance and service charges not included in premiums	6,840	
Miscellaneous expense	<u>(41)</u>	
Total other income		<u>5,702</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$ 119,322
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$ 119,322
Federal and foreign income taxes incurred		<u>9,208</u>
Net income		<u>\$110,112*</u>

\* Rounding difference of \$2

C. Capital and Surplus

Surplus as regards policyholders increased \$110,072 during the five-year examination period January 1, 2014 through December 31, 2018, as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2013			\$1,523,491
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$110,112		
Change in nonadmitted assets	<u>0</u>	<u>\$40</u>	
Total gains and losses	\$110,112	\$40	
Net increase (decrease) in surplus			<u>110,072</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2018			<u>\$1,633,563</u>

No adjustments were made to surplus as a result of this examination.

#### 4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$474,612 is the same as reported by the Company as of December 31, 2018. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with actuarial standards of practice and statutory accounting principles, including SSAP No. 55.

#### 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Accounts and Records</u>	
i. It was recommended that the Company implement and/ or follow its established procedures to ensure compliance with Section 6613(a) of the New York Insurance Law in the future.	10
The Company has complied with this recommendation.	
ii. It was recommended that the Company comply with the requirements of Section 1409(a) of the New York Insurance Law by limiting investments in any one institution to ten percent of admitted assets.	10
The Company has complied with this recommendation.	

#### 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

This report on examination does not contain any comments or recommendations.

Respectfully submitted,

\_\_\_\_\_/S/\_\_\_\_\_  
Susan Weijola, CPCU  
Associate Insurance Examiner

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

Susan Weijola, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/S/\_\_\_\_\_  
Susan Weijola

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

APPOINTMENT NO. 31965

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, Linda A. Lacewell, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

**Susan Weijola**

as a proper person to examine the affairs of the

**Cherry Valley Cooperative Insurance Company**

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

**COMPANY**

with such other information as she shall deem requisite.

In Witness Whereof, I have hereunto subscribed by name  
and affixed the official Seal of the Department  
at the City of New York

this 8th day of September, 2019

LINDA A. LACEWELL  
Superintendent of Financial Services



By:

*Joan P. Riddell*

Joan Riddell  
Deputy Bureau Chief