

REPORT ON EXAMINATION

OF THE

NEW YORK MARINE AND GENERAL INSURANCE COMPANY

AS OF

DECEMBER 31, 2010

DATE OF REPORT

MAY 25, 2012

EXAMINER

DILBRINA BELGRAVE

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

May 25, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
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 30626 dated January 4, 2011, attached hereto, I have made an examination into the condition and affairs of New York Marine and General Insurance Company as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate New York Marine and General Insurance Company.

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

The examination was conducted at the Company’s administrative office located at 412 Mt. Kemble Avenue, Suite 300C, Morristown, NJ 07960.

## 1. SCOPE OF EXAMINATION

The Department has performed an individual examination of the Company, a multi-state insurer. The previous examination was conducted as of December 31, 2005. This examination covered the five year period from January 1, 2006 through December 31, 2010. 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 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 Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process. The examiners also relied upon audit work performed by the Company’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:

- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Territory and plan of operation
- Growth of Company
- Loss experience
- Reinsurance
- Financial statements
- Summary of recommendations

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 that involve departures from laws, regulations or rules, or that are deemed to require explanation or description.

The Company was examined concurrently with its subsidiary, Gotham Insurance Company (“Gotham”). A separate report thereon has been rendered.

## **2. DESCRIPTION OF COMPANY**

The Company was incorporated as New York Marine Insurance Company on March 22, 1972, under the laws of New York and began business on July 1<sup>st</sup> of that year. The present corporate title, New York Marine and General Insurance Company, was adopted on September 12, 1979.

NYMAGIC, Inc. (“NYMAGIC”), an insurance holding company, has held all of the Company’s outstanding shares of common stock since 1989.

On November 24, 2010, NYMAGIC's outstanding stock was purchased through a joint venture by GS Capital Partners and TPG Capital. At the close of this transaction NYMAGIC's name was changed to ProSight Specialty Insurance Group, Inc. (“ProSight”), and all NYMAGIC's publicly held shares were retired. The acquisition is described in more detail in Item 2D herein, “Holding Company System.”

Common capital stock is \$8,827,889 consisting of 8,827,889 shares of \$1 par value per share common stock. Gross paid in and contributed surplus is \$85,818,915. In 2008 the Company received a surplus contribution from NYMAGIC, in the amount of \$32,500,000. Gross paid in and contributed surplus increased during the examination period, as follows:

<u>Year</u>	<u>Description</u>	<u>Amount</u>
2005	Beginning gross paid in and contributed surplus	\$53,318,915
2008	Surplus contribution	<u>\$32,500,000</u>
2010	Ending gross paid in and contributed surplus	<u>\$85,818,915</u>

A. Management

The Company and an affiliate, ProSight Specialty Management Company, Inc. (“PSMC”), formerly known as Mutual Marine Office, Inc., are parties to a service agreement. Under this agreement PSMC supplies all services and facilities necessary for Company operations. The agreement is described in more detail in Item 2D herein, “Holding Company System.”

Pursuant to the Company’s charter and by-laws, management of the Company is vested in a board of directors consisting of not less thirteen nor more than nineteen members. The board meets at least quarterly during each calendar year. At December 31, 2010, the board of directors was comprised of the following thirteen members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Anthony Arnold New York, NY	Vice President, Goldman Sachs & Co.
Robert Bailey Petaluma, CA	Chief Underwriting Officer New York Marine and General Insurance Company
Joseph Beneducci Far Hills, NJ	Chairman, President and CEO, New York Marine and General Insurance Company
Steven Carlsen Chappaqua, NY	President, Shadowbrook Advising, Inc.
Henry Cornell New York, NY	Managing Director, Goldman, Sachs & Co.
Clement Dwyer, Portsmouth, NH	President, URSA Advisors, Inc.
Jonathan Garfinkel San Francisco, CA	Principal TPG Capital, L.P.
Lawrence Hannon, Tewsbury, NJ	US Field Operations Officer, New York Marine and General Insurance Company
Paul Joseph Hart, Morristown, NJ	Chief Legal Officer, New York Marine and General Insurance Company
Thomas Iacopelli, Irvington, NY	Chief Financial Officer, New York Marine and General Insurance Company

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Sumit Rajpal, New York, NY	Managing Director, Goldman, Sachs & Co.
Richard Schifter New York, NY	Managing Partner TPG Capital, L.P.
Bruce Schnitzer, New York, NY	Chairman and Managing Director, Wand Partner, Inc.

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended with the exception of Henry Cornell, who attended less than 50% of the meetings for which they were eligible to attend.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the insurer. It is essential that board members attend meetings consistently and set forth their views on relevant matters so that the board may reach appropriate decisions. Individuals who fail to attend at least one-half of the regular meetings do not fulfill such criteria. It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

As of December 31, 2010, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Joseph Beneducci	President and Chief Executive Officer
Paul Hart	Secretary
Thomas Iacopelli	Treasurer

B. Territory and Plan of Operation

As of December 31, 2010, the Company was licensed to write business in all fifty states, Puerto Rico and the US Virgin Islands.

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
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
11	Animal
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
17	Credit
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine
21	Marine protection and indemnity

The Company is empowered to transact such workers' compensation insurance as may be incident to coverages contemplated under paragraphs 20 and 21 of Section 1113(a) of the New York Insurance Law, including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Congress as amended; 33 USC Section 901 et seq. as amended) and as authorized by Section 4102(c) of the New York Insurance Law, reinsurance of every kind or description.

It was noted that the Company's license to write Special Risk Insurance pursuant to Article 63 of the New York Law lapsed for the period of September 1, 2010 to July 31, 2011. During this period, the Company issued 4,976 special risk policies with total direct premiums of \$15,322,537. Section 6302 of the New York Insurance Law requires companies writing business defined in this section to obtain a special risk license. It is recommended that the Company obtain and maintain its special risk license pursuant to Section 6302 of the New York Insurance Law.

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, New York Marine is required to maintain a minimum surplus to policyholders in the amount of \$35,000,000. Surplus to policyholders as of December 31, 2010 was \$185,484,310.

The following schedule shows the direct premiums written by the Company both in total and in New York for the period under examination:

<u>Calendar Year</u>	<u>Direct Premiums Written ("DPW")</u>		<u>% of Total DPW in New York</u>
	<u>New York State</u>	<u>Total DPW</u>	
2006	\$65,503,549	\$183,290,138	35.7%
2007	\$46,836,203	\$179,714,293	26.1%
2008	\$48,498,333	\$164,797,461	29.4%
2009	\$36,469,462	\$150,809,578	24.2%
2010	\$36,587,478	\$157,066,528	23.3%

The Company is primarily a casualty underwriter with a majority of its premiums attributable to marine liability, excess workers' compensation, professional liability and commercial liability, written on both a primary and reinsurance basis. Business is written through New York Marine's participation in insurance underwriting pools managed by PSMC and its affiliates (Mutual Marine Office of the Midwest, Inc. and Pacific Mutual Marine Office, Inc.). Since January 1, 1997, the Company has increased its participation to 100% in all lines of business produced by the pools. This arrangement is described in Item 2(D), herein.

#### C. Reinsurance

##### Assumed

Assumed reinsurance accounted for 27.9% of the Company's gross premium written at December 31, 2010. Approximately 89% of total assumed was generated from the Company's subsidiaries, Gotham Insurance Company ("Gotham") and Southwest Marine and General Insurance Company, pursuant to inter-company reinsurance agreements. During the period covered by this examination, the Company's assumed reinsurance business from affiliates has increased while its assumptions from non-affiliates have decreased since the last examination. The Company's assumed reinsurance program consists mainly of fire, ocean marine and professional and contractor's liability pursuant to treaty agreements with both authorized and unauthorized cedents. The Company utilizes reinsurance accounting as defined in the NAIC Accounting Practices and Procedures Manual Statements of Statutory Accounting Principle ("SSAP") No. 62 for all of its assumed reinsurance business.

Under an inter-company reinsurance agreement with Gotham, effective since January 1, 1987, the Company assumes 100% of Gotham's direct business then cedes 15% of its net retained business back to Gotham. This agreement was submitted to the Department pursuant to Section 1505(d)(3) of the New York Insurance Law and was non-disapproved. During 2010, cessions to Gotham accounted for approximately 32.6% of the Company's total ceded premium.

### Ceded

The company has structured its ceded reinsurance program as follows:

#### Marine and Energy:

<u>Marine Mainframe excess of loss</u> (Covers net exposure retention associated with marine liabilities, energy, war, hull and cargo)	<ol style="list-style-type: none"> <li>1. \$1 million excess of \$1 million per risk, per occurrence; max indemnity \$3 million (ex. Liability); \$8 million (Liability).</li> <li>2. \$3 million excess of \$2 million per risk, per occurrence; max indemnity \$6 million.</li> <li>3. \$5 million excess of \$5 million per risk, per occurrence; max indemnity \$20 million.</li> <li>4. \$10 million excess of \$10 million per risk, per occurrence; max indemnity \$30 million.</li> <li>5. \$20 million excess of \$20 million per risk, per occurrence; max indemnity \$40 million.</li> <li>6. \$30 million excess of \$40 million per risk, per occurrence; max indemnity \$60 million.</li> <li>7. \$10 million excess of \$70 million per risk, per occurrence; max indemnity \$20 million.</li> </ol>
<u>Energy Quota Share</u> (all energy risks)	<p>80% of \$5 million (Gulf wind)  80% of \$10 million (Gulf non-wind)  80% of \$12.5 million (Rest of the world); limit \$37.5 million, all occurrences.</p>
<u>Cargo Reporter Excess of Loss</u> (Cargo risks)	\$17.5 million excess of \$2.5 million.
<u>War Cargo Surplus Share</u>	Surplus share up to \$3 million surplus of \$2 million.
<u>War Cargo Excess of Loss</u>	\$25 million excess of \$5 million (attaches above War Cargo Surplus Share Treaty).
<u>War Hull Surplus Share</u>	Surplus share up to \$20 million surplus of \$2 million.

Aviation:

<u>Aviation - ARC</u>	\$5 million excess of \$2.5 million, with maximum limits of: \$1 million any one aircraft (aircraft physical damage) \$1 million per aircraft or occurrence (general aviation liability) \$300,000 any one person (passenger liability) \$50,000 per person (medical payments)
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Commercial Property and Inland Marine:

<u>MMO in House Quota Share and Excess of Loss</u> (E&S Commercial Property and Inland Marine and commercial real estate in NY, PA, and CT)	45.5% quota share of the first \$1 million. \$9 million excess of \$1 million per risk, limit \$18 million per occurrence.
<u>PBC Restaurant Program Quota Share</u>	70% quota share of \$2 million.
<u>Maximum Independent Brokerage (DMI) Quota Share</u>	50% quota share of \$1 million.

Non-Marine Liability (Occurrence Form):

<u>Equipment Breakdown (Boiler and Machinery) Quota Share</u>	100% quota share of \$5 million.
<u>MMO in House – Casualty Facultative</u> (Primary CGL and Umbrella)	Up to 70% of \$5 million excess of \$1 million
<u>MMO Agencies Quota Share</u> (Primary CGL and Umbrella)	50% quota share of \$1.5 million.

Professional Liability:

<u>MMO in House – Professional Liability Excess of Loss</u> (Claims Made Miscellaneous E&O)	80% of \$1 million excess of \$1 million (excess of first instance of \$1 million excess of \$1 million AAD) 80% of \$3 million excess of \$2 million.
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Non-Marine Liability (Claims-Made):

<u>Interstate Risk Insurance Services Excess of Loss</u> (Lawyers professional liability)	75% of \$1.5 million excess of \$0.5 million. 75% of \$3 million excess of \$2 million.
<u>IPISC Quota Share</u> (Patent enforcement and abatement)	50% quota share of \$5 million.

<u>Midlands</u> (Excess Workers' Compensation)	\$5 million excess of \$5 million (\$5 million maximum any one life). \$20 million excess of \$10 million (\$10 million maximum any one life). \$20 million excess of \$30 million (\$10 million maximum any one life). 100% of the first \$5 million of excess employers' liability claims above the insured's self insured retention.
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Commercial Auto:

<u>NTA Trucking Excess of Loss</u> (auto liability and general liability)	90% of \$0.5 million excess of \$0.5 million.
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The Company has structured its ceded reinsurance program to limit its maximum exposure to any one risk to \$8,000,000. During the period covered by this examination, the maximum exposure has ranged from \$4,000,000 to \$8,000,000. Maximum exposure is limited through the use of various excess of loss, quota share and occasionally facultative reinsurance agreements written through its affiliate Mutual Marine Office, Inc.

As of the examination date the majority of the Company's cessions, approximately 70%, were ceded to authorized reinsurers. This represents a change from the prior report on examination where cessions to authorized reinsurers represented 89% of total ceded business.

It is the Company's policy to obtain the appropriate collateral for its cessions to unauthorized reinsurers. Letters of credit and trust accounts obtained by the Company to take credit for cessions to unauthorized reinsurers were reviewed for compliance with Department Regulations 133 and 114, respectively.

Upon review of the Company's letters of credit, it was noted that one of its letters of credit did not state that it was clean, irrevocable and unconditional as required by Part 79.2(b) of Department Regulation 133. The letter of credit was subsequently amended to include the required language.

The Company utilizes the services of reinsurance intermediaries to facilitate its cessions in the market. It was noted that the Company has no written agreements with any of its reinsurance intermediaries. Part 125.6(a)(2) of Department Regulation 20 states in part, a ceding insurer obtains reinsurance through a reinsurance intermediary, the ceding insurer shall obtain a written agreement from the reinsurance intermediary. It is recommended that the Company enter into formal written

agreements with its reinsurance intermediaries in accordance with Part 125.6(a)(2) of Department Regulation No. 20.

Examination review of the Schedule F data reported by the Company in its filed annual statement revealed that the Company did not accurately reflect its reinsurance transactions with respect to commutations of ceded reinsurance agreements.

In prior years, the Company commuted various ceded reinsurance agreements. The Company's method of accounting for the commuted treaties has been to show the reinsurance recoverable balances as if the treaty were still in effect and report a funds held liability for the cash received from the reinsurers for the commuted losses. As losses are paid that would have been covered by the commuted treaties, the Company makes an entry to credit the reinsurance recoverable and debit the funds held liability. For treaties where the funds held is less than the total reinsurance recoverable amount, the Company reports a liability under the caption "Provision for reinsurance" for the difference. As of the examination date, the Company reported total recoverable balances (including IBNR and ULE) on commuted treaties in the amount of \$8.1 million; funds held in the amount \$7.9 million and a provision for reinsurance in the amount of \$5.3 million.

The accounting treatment used by the Company to account for commuted reinsurance agreements is contrary to the provisions of paragraph 61 of SSAP 62R, which states:

"In commutation agreements, an agreed upon amount determined by the parties is paid by the reinsurer to the ceding entity. The ceding entity immediately eliminates the reinsurance recoverable recorded against the ultimate loss reserve and records the cash received as a negative paid loss. Any net gain or loss shall be reported in underwriting income in the statement of income".

It does not appear that the incorrect accounting had a material effect on the Company's reported surplus; therefore, no change has been made to the financial statements in this report for the commuted reinsurance agreements. However, it is recommended that the Company account for commuted reinsurance agreements pursuant to the provisions of SSAP 62R.

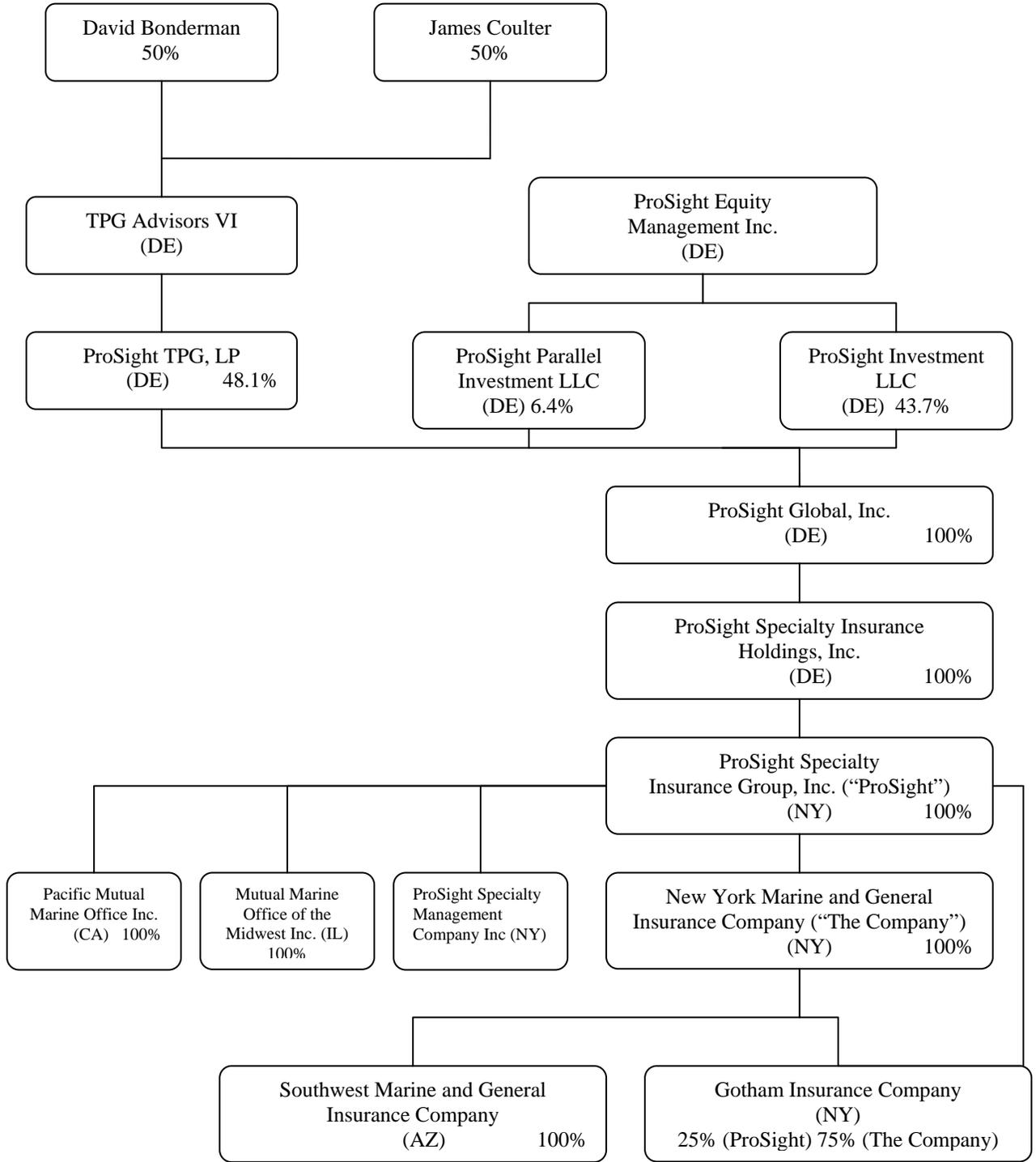
Management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62R. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's Chief Executive Officer and Chief Financial Officer, pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements.

D. Holding Company System

The Company is a 100% owned and controlled subsidiary of ProSight Specialty Insurance Group, Inc. (“ProSight”), a New York corporation, formerly known as NYMAGIC, Inc. ProSight is a wholly-owned subsidiary of ProSight Specialty Insurance Holdings, Inc. (“PSIH”), a Delaware corporation, which is a wholly-owned subsidiary of ProSight Global, Inc. (“PGI”), a Delaware corporation. PGI is owned by two private equity funds; ProSight Equity Management, which is owned by Goldman Sachs, and TPI Advisors VI, Inc., which is owned equally by David Bonderman and James Coulter.

Effective on November 23, 2010, the Company's immediate parent, ProSight, was acquired by PSIH, pursuant to an Agreement and Plan of Merger, dated July 15, 2010. This agreement was approved pursuant to a certificate of merger by the Department on November 23, 2010.

The following is a chart of the holding company system at December 31, 2010:



As a controlled insurer, the Company is required to file registration statements and amendments with this Department, pursuant to Section 1504 of the Insurance Law and Department Regulation 52. Part 80-1.2 of Regulation 52 requires that the amendments be filed annually within 120 days following the end of its ultimate holding company's fiscal year (April 30). The prior examination noted that the Company failed to file amendments on a timely basis for years 2002 and 2005. A review of the years covered by the current examination also noted that amendments were not filed on a timely basis for years 2006, 2007, 2008, 2009 and 2010. It is recommended that the Company comply with Part 80-1.2 of Regulation 52 and file the amendments to its holding company filings by April 30 annually.

At December 31, 2010, the Company was party to the following agreements with other members of its holding company system:

1. Management Agreement:

The Company and ProSight Specialty Management Company, Inc. ("PSMC") (formerly known as Mutual Marine Office, Inc.) are parties to a management agreement, amended and restated, effective April 1, 1986. Under the terms of this agreement, PSMC supplies all employees, services and facilities necessary for the conduct of the Company's business. The management fees paid by the Company to PSMC are detailed as follows:

7.5% of gross premiums written on non-pooled business;  
1% of gross premiums written on pool business; and  
1% of all direct premiums on pool business.

With respect to the fees above, the agreement further provides that compensation allowed may not exceed the cost and expenses incurred by PSMC in fulfilling its obligations under the management agreement.

The management agreement was submitted to and non-disapproved by the Department, pursuant to Section 1505(d)(3) of the New York Insurance Law.

Effective January 1, 2002, the Company submitted supplemental waiver of fee statements to the Department, pursuant to Section 1505(d)(3) of the New York Insurance Law. These statements indicate that the affiliates waive their right to receive from the Company pursuant to the pool

agreement, any compensation including contingent commissions, to the extent that such compensation exceeds the actual cost incurred by the affiliates in producing such pool business of the Company.

Subsequent to the period covered by this examination, the aforementioned management agreement was amended and restated, effective January 15, 2011. The amendment states that commencing as of the date hereof, the Company will allow PSMC as compensation for its services an amount equal to the actual costs and expenses incurred by or on behalf of PSMC connection with rendering such services to the Company, including, without limitation, all reasonable employee, benefits and overhead costs and expenses incurred by or on behalf of PSMC.

It was noted that PSMC does not provide The Company with reports disclosing the nature and details of its service fees. Section 1505(b) of the New York Insurance Law states that the books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties. It is recommended that the Company amend its service agreement to clearly disclose service fees and require quarterly statements to support the fees charged, and file the amendment with the Department pursuant to Section 1505(b) of the New York Insurance Law.

## 2. Tax Allocation Agreement

Effective January 1, 2006 the Company entered into an amended and restated tax allocation agreement. Under this agreement, commencing with the tax year ending December 31, 2006, the Company and its affiliates file a consolidated federal income tax return.

The agreement was approved by the Company's board of directors and a copy of the agreement was filed with this Department in accordance with Department Circular Letter 1979-33.

## 3. Inter-company Reinsurance Agreements

Effective since January 1, 2007, The Company is party to an inter-company reinsurance agreement with its subsidiary Southwest Marine and General Insurance Company ("Southwest Marine"). Under the terms of this agreement the Company cedes 5% of its net retained business to Southwest Marine. This agreement was submitted to the Department pursuant to Section 1505(d)(3) of the New York Insurance Law and was non-disapproved.

In addition the Company is party to an inter-company reinsurance agreement with Gotham as noted in Item 2C of this report.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2010, based upon the results of this examination:

Net premiums written to surplus as regards policyholders	.75 to 1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	89%
Premiums in course of collection to surplus as regards policyholders	8%

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 five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses incurred	\$389,789,804	59.78%
Other underwriting expenses incurred	259,136,223	39.75
Net underwriting gain	<u>3,076,421</u>	<u>0.47</u>
Premiums earned	<u>\$652,002,448</u>	<u>100.00%</u>

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010 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	\$207,662,406	\$ 0	\$207,662,406
Common stocks (stocks)	76,006,525	0	76,006,525
Cash, cash equivalents and short-term investments	209,420,524	0	209,420,524
Other invested assets	7,347,398	0	7,347,398
Receivables for securities	74,201,920	0	74,201,920
Interest income due and accrued	303,936		303,936
Uncollected premiums and agents' balances in the course of collection	18,977,025	4,018,130	14,958,895
Amounts recoverable from reinsurers	7,656,989	0	7,656,989
Funds held by or deposited with reinsured companies	172,150	0	172,150
Current federal and foreign income tax recoverable and interest thereon	7,371,525	0	7,371,525
Net deferred tax asset	24,713,348	11,154,130	13,559,218
Electronic data processing equipment and software	47,127	0	47,127
Furniture and equipment, including health care delivery assets	2,920,537	2,920,537	0
Aggregate write-ins for other than invested assets	<u>4,340,804</u>	<u>848,582</u>	<u>3,492,222</u>
Total assets	<u>\$641,142,214</u>	<u>\$18,941,379</u>	<u>\$622,200,835</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$290,178,605
Commissions payable, contingent commissions and other similar charges	3,506,403
Other expenses (excluding taxes, licenses and fees)	4,532,350
Taxes, licenses and fees (excluding federal and foreign income taxes)	734,537
Unearned premiums	56,400,698
Ceded reinsurance premiums payable (net of ceding commissions)	23,044,569
Funds held by company under reinsurance treaties	24,194,914
Provision for reinsurance	20,920,600
Reserves for write-offs of pool member's obligations	1,401,674
Loss portfolio transfer liability	11,802,125
Other liabilities	<u>50</u>
Total liabilities	<u>\$436,716,525</u>

Surplus and Other Funds

Change in admitted DTA's due to paragraph 10.e of SSAP No. 10R	\$ 6,019,628
Common capital stock	8,827,889
Gross paid in and contributed surplus	85,818,915
Unassigned funds (surplus)	<u>84,817,878</u>
Surplus as regards policyholders	<u>185,484,310</u>
Total liabilities, surplus and other funds	<u>\$622,200,835</u>

NOTE: The Internal Revenue Service has not performed any audits of the consolidated federal income tax returns filed on behalf of the Company, for the years covered by this examination. The examiner is unaware of any potential exposure of the Company to any further tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Income

Surplus as regards policyholders increased \$14,089,108 during the five-year examination period January 1, 2006 through December 31, 2010, detailed as follows:

Underwriting Income

Premiums earned		\$652,002,448
Deductions:		
Losses and loss adjustment expenses incurred	\$389,789,804	
Other underwriting expenses incurred	<u>259,136,223</u>	
Total underwriting deductions		<u>648,926,027</u>
Net underwriting gain or (loss)		\$ 3,076,421

Investment Income

Net investment income earned	\$63,504,039	
Net realized capital gain	<u>20,476,762</u>	
Net investment gain or (loss)		<u>83,980,801</u>

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$ 591,364	
Write-off of pool member's obligations	(1,186,972)	
Amounts incurred on loss portfolio transfer liability	(11,195,753)	
Miscellaneous income	<u>(4,751,211)</u>	
Total other income		<u>(16,542,572)</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$ <u>70,514,650</u>
Federal and foreign income taxes incurred		<u>14,387,239</u>
Net Income		\$ <u>56,127,411</u>

C. Capital and Surplus Statement

Surplus as regards policyholders per report on examination as of December 31, 2005			<u>\$171,395,202</u>
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$ 56,127,411		
Net unrealized capital gains or (losses)		\$ 35,503,967	
Change in net deferred income tax	5,039,155		
Change in nonadmitted assets		3,041,719	
Change in provision for reinsurance	4,718,600		
Surplus adjustments paid in	32,500,000		
Dividends to stockholders		51,770,000	
Change in admitted DTA's due to paragraph 10.e of SSAP No. 10R	<u>6,019,628</u>	<u>0</u>	
Total gains and losses in surplus	<u>\$104,404,794</u>	<u>\$ 90,315,686</u>	
Net increase (decrease) in surplus			<u>14,089,108</u>
Surplus as regards policyholders per report on examination as of December 31, 2010			<u>\$185,484,310</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$290,178,605 is the same as reported by the Company as of December 31, 2010. 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. 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>
A. <u>Reinsurance</u>	
i. It is recommended that where a letter of credit has been obtained, the Company amend all reinsurance agreements to include losses incurred but not reported in the amount relating to reserves, in order to comply with Section 79.5(a)(2)(iii) of Department Regulation 133.	8
The Company has complied with this recommendation.	
B. <u>Holding Company System</u>	
It is again recommended that the Company comply with Part 80-1.2 of Department Regulation 52 and file the amendments to its holding company filings by April 30 annually.	11
The Company has not complied with this recommendation. A similar comment is made in this report.	
C. <u>Accounts and Records</u>	
i. It is recommended that the Company amend its custodial agreements to include the missing safeguards.	14
ii. The Company has complied with this recommendation.	
It is recommended that the Company take due care to correctly complete the General Interrogatories of its filed annual statement.	14
The Company has complied with this recommendation.	

**6. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>		<u>PAGE NO.</u>
A	<u>Management</u> It is recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	5
B	<u>Territory and Plan of Operation</u> The Company's license to write special risk insurance pursuant to Article 63 of the New York Insurance Law lapsed for the period September 1, 2010 to July 31, 2011. It is recommended that the Company obtain and maintain its special risk license pursuant to Section 6302 of the New York Insurance Law.	6
C	<u>Reinsurance</u>	
	i It is recommended that the Company enter into formal written agreements with its reinsurance intermediaries in accordance with Part 125.6(a)(2) of Department Regulation No. 20.	10
	ii It is recommended that the Company account for commuted reinsurance agreements pursuant to the provisions of SSAP 62R.	11
D	<u>Holding company</u>	
	i It is recommended that the Company comply with Part 80-1.2 of Regulation 52 and file the amendments to its holding company filings by April 30 annually.	14
	ii It is recommended that the Company amend its service agreement to clearly disclose service fees and require quarterly statements to support the fees charged, and file the amendment with the Department pursuant to Section 1505(b) of the New York Insurance Law.	15



Appointment No. 30626

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:

**Dilbrina Belgrave**

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

**NEW YORK MARINE AND GENERAL INSURANCE COMPANY**

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

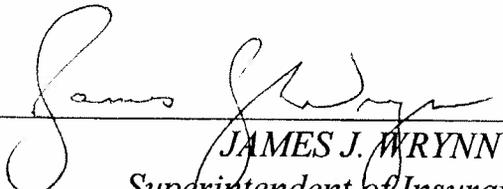
**Company**

*with such other information as she 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 4th day of January, 2011*



  
\_\_\_\_\_  
JAMES J. WRYNN  
Superintendent of Insurance