



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
AMERICAN MEDICAL AND LIFE INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2006

DATE OF REPORT:

NOVEMBER 2, 2007

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OF THE
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AS OF
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EXAMINER:

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

Eliot Spitzer
Governor

Eric R. Dinallo
Superintendent

November 2, 2007

Honorable Eric R. Dinallo
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22628, dated April 3, 2007 and annexed hereto, an examination has been made into the condition and affairs of American Medical and Life Insurance Company, hereinafter referred to as "the Company" or "AMLI", at its home office located at 8 West 38th Street, New York, New York 10018.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2006 filed annual statement. (See item 5 of this report)

The examiner recommends that the Company establish and maintain an independent, adequately resourced, and competently staffed internal audit function to provide management and the audit committee with ongoing assessments of the Company's risk management processes and the accompanying system of internal controls. This is a repeat recommendation. (See item 10 of this report)

The Company violated Section 3224-a(a) of the New York Insurance Law by failing to pay health claims to covered persons or to health care providers within forty-five days of receipt of the claim or bill for services rendered. (See item 6C of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2003. This examination covers the period from January 1, 2004 through December 31, 2006. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2006 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2006 to determine whether the Company's 2006 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Company history
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Officers' and employees' welfare and pension plans
- Territory and plan of operation
- Market conduct activities
- Growth of Company
- Business in force by states
- Mortality and loss experience
- Reinsurance
- Accounts and records
- Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to the violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 12 of this report.

This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

3. DESCRIPTION OF COMPANY

A. History

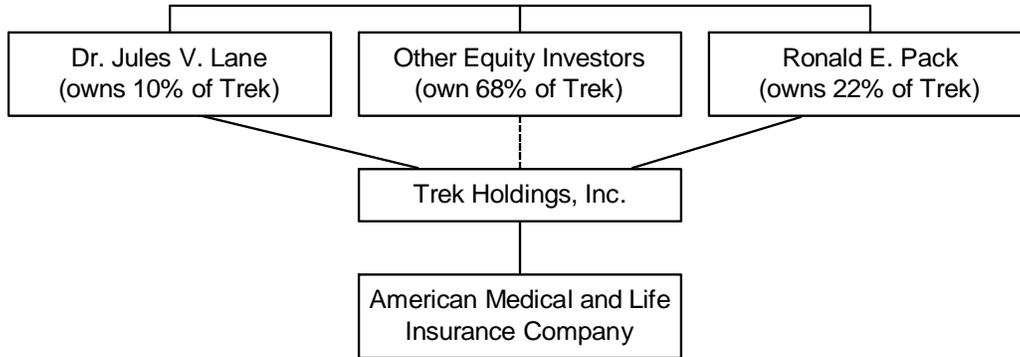
The Company was incorporated as a stock life insurance company under the laws of New York on December 17, 1964 under the name Medical Accident and Health Company of New York. The Company was licensed on February 14, 1966 and commenced business on February 17, 1966.

The Superintendent approved a charter amendment to change the Company's name to American Medical and Life Insurance Company on November 22, 1988. The license to transact life insurance, annuities and accident and health insurance was issued on January 3, 1989. To comply with the initial capital and surplus requirements for a stock company doing life insurance business in New York, the Company increased its capital to \$2 million and increased its gross paid in and contributed surplus to \$4 million, consisting of 100,000 shares with a par value of \$20 per share. In 2006, there was an increase in the Company's surplus due to a \$1.0 million capital contribution from its parent.

B. Holding Company

The Company was originally owned by American Laboratories, Inc. (75%) and Dr. Jules V. Lane, D.D.S. (25%). On January 13, 2006, Trek Holdings, Inc., ("Trek") a newly formed Company based in Delaware acquired 100% of AMLI stock. In addition to cash consideration, Dr. Lane received shares of common stock, Class C, in Trek Holdings, Inc., which was equivalent to 10% of the fully diluted capital at the time. Ronald Pack, a director of the Company also owns 22% of Trek.

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2006 follows:



The Company had 3 service agreements in effect with affiliates during the examination period.

| Type of Agreement and Department File Number | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/ (Expense)* For Each Year of the Examination |
|--|----------------|--------------------------------------|----------------------------|---|--|
| Lease 32678 | 6/1/04 | JLLR Realty Company | The Company | Lease Contract | 2004 - \$(397,900) 2005 - \$(397,900) 2006 - \$(388,900) |
| Computer consulting, and maintenance 32870 | 7/1/04 | The Company | JV Lane Professional Corp | Computer Consulting and maintenance service | 2004 - \$ 122,000 2005 - \$ 60,000 2006 - \$ 57,500 |
| Claims administration 34988 | 10/1/06 | Gettysburg Health Administrator Inc. | The Company | Claims and Claims customer services | 2004 - \$ 0 2005 - \$ 0 2006 - \$(672,146) |
| | | | | | |

* Amount of Income or (Expense) Incurred by the Company

Section 1505(d) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period . . .

(3) rendering of services on a regular or systematic basis . . .”

Since May 2006, the Company has received claims administration and claims customer services from Gettysburg Health Administrator Inc. (“Gett Health”) through its affiliate Preferred Care, Inc. Gett Health is owned by Ronald Pack, a director of the Company and a minority shareholder who owns (22%) of Trek, the parent company. The administrative service agreement was filed with the Department pursuant to Section 1505(d) of the New York Insurance Law by letter dated February 9, 2006. The service agreement was approved on October 13, 2006 and became effective on October 1, 2006.

The examiner recommends that in the future, the Company await the Department’s non-disapproval before operating under a Section 1505(d)(3) service agreement.

C. Management

The Company’s by-laws provide that the board of directors shall be comprised of not less than 13 and not more than 17 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2006, the board of directors consisted of 13 members. Meetings of the board are held quarterly.

Section 4211(a) of the New York Insurance Law states, in part:

“No election of directors of a domestic stock life insurance company shall be valid unless a copy of the notice of election shall have been filed in the office of the superintendent at least ten days before the day of such election . . .”

The examiner reviewed the Department’s records for filings made in accordance with Section 4211 of the New York Insurance Law and noted that the Company failed to provide a copy of the notice of the election of directors held on January 18, 2006 and August 22, 2006.

The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of the election of directors in the office of the superintendent at least ten days prior to the election.

The 13 board members and their principal business affiliation, as of December 31, 2006, were as follows:

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> | <u>Year First Elected</u> |
|--|---|---------------------------|
| Andrew A. Alberti* Tuckahoe, NY | President Cross River International, Capstan Equity Group | 2006 |
| Norman Beckoff Fairlawn, NJ | Vice President and Chief Financial Officer American Medical and Life Insurance Company | 1993 |
| Thomas J. Force West Islip, NY | Chief Executive Officer and General Counsel American Medical and Life Insurance Company | 1999 |
| John W. Green* Centerport, NY | Partner Marcum and Kliegman, LLP | 2006 |
| Bill Hutchinson* Westport, CT | Sales Benistar Administrative Services | 2006 |
| Jules Lane Sands Point, NY | Owner JV Lane Professional Corporation | 1964 |
| Edward F. Mckernan* Duluth, GA | President Insurance Services, Inc. | 2006 |
| John F. Ollis New York, NY | Chairman of the Board President and Chief Executive Officer American Medical and Life Insurance Company | 2006 |
| Ronald E. Pack Gettysburg, PA | President and Chief Executive Officer Gettysburg Health Administrator, Inc. | 2006 |
| Michael C. Szwajkowski* Rye Brook, NY | President Capital Source, Inc. | 2006 |
| Tucker Taylor* Millbrook, NY | Executive Vice President CBCA, Inc. | 2006 |
| Douglas M. Thomas* Havertown, PA | President North Wind, LLC | 2006 |
| Donald J. Trudeau* Greenwich, CT | President Benistar Administrative Services | 2006 |

* Not affiliated with the Company or any other company in the holding company system

In March, 2007, Robert Ostrander was elected as a director and he replaced Jules Lane. Scott McGregor was elected as a director in April 2007 and he replaced Norman Beckoff. Thomas Force resigned from the Board in May 2007.

The examiner's review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The Investment Committee Charter states:

“ . . . The committee will review and approve the investment transactions on an ongoing basis . . . with reasonable investment returns while preserving our asset quality and capital. The committee will meet on a quarterly basis”.

The review of the minutes also indicated that the investment committee held its meeting twice in 2005 and once in 2006 in violation of its charter which requires that they meet quarterly.

The examiner recommends that the investment committee meet quarterly in accordance with its charter.

Section 2 of Article V of the Company's By-laws states:

“ . . . The Investment Committee shall consist of at least five (5) members who shall be appointed by the board . . .”

The examiner's review of the investment committee minutes for 2006 indicated that the committee consisted of only three members in violation of its by-laws.

The examiner recommends that the Company amend its by-laws to reflect the change in the composition of the Investment Committee or increase the number of members to five.

Also, the investment committee minutes did not include the listing of the securities approved by the board. The examiner recommends that the Company maintain copies of all presentations, reports, charts, etc., of securities approved by the board in its minutes.

The following is a listing of the principal officers of the Company as of December 31, 2006:

| <u>Name</u> | <u>Title</u> |
|-----------------|---|
| John Ollis | President and Chief Executive Officer |
| Thomas Force* | Chief Executive Officer and General Counsel |
| Lorraine Classi | Executive Vice President |
| Norman Beckoff | Vice President and Chief Financial Officer |
| Pierre Meisner | Vice President |
| Brett Brandes | Controller |
| Lina Cheung | Actuary |

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

In April, 2007, Scott P. McGregor replaced Norman Beckoff as Chief Financial Officer and Pierre Meisner was replaced by Robert Ostrander as Vice President. Brett Brandes resigned in April 2007.

D. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in 38 states and the District of Columbia. In 2006, 66.6% of the Company's total premiums (including group accident and health, group life and ordinary term insurance premiums) were received from New York.

The Company principally writes group accident and health insurance with a strong emphasis on marketing group dental insurance.

The Company also sells group life insurance, group accidental death and dismemberment, basic major medical, dental insurance, stop loss insurance, student accident and medical insurance and disability medical insurance. The Company also provides administrative services for self-insured groups.

The Company's agency operations are conducted on a general agency basis.

E. Reinsurance

As of December 31, 2006, the Company had reinsurance treaties in effect with 10 companies, of which 7 were authorized or accredited. The Company's life business is reinsured on a yearly renewable term basis, while the accident and health business is reinsured on a coinsurance basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$50,000. The total face amount of life insurance ceded as of December 31, 2006, was \$1,495,000, which represented 5.37% of the total face amount of life insurance in force. As of December 31, 2006, the Company ceded \$3,811,068 of accident and health premiums to non-affiliates. The Company has agreements to reinsure stop-loss insurance and medical benefits in excess of the Company's retention limits. Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$63,544 was supported by letters of credit, trust agreements and/or funds withheld.

The Company assumes a small amount of group dental and group accident insurance. As of December 31, 2006, the Company assumed \$714,965 of accident and health premiums from Russell Re Limited, a Bermuda based Company, with a reinsurance payable on paid and unpaid losses of \$424,162 and funds withheld under coinsurance of \$429,753.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

| | December 31, <u>2003</u> | December 31, <u>2006</u> | Increase (Decrease) |
|--|-----------------------------|-----------------------------|------------------------|
| Admitted assets | \$ <u>10,975,994</u> | \$ <u>13,649,199</u> | \$ <u>2,673,205</u> |
| Liabilities | \$ <u>3,161,759</u> | \$ <u>5,921,850</u> | \$ <u>2,760,091</u> |
| Common capital stock | \$ 2,000,000 | \$ 2,000,000 | \$ 0 |
| Group contingency reserve | 263,040 | 363,323 | 100,283 |
| Gross paid in and contributed surplus | 4,000,000 | 5,000,000 | 1,000,000 |
| Unassigned funds (surplus) | <u>1,551,195</u> | <u>364,026</u> | <u>(1,187,169)</u> |
| Total capital and surplus | \$ <u>7,814,235</u> | \$ <u>7,727,349</u> | \$ <u>(86,886)</u> |
| Total liabilities, capital and surplus | \$ <u>10,975,994</u> | \$ <u>13,649,199</u> | \$ <u>2,673,205</u> |

The increase in gross paid in and contributed surplus is due to a \$1.0 million dollar capital contribution from its parent.

The Company's invested assets as of December 31, 2006, were mainly comprised of bonds (55.3%), stocks (11.3%) and cash and short-term investments (33.4%).

The Company's entire bond portfolio, as of December 31, 2006, was comprised of investment grade obligations.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

| | <u>2004</u> | <u>2005</u> | <u>2006</u> |
|-----------------------------|------------------|------------------------|----------------------|
| Ordinary Life insurance | \$ 2,433 | \$ (7,297) | \$ 2,942 |
| Group Life | \$ 459,258 | \$ 418,228 | \$ 358,333 |
| Accident and Health - Group | \$(432,715) | \$(1,987,245) | \$ 62,877 |
| All other lines | \$ <u>0</u> | \$ <u>0</u> | \$(<u>669,001</u>) |
| Total | \$ <u>28,976</u> | \$(<u>1,576,314</u>) | \$(<u>244,849</u>) |

The decrease experienced in the accident and health line in 2005 was primarily due to losses on one large stop loss case, Christian Care Ministry which subsequently improved in 2006. In addition, the Company increased sales in both its limited medical and stop loss products.

All other lines represent administrative services only (ASO) for those clients who self-insure their benefits. The loss incurred in 2006 for this line of business was due to the high amount of general expenses incurred to service the business.

5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2006, as contained in the Company's 2006 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2006 filed annual statement.

A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2006

Admitted Assets

| | |
|--|-------------------------|
| Bonds | \$ 6,704,149 |
| Common stocks | 1,373,468 |
| Cash, cash equivalents and short term investments | 4,042,181 |
| Investment income due and accrued | 122,861 |
| Premiums and considerations: | |
| Uncollected premiums and agents' balances in the course of collection | 805,070 |
| Deferred premiums, agents' balances and installments booked but deferred and not yet due | 562 |
| Reinsurance: | |
| Funds held by or deposited with reinsured companies | 429,753 |
| Electronic data processing equipment and software | 39,623 |
| Other receivable | <u>131,532</u> |
| Total admitted assets | <u>\$13,649,199</u> |

Liabilities, Capital and Surplus

| | |
|---|--------------------------|
| Aggregate reserve for life policies and contracts | \$ 184,696 |
| Aggregate reserve for accident and health contracts | 158,456 |
| Contract claims: | |
| Life | 233,391 |
| Accident and health | 3,019,637 |
| Contract liabilities not included elsewhere: | |
| Provision for experience rating refunds | 39,808 |
| Interest maintenance reserve | 583,793 |
| Commissions to agents due or accrued | 107,325 |
| General expenses due or accrued | 868,517 |
| Taxes, licenses and fees due or accrued, excluding federal income taxes | 41,958 |
| Amounts withheld or retained by company as agent or trustee | 1,596 |
| Remittances and items not allocated | 26,232 |
| Asset valuation reserve | 188,904 |
| Amount on Deposit as Third Party Administrator | 226,990 |
| Miscellaneous Liabilities | <u>240,547</u> |
| Total liabilities | \$ <u>5,921,850</u> |
| Common capital stock | \$ 2,000,000 |
| Group Contingency Reserve | 363,323 |
| Gross paid in and contributed surplus | 5,000,000 |
| Unassigned funds (surplus) | <u>364,026</u> |
| Surplus | \$ <u>5,727,349</u> |
| Total capital and surplus | \$ <u>7,727,349</u> |
| Total liabilities, capital and surplus | \$ <u>13,649,199</u> |

B. CONDENSED SUMMARY OF OPERATIONS

| | <u>2004</u> | <u>2005</u> | <u>2006</u> |
|--|-------------------------|---------------------------|-------------------------|
| Premiums and considerations | \$12,498,305 | \$14,022,532 | \$16,247,317 |
| Investment income | 225,076 | 254,902 | 438,126 |
| Commissions and reserve adjustments on reinsurance ceded | 319,430 | 282,534 | 349,949 |
| Miscellaneous income | <u>473,127</u> | <u>470,265</u> | <u>1,333,767</u> |
| Total income | <u>\$13,515,938</u> | <u>\$15,030,233</u> | <u>\$18,369,159</u> |
| Benefit payments | \$ 8,327,584 | \$10,856,366 | \$ 9,868,137 |
| Increase in reserves | (135,796) | 126,501 | (19,334) |
| Commissions | 816,822 | 698,636 | 1,191,831 |
| General expenses and taxes | 4,332,894 | 4,932,751 | 7,230,185 |
| Experience rating refunds | <u>137,129</u> | <u>(9,092)</u> | <u>343,189</u> |
| Total deductions | <u>\$13,478,633</u> | <u>\$16,605,162</u> | <u>\$18,614,008</u> |
| Net gain (loss) | \$ 37,305 | \$ (1,574,929) | \$ (244,849) |
| Federal and foreign income taxes incurred | <u>8,329</u> | <u>1,384</u> | <u>0</u> |
| Net gain (loss) from operations before net realized capital gains | \$ 28,976 | \$ (1,576,313) | \$ (244,849) |
| Net realized capital gains (losses) | <u>226,367</u> | <u>420,845</u> | <u>(230)</u> |
| Net income | <u>\$ 255,343</u> | <u>\$ (1,155,468)</u> | <u>\$ (245,079)</u> |

C. CAPITAL AND SURPLUS ACCOUNT

| | <u>2004</u> | <u>2005</u> | <u>2006</u> |
|--|---------------------|------------------------|---------------------|
| Capital and surplus, December 31, prior year | \$ <u>7,814,235</u> | \$ <u>8,164,781</u> | \$ <u>7,006,147</u> |
| Net income | \$ 255,343 | \$(1,155,468) | \$ (245,079) |
| Change in net unrealized capital gains (losses) | 188,101 | (278,735) | 63,387 |
| Change in non-admitted assets and related items | 56,747 | 120,000 | (115,611) |
| Change in asset valuation reserve | (69,927) | 104,826 | 18,505 |
| Capital changes: | | | |
| Paid in | 0 | 0 | 1,000,000 |
| Dividends to stockholders | (79,718) | 50,743 | 0 |
| Net change in capital and surplus for the year | \$ <u>350,546</u> | \$(<u>1,158,634</u>) | \$ <u>721,202</u> |
| Capital and surplus, December 31, current year | \$ <u>8,164,781</u> | \$ <u>7,006,147</u> | \$ <u>7,727,349</u> |

D. ANNUAL STATEMENT PREPARATION

The Company's filed annual statements during the period under examination were found to contain numerous reporting errors and misclassification of accounts. The following errors were identified during the examination:

1. In response to the pre-examination questionnaire, the Company provided a listing of 97 termination files which were not reported on the annual statements. After the examiner requested a sample of 15 files for review, the Company stated that some of the files were actually in force.
2. The number of lapse files provided by the Company for the period under examination is not equal to the amount reported on the Exhibit of Life Insurance.
3. The Company was unable to reconcile the amounts reported in the Exhibit of Number of Contracts in Force for its Accident and Health business.

The examiner recommends that the Company exercise greater care in the compilation of its data for reporting purposes and comply with the annual statement instructions in preparing its filed annual statements.

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Section 219.2(b) of Department Regulation No 34-A states, in part:

“Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies . . . ”

Section 215.2(b) of Department Regulation No. 34 states, in part:

“Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies . . . ”

The examiner tested the completeness of the advertising log by tracing a sample of the advertisements provided by the Company to the advertising index. The advertising index and advertising file provided by the Company did not include any control numbers assigned to the advertisements, dates of production associated with the advertisements, description of who produced the advertisements, any date indicating the length of time the advertisement were in use and the approvals for the advertisements.

The Company violated Section 219.2(b) of the Department Regulation No. 34-A and Section 215.2(b) of Department Regulation No. 34 by failing to establish a system of control over the content, form and method of dissemination of all advertisements of its policies.

Section 219.5(a) of Department Regulation No. 34-A states, in part:

“Each insurer shall maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised.”

Section 215.17(a) of Department Regulation No. 34 states, in part:

”Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket . . . group policies hereafter disseminated in this or any other state . . . with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised.”

The examiner reviewed the advertising files and index provided by the Company and did not find any notation indicating the manner and extent of distribution and the form number of any policy advertised.

The Company violated Section 219.5(a) of Department Regulation No. 34-A and Section 215.17(a) of Department Regulation No. 34 by failing to maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state with a notation indicating the manner and extent of distribution and the form number of any policy advertised.

The Company’s Advertising Policy and Procedures states, in part:

“ . . . AMLI requires that all advertising materials as defined . . . whether created by home office staff or AMLI producers have the written approval of the Company’s General Counsel.”

The advertising files provided by the Company did not contain any written approval of the Company’s General Counsel.

The examiner recommends that the Company comply with its advertising policy and procedures by obtaining the written approval of its General Counsel for all its advertising materials.

B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

1. Section 216.5(a) of Department Regulation No. 64 states, in part:

" . . . An insurer shall furnish to every claimant, or claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 business days of receiving notice of the claim . . . "

Section 216.6(c) of Department Regulation No. 64 states, in part:

"Within 15 business days after receipt by the insurer of a properly executed proof of loss and/or receipt of all items, statements and forms which the insurer requested from the claimant, the claimant, or the claimant's authorized representative, shall be advised in writing of the acceptance or rejection of the claim by the insurer . . . "

The examiner's review of a sample of 49 group life claims revealed that the Company failed to notify 3 claimants of additional information required within 15 business days of receiving notice of the claims, and also failed to notify 16 claimants of the acceptance or rejection of the claims in writing within 15 business days after receipt of all items, statements and forms which the insurer requested from the claimant.

The Company violated Section 216.5(a) and Section 216.6(c) of Department Regulation No. 64 by failing to notify the claimants of additional information required within 15 business days of receiving notice of the claims and by failing to notify claimants of the acceptance or

rejection in writing within fifteen days after receipt of all items, statements, and forms which the insurer requested from the claimant.

2. Section 3214(c) of the New York Insurance Law states, in part:

“If no action has been commenced, interest upon the principal sum paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option, from the date of the death of an insured . . . in connection with a death claim on such a policy of life insurance . . . to the date of payment and shall be added to and be a part of the total sum paid.”

The examiner noted that the Company failed to pay the correct interest amount on 6 of the 49 group life death claims reviewed.

The Company violated Section 3214(c) of the New York Insurance Law by failing to pay the correct interest amount on its group life death claims from the date of death to the date of payment.

Part 1, No. 9 of the Company’s Life Insurance Claims Manual states:

“Calculate interest due on claims and include an additional 14 days.”

The examiner noted that in 33 of the 49 group life claims reviewed, the Company failed to include the additional 14 days in calculating the interests due on its group life claims. The Company failed to follow its own claim procedures in calculating the interest due on its group life claims.

The examiner recommends that the Company follow its claims procedures by including the additional 14 days in the interest calculation for all claimants.

3. Section 3224-a (a) of the New York Insurance Law states, in part:

“Except in a case where the obligation of an insurer . . . to pay a claim submitted by a policyholder or person covered under such policy or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer . . . shall pay the claim to a policyholder or covered person or make a payment to a health care provider within forty-five days of receipt of a claim or bill for services rendered.”

The examiner reviewed a sample of 56 limited medical health claims, processed and paid during the examination period. The examiner noted that the Company failed to pay 9 (16%) out of the 56 health claims within forty-five days of receipt of the claims.

The Company violated Section 3224-a(a) of the New York Insurance Law by failing to pay claims to the covered person or to the health care provider within forty-five days of receipt of the claim or bill for services rendered.

4. Department Circular Letter No. 11 (1978) states, in part:

“ . . . As part of its complaint handling function, an insurer’s consumer services department shall maintain an ongoing central log to register and monitor all complaint activity. The log should be kept in a columnar form and list the following:

1. The date the complaint was received.
2. The name of the complainant and the policy or claim file number
3. The New York State Insurance Department file number
4. The responsible internal division, i.e., personal lines underwriting, property damage claims, etc
5. The person in the company with whom the complainant has been dealing.
6. The person within the company to whom the matter has been referred for review.
7. The date of such referral.
8. Bearing in mind the appropriate regulation mandating timely substantive replies, the dates of correspondence to the Insurance Department’s Consumer Services Bureau.
 - A. The acknowledgment.
 - B. The date of any substantive response.
 - C. The chronology of further contacts with this Department.
9. The subject matter of the complaint.
10. The result of the complaint investigation and the action taken.
11. Remarks about internal remedial action as a result of the investigation”

During the examiner’s review of complaints, it was noted that the Company’s complaint log did not include the complaint activities for three Department complaints; the person in the Company with whom the complainants have been dealing and for the 2005 and 2006 complaint logs, the dates of substantive response.

The examiner recommends that the Company maintain its complaint log in accordance with Department Circular Letter No. 11 (1978).

7. AGENCY OPERATIONS

Section 2112(a) of the New York Insurance Law states, in part:

“Every insurer . . . doing business in this state shall file a certificate of appointment in such form as the superintendent may prescribe in order to appoint insurance agents to represent such insurer . . .”

A review of producer licenses revealed that two agents were not appointed at the time they wrote business for the Company. Agents Lloyd Cowan and Cross Summit Enterprises Inc. wrote business during the examination period, but were not appointed until March 2007.

The Company violated Section 2112(a) of the New York Insurance Law by failing to file a certificate of appointment in such form as the Superintendent may prescribe in order to appoint insurance agents to represent it.

8. OUTSTANDING CHECKS

Section 700 of the New York Abandoned Property Law states, in part:

“(1) The following unclaimed property held or owing by life insurance corporations shall be deemed abandoned property:

(c) Any moneys held or owing by any life insurance corporation due to beneficiaries or other persons entitled thereto under policies on the lives of persons who have died where the last-known address, according to the records of the corporation, of the person or persons appearing to be entitled thereto is within this state, which moneys shall have remained unclaimed by the person or persons entitled thereto for three years.

(d) Any other moneys which are held or owing by any life insurance corporation . . . constituting or representing refunds of any kind due upon or in connection with life insurance policies payable to any person whose last known address, according to the records of the corporation, is within this state, which moneys shall have remained unclaimed by the person entitled thereto for three years.”

Section 702 of the New York Abandoned Property Law states, in part:

(1) Within thirty days after making a report of abandoned property . . . such life insurance corporation shall cause to be published a notice entitled: "NOTICE OF NAMES OF PERSONS APPEARING AS OWNERS OF CERTAIN UNCLAIMED PROPERTY HELD BY . . .

(3) Such notice shall . . . set forth:

(a) the names and last known addresses which were in such report, of all persons appearing to be entitled to any such abandoned property amounting to fifty dollars or more . . . ”

A review of the Company’s outstanding checks revealed that the Company had 244 checks outstanding during the period 2004 through 2007 with an amount of \$117,199. The Company stated that the addresses or whereabouts of the payees could not be ascertained. The examiner obtained the addresses for some of the payees in the policy claim files.

The Company failed to file the abandoned property reports for the years 2004 and 2006. During the examination the Company agreed to file the abandoned property reports for the years 2004 and 2006. The Company also failed to publish notices of unclaimed property during the period 2004 to 2007.

The examiner recommends that a procedure be established to segregate checks which remain outstanding for more than six months, into a separate liability control account such as unclaimed funds. If such funds remain unclaimed for three years, it should then be remitted to

the New York State Comptroller, Office of Unclaimed Funds or other appropriate jurisdiction. The examiner also recommends that the Company publish notices of unclaimed funds in accordance with the abandoned property law.

9. FRAUD PLAN

Section 86.6(d) of Department Regulation No. 95 states:

“Every insurer required to file a fraud prevention plan shall file an annual report with the Insurance Frauds Bureau no later than January 15 of each year on a form approved by the superintendent, describing the insurer's experience, performance and cost effectiveness in implementing the plan and its proposals for modifications to the plan to amend its operations, to improve performance or to remedy observed deficiencies.”

The Company did not include in its annual report its proposals for modifications to the fraud plan to amend its operations, to improve performance or to remedy observed deficiencies.

The Company violated Section 86.6(d) of Department Regulation No. 95 by failing to include in its annual report its modifications to the fraud plan to amend its operations, to improve performance or to remedy observed deficiencies.

10. INTERNAL AUDIT

The Company does not have an internal audit function. Internal audit is an integral part of corporate governance that includes the audit committee, the board of directors, senior management and the external auditors. In particular, internal auditors and audit committees are mutually supportive. Consideration of the work of internal auditors is essential for the audit committee to gain a complete understanding of the Company's operations. Internal audit identifies strategic, operational and financial risks facing the organization, and assesses controls put in place by management to mitigate those risks.

The examiner recommends that the Company establish and maintain an independent, adequately resourced, and competently staffed internal audit function to provide management and the audit committee with ongoing assessments of the Company's risk management processes and the accompanying system of internal controls. This is a repeat recommendation from the prior report on examination.

11. RECORD RETENTION

Section 243.2 of Department Regulation No. 152 states, in part:

“(b) Except as otherwise required by law or regulation, an insurer shall maintain:

(1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer . . .

(4) A claim file for six calendar years after all elements of the claim are resolved and the file is closed or until after the filing of the report on examination in which the claim file was subject to review, whichever is longer. A claim file shall show clearly the inception, handling and disposition of the claim, including the dates that forms and other documents were received . . .

(6) A complaint record . . . for six calendar years after all elements of the complaint are resolved and the file is closed . . .”

During the examination, the Company could not provide a number of records in response to examination requests:

- a) The examiner requested a sample of 8 group dental policy records (application, master policy, certificate, etc.) for review. The Company was unable to provide 2 applications (25%), 7 master policies (88%) and 3 certificates (38%) of the group dental policy files requested.
- b) The Company was unable to provide 10 major medical health claims (20%) of the 50 claim files requested.
- c) The Company was unable to provide 3 claims (6%) of the 50 limited benefit health (mega) claim files requested.
- d) The Company was unable to provide 5 out of 15 (33%) complaint files requested.

The Company violated Section 243.2(b)(1) of Department Regulation No.152 by failing to maintain a policy record for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination, whichever is longer.

The Company violated Section 243.2(b)(4) of Department Regulation No.152 by failing to maintain a claim file for six calendar years after all elements of the claim are resolved and the file is closed or until after the filing of the report, whichever is longer.

The Company violated Section 243.2(b)(6) of Department Regulation No.152 by failing to maintain the complaint records for six calendar years after all elements of the complaints are resolved and the file is closed.

12. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

| <u>Item</u> | <u>Description</u> |
|-------------|---|
| A | <p>The Company violated Section 1505(a)(2) of the New York Insurance Law by failing to charge a reasonable amount for computer services provided to an affiliate under a filed service agreement.</p> <p>The Company charged the amount in accordance with the filed service agreement.</p> |
| B | <p>The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent of its intention to lease office space from an affiliate at least 30 days prior thereto.</p> <p>The Company subsequently filed a service agreement to lease space from its affiliate.</p> |
| C | <p>The Company violated Section 1202(b)(2) of the New York Insurance Law in that the board's audit committee, established by the Company to fulfill the obligations of Section 1202, did not perform the duties required under Section 1202.</p> <p>The review of the minutes revealed that the audit committee fulfilled its responsibilities in accordance with Section 1202(b)(2) of the New York Insurance Law.</p> |
| D | <p>The Company violated Section 2117(a) of the New York Insurance Law by acting as an agent for an unlicensed insurer.</p> <p>As part of its agreement with the Department, the Company increased its percentage of retained risk from 35% to 55% and ceded 45% of the limited benefit health business to the unlicensed insurer.</p> |
| E | <p>The examiner recommended that the Company establish and maintain an independent, adequately resourced, and competently staffed internal audit function.</p> <p>The Company failed to establish and maintain an independent, adequately resourced, and competently staffed internal audit function.</p> |

| <u>Item</u> | <u>Description</u> |
|-------------|--|
| F | <p>The examiner recommended that the Company develop a disaster recovery plan.</p> <p>The Company developed a disaster recovery plan which was finalized in June 2007.</p> |
| G | <p>The examiner recommended that the Company develop a business continuity plan.</p> <p>The Company developed a business continuity plan which was finalized in June 2007.</p> |

13. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

| <u>Item</u> | <u>Description</u> | <u>Page No(s).</u> |
|-------------|--|--------------------|
| A | The examiner recommends that in the future, the Company await the Department's non-disapproval before operating under a Section 1505(d)(3) service agreement. | 5 – 6 |
| B | The Company violated Section 4211(a) of the New York Insurance Law by failing to file a copy of the notice of the election of directors in the office of the superintendent at least ten days prior to the election. | 6 |
| C | The examiner recommends that the Investment Committee meet quarterly in accordance with its Charter. | 8 |
| D | The examiner recommends that the Company amend its by-laws to reflect the change in the composition of the Investment Committee or increase the number of directors to five. | 8 |
| E | The examiner recommends that the Company maintain copies of all presentations, reports, charts, etc., of securities approved by the board in its minutes. | 8 |
| F | The examiner recommends that the Company exercise greater care in the compilation of its data for reporting purposes and comply with the annual statement instructions in preparing its filed annual statements. | 16 – 17 |
| G | The Company violated Section 219.2(b) of Department Regulation No. 34-A and Section 215.2(b) of Department Regulation No. 34 by failing to establish a system of control over the content, form and method of dissemination of all advertisements of its policies. | 18 |
| H | The Company violated Section 219.5(a) of Department Regulation No. 34-A and Section 215.17(a) of Department Regulation No. 34 by failing to maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement hereafter disseminated in this state with a notation indicating the manner and extent of distribution and the form number of any policy advertised. | 19 |

| <u>Item</u> | <u>Description</u> | <u>Page No(s).</u> |
|-------------|---|--------------------|
| I | The examiner recommends that the Company comply with its advertising policy and procedures by obtaining the written approval of its General Counsel for all its advertising materials. | 19 |
| J | The Company violated Section 216.5(a) and Section 216.6(c) of Department Regulation No. 64 by failing to notify the claimants of additional information required within 15 business days of receiving notice of the claims and by failing to notify claimants of the acceptance or rejection in writing within fifteen days after receipt of all items, statements, and forms which the insurer requested from the claimants. | 20 – 21 |
| K | The Company violated Section 3214(c) of the New York Insurance Law by failing to pay the correct interest amount on its group life death claims from the date of death to the date of payment. | 21 |
| L | The examiner recommends that the Company follow its claims procedures by including the additional 14 days in the interest calculation for all claimants. | 21 |
| M | The Company violated Section 3224-a(a) of the New York Insurance Law by failing to pay health claims to the covered person or to the health care provider within forty-five days of receipt of the claim or bill for services rendered. | 21 – 22 |
| N | The examiner recommends that the Company maintain its complaint log in accordance with Department Circular Letter No. 11 (1978). | 22 |
| O | The Company violated Section 2112(a) of the New York Insurance Law by failing to file a certificate of appointment in such form as the Superintendent may prescribe in order to appoint insurance agents to represent it. | 23 |
| P | The examiner recommends that a procedure be established to segregate checks which remain outstanding for more than six months, into a separate liability control account such as unclaimed funds. If such funds remain unclaimed for three years, it should then be remitted to the New York State Comptroller, Office of Unclaimed Funds or other appropriate jurisdiction. | 24 – 25 |
| Q | The examiner recommends that the Company publish notices of unclaimed funds in accordance with the abandoned property law. | 25 |

| <u>Item</u> | <u>Description</u> | <u>Page No(s).</u> |
|-------------|--|--------------------|
| R | The Company violated Section 86.6(d) of Department Regulation No. 95 by failing to include in its annual report its modifications to the fraud plan to amend its operations, to improve performance or to remedy observed deficiencies. | 25 |
| S | The examiner recommends that the Company establish and maintain an independent, adequately resourced, and competently staffed internal audit function to provide management and the audit committee with ongoing assessments of the Company's risk management processes and the accompanying system of internal controls. This is a repeat recommendation. | 25 – 26 |
| T | The Company violated Section 243.2(b)(1) of Department Regulation No. 152 by failing to maintain a policy record for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination. | 26 – 27 |
| U | The Company violated Section 243.2(b)(4) of Department Regulation No. 152 by failing to maintain a claim file for six calendar years after all elements of the claim are resolved and the file is closed or until after the filing of the report in which the claim file was subject for review. | 26 – 27 |
| V | The Company violated Section 243.2(b)(6) of Department Regulation No. 152 by failing to maintain the complaint records for six calendar years after all elements of the complaints are resolved and the file is closed. | 26 – 27 |

Respectfully submitted,

_____/s/
Ijeoma Ndika
Senior Insurance Examiner

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

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

_____/s/
Ijeoma Ndika

Subscribed and sworn to before me
this _____ day of _____

