

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF

WM. PAGE AND ASSOCIATES, INC.

AS OF

DECEMBER 31, 2002

DATE OF REPORT:

DECEMBER 9, 2003

EXAMINER:

JACQUELINE TUCKER

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	4
A. History	4
B. Management	4
C. Territory and plan of operation	4
D. Financial growth	5
4. Financial statements	6
A. Assets, liabilities, capital, surplus and other funds	6
B. Condensed summary of operations	7
5. Market conduct activities	8
A. Advertising and sales activities	8
B. Underwriting and policy forms	8
C. Treatment of policyholders	9
6. Summary and conclusions	11



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

December 9, 2003

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 22099, dated November 5, 2003 and annexed hereto, an examination has been made into the condition and affairs of Wm. Page and Associates, Inc., hereinafter referred to as "the Company," at its home office located at 2810 East Oakland Boulevard, Suite 300, Fort Lauderdale, Florida 33486.

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 Company violated Section 380.6(a) of Department Regulation No. 148 by using application forms that were not filed with and approved by the Superintendent. (See item 5B of this report)

The Company violated Section 380.8(f) of Department Regulation No. 148 by failing to provide proposals to the applicants. (See item 5C of this report)

2. SCOPE OF EXAMINATION

This is the first examination of the Company and covers the period from the date of licensure until December 31, 2002. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2002 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a review of policy forms, advertising, corporate structure, broker licensing, and treatment of viators. The examiner 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 aforementioned items.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was organized under the laws of Ohio in September 1992 under the name of Wm. Page and Associates, Inc. Prior to moving its office to Fort Lauderdale, Florida, the office was located in Bedford Heights, Ohio. The Company was issued a viatical settlement license by the Superintendent on July 27, 1998.

B. Management

William Scott Page is the holder of all issued and outstanding shares of stock. Mr. Page is the only officer of the Company and serves as President, Chief Executive Officer, Secretary, and Treasurer. There is no board of directors. Mr. Page acts as the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64.

C. Territory and Plan of Operation

The Company is authorized to purchase life insurance policies as defined in Section 7801(a) of the New York Insurance Law.

The Company is licensed to transact business in 6 states, namely California, Connecticut, Florida, Illinois, New York and Washington. The Company also transacts such business nationwide, in jurisdictions where no license is required.

The Company acquires its business through independent viatical settlement brokers and by direct contact with viators. The Company obtains financing for its business from third party investors.

D. Financial Growth

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

	December 31, <u>1998</u>	December 31, <u>2002</u>	Increase (Decrease)
Assets	<u>\$324,476</u>	<u>\$375,927</u>	<u>\$ 51,451</u>
Liabilities	<u>\$224,127</u>	<u>\$183,211</u>	<u>\$ (40,916)</u>
Capital stock	\$ 100	\$ 100	\$ 0
Paid-in capital	5,306	5,306	0
Retained earnings	<u>94,943</u>	<u>187,310</u>	<u>92,367</u>
Total owner's equity	<u>\$100,349</u>	<u>\$192,716</u>	<u>\$ 92,367</u>
Total liabilities and owner's equity	<u>\$324,476</u>	<u>\$375,927</u>	<u>\$ 51,451</u>

4. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, retained earnings, and owner's equity as of December 31, 2002, as contained in the Company's 2002 filed annual statement, and a condensed summary of operations for each of the years under review. These statements have not been audited by the examiner and are for presentation purposes only.

A. ASSETS, LIABILITIES, CAPITAL, AND OWNER'S EQUITY AS OF DECEMBER 31, 2002

Admitted Assets

Cash	\$139,748
Cost of purchased insurance policies	182,391
Furniture and equipment	17,858
Other assets	<u>35,930</u>
 Total assets	 <u>\$375,927</u>

Liabilities, Capital and Owner's Equity

General expenses due or accrued	\$ 820
Borrowed money	<u>182,391</u>
 Total liabilities	 <u>\$183,211</u>
 Capital stock	 \$ 100
Paid-in capital	5,306
Retained earnings	<u>187,310</u>
 Total owner's equity	 <u>\$192,716</u>
 Total liabilities, capital and owner's equity	 <u>\$375,927</u>

B. CONDENSED SUMMARY OF OPERATIONS

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Net investment income	\$ 37,516	\$ 156,369	\$ 79,367	\$ 51,933	\$ 18,736
Dividends from insurers	0	16,920	17,564	24,633	24,369
Miscellaneous income	<u>1,676,504</u>	<u>3,317,769</u>	<u>616,546</u>	<u>1,237,767</u>	<u>2,300,431</u>
Total income	<u>\$1,714,020</u>	<u>\$3,491,058</u>	<u>\$ 713,477</u>	<u>\$1,314,333</u>	<u>\$2,343,536</u>
Insurance premiums	\$ 5,319	\$ 207,296	\$ 105,967	\$ 38,056	\$ 120,602
Interest expense	13,019	20,865	38,143	16,807	4,518
Compensation to brokers	284,007	504,166	63,893	84,242	28,930
General expenses	1,321,668	1,859,270	1,086,721	994,214	1,949,768
Taxes, licenses, and fees	<u>39,602</u>	<u>42,442</u>	<u>33,734</u>	<u>35,471</u>	<u>46,876</u>
Total deductions	<u>\$1,663,615</u>	<u>\$2,634,039</u>	<u>\$ 1,328,458</u>	<u>\$1,168,790</u>	<u>\$2,150,694</u>
Net income or (loss)	<u>\$ 50,405</u>	<u>\$ 857,019</u>	<u>\$ (614,981)</u>	<u>\$ 145,543</u>	<u>\$ 192,842</u>

5. MARKET CONDUCT ACTIVITIES

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

A. Advertising and Sales Activities

The examiner reviewed the Company's advertising files and its solicitation of viators. Based upon the advertising materials reviewed, no significant findings were noted.

B. Underwriting and Policy Forms

The examiners reviewed all nine New York viatical settlements and the policy forms utilized.

Section 7804(a) of the New York Insurance Law states, in part:

"No viatical settlement company may use any agreement for a viatical settlement in this state unless it is in writing and has been filed with and approved by the superintendent. . . ."

Section 7808(d) of the Insurance Law states in part:

". . . In the absence of a written agreement making the broker the viator's agent, viatical settlement brokers shall be presumed to be agents of viatical settlement companies."

Section 380.6(a) of Department Regulation No. 148 states, in part:

"Viatical settlement forms filing requirements:

- (1) two specimen copies of every viatical settlement agreement shall be filed with and approved by the superintendent prior to use in New York;
- (2) two specimen copies of every application for a viatical settlement shall be filed with and approved by the superintendent prior to use in New York . . ."

Various application forms were used in obtaining New York viatical settlements during the examination period. In all cases in which the Company procured the viatical settlement directly with the viator, the Company utilized forms which it had filed with, and were approved by, the Superintendent. However, in cases where the viatical settlements were obtained by brokers and brought to the Company, the application forms used were not filed with and

approved by the Superintendent. The Company believed that the application forms utilized by the brokers had already been filed by the brokers and had received the Superintendent's approval. Notwithstanding, the Company is ultimately responsible for the policy and application forms utilized in the issuance of the Company's viatical settlements.

The Company violated Section 380.6(a) of Regulation No. 148 by using application forms that were not filed with and approved by the Superintendent.

C. Treatment of Policyholders

The examiner reviewed the nine New York viator files. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

Section 380.8(f) of Department Regulation No. 148 states, in part:

“The viatical settlement company, upon receipt of an application to viaticate and after determining the value to be offered in return for the assignment, transfer, sale, devise or bequest of the death benefit or ownership of a life insurance policy or certificate to the viatical settlement company, shall deliver a proposal to the applicant before the agreement is required to be signed. The proposal shall disclose the following information:

- (1) Insurance contract death benefit in each of the next 10 years if the insurance contract is not viaticated
- (2) Amount of death benefit to be viaticated
- (3) Policy cash value before deducting any loan
- (4) Policy net cash value after deducting any loan
- (5) Policy death benefit less net cash value
- (6) Amount offered to applicant
- (7) Whether any supplement benefit(s), including but not limited to the following benefits, will be continued and, if so, the source of premium payment and the beneficiary of the proceeds of such supplemental benefit(s):
 - (i) accidental death benefit
 - (ii) disability income
 - (iii) waiver of premium or of monthly deduction waiver
 - (iv) guaranteed insurability options
 - (v) children or spouse coverage
- (8) Name of insurer
- (9) Whether insurer does or does not have an accelerated death benefit program subject to qualification of applicant
- (10) If insurer does have an accelerated death benefit program:
 - (i) All must be accelerated . . .
 - (ii) Applicant may accelerate all or a portion . . .
 - (iii) Applicant may not accelerate all but only a portion . . . ”

The Company did not provide applicants with the proposals as required by Section 380.8(f) of Department Regulation No. 148. The Company provided the applicants with statements, which were mailed with the settlement checks. The statements did not include information required by Section 380.8(f) (1), (7), (9) and (10) of Department Regulation No. 148.

The Company violated Section 380.8(f) of Department Regulation No. 148 by failing to provide proposals to applicants.

6. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 380.6(a) of Department Regulation No. 148 by using application forms that were not filed with and approved by the Superintendent.	8
B	The Company violated Section 380.8(f) of Department Regulation No. 148 by failing to provide proposals to applicants.	9

Respectfully submitted,

_____/s/
Jacqueline Tucker
Senior Insurance Examiner

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

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

_____/s/
Jacqueline Tucker

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 22099

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

JACQUELINE TUCKER

as a proper person to examine into the affairs of

WILLIAM PAGE & ASSOCIATES, INC.

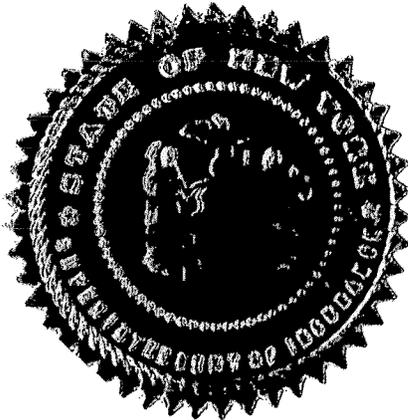
and to make a report to me in writing of the condition of the said

COMPANY

with such other information as she shall deem requisite.

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

this 5th day of November, 2003



GREGORY V. SERIO

Superintendent of Insurance

Handwritten signature of Gregory V. Serio in black ink, written over a horizontal line.

Superintendent