

REPORT ON EXAMINATION
AS TO CONDITION OF THE
MUNICIPAL EXCESS LIABILITY RESIDUAL CLAIMS FUND
PARSIPPANY, NEW JERSEY 07054
AS AT DECEMBER 31, 2013

Filed

November 25, 2015

**Commissioner
Department of Banking &
Insurance**

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State of New Jersey

**DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF SOLVENCY REGULATION
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September 30, 2015

Honorable Richard J. Badolato
Acting Commissioner of Banking and Insurance
New Jersey Department of Banking and Insurance
20 West State Street
P.O. Box 325
Trenton, New Jersey 08625

Commissioner:

In accordance with the authority vested in you by the Revised Statutes of New Jersey, an examination has been made of the assets, liabilities, method of conducting business and other affairs of the:

**MUNICIPAL EXCESS LIABILITY RESIDUAL CLAIMS FUND
PARSIPPANY, NEW JERSEY 07054.**

Hereinafter referred to in this report as the "Fund."

SCOPE OF EXAMINATION

This financial condition examination was called by the Commissioner of Banking and Insurance of the State of New Jersey pursuant to the authority granted by Section 40A: 10-47 of the New Jersey Revised Statutes.

The examination was made as at December 31, 2013 and addressed period from the Fund's inception, November 20, 1995. The examination was conducted at the office of the Fund's Executive Director, PERMA Risk Management Services 9 Campus Drive, Parsippany, New Jersey 07054.

The conduct of the examination was governed by the procedures outlined in the N.A.I.C. Financial Condition Handbook and followed accepted procedures of regulatory authorities and generally accepted insurance company examination standards. In determining the emphasis to be placed on specific accounts, consideration was given to the Company's system of internal control, the nature and size of each account, its relative importance to solvency and the results of the previous financial condition examination.

In the verification of matters as shown in this report, limited test checks were made, some complete and others partial. Consideration was allowed for limiting the verification on certain accounts at a point where they were determined to be substantially correct or the account under review was considered insignificant and not crucial to the Company' solvency.

HISTORY AND KIND OF BUSINESS

The Fund was established November 20, 1995 in accordance with Public Law 1983, C. 372 entitled “ An act concerning joint insurance funds for local units of government and supporting Chapter 10 of Title 40A of the New Jersey Statutes. The Fund is both a self-insured and self- administered group of municipalities established for the purpose of insuring against property damage, general liability, motors vehicles and equipment liability and workers compensation.

At December 31, 2013, the Fund consisted of the following sixteen member JIFS:

- Atlantic County Municipal Joint Insurance Fund
- Burlington County Municipal Joint Insurance Fund
- Bergen County Municipal Joint Insurance Fund
- Bergen Municipal Excess Liability Joint Insurance Fund
- Camden County Municipal Joint Insurance Fund
- Central Jersey Joint Insurance Fund
- Gloucester/Salem & Cumberland Counties Municipal Joint Insurance Fund
- Municipal Excess Liability Joint Insurance Fund
- Monmouth County Municipal Joint Insurance Fund
- Morris County Municipal Joint Insurance Fund
- New Jersey Utility Authorities Joint Insurance Fund
- Ocean County Municipal Joint Insurance Fund
- Professional Municipal Management Joint Insurance Fund
- South Bergen Municipal Joint Insurance Fund
- Suburban Essex Municipal Joint Insurance Fund
- Suburban Municipal Joint Insurance Fund

The registered agent upon whom process may be served is PERMA, 9 Campus Drive, Parsippany, New Jersey 07054

TERRITORY AND PLAN OF OPERATION

The Fund was formed to provide member entities with the opportunity to transfer reserves to enable them to close out old Fund years.

The following are the Fund requirements for membership:

A. AGREEMENT TO JOIN THE FUND:

- 1.) Pursuant to Section I of P.L. 1983, c.372, a qualified joint insurance fund shall by resolution or ordinance, as appropriate, agree to join the Fund.
 - a.) The resolution or ordinance shall provide for execution of a written agreement specifically providing for acceptance of the Fund's By-laws as approved and adopted pursuant to Section 4 of the Act.
 - b.) The agreement shall specify the extent of the member joint insurance fund's participation in the Fund with respect to the types of insurance coverage to be provided by the Fund and shall include the duration of Fund membership, which in no event shall exceed three years pursuant to N.J.S.A. 40A: 11-15 (6).
 - c.) The agreement shall also specify the member fund years of residual claims, which are being transferred to the Fund, and the member joint insurance fund's self-insured retention being assumed by the Fund.
- 2.) The agreement shall include an executed Indemnity and Trust Agreement.
- 3.) All applicants to the Fund must also include a written statement certifying that the applicant has never defaulted on claims if self-insured, and has not been canceled for non-payment of insurance premiums for a period of at least two years prior to the application.

B. INITIAL MEMBERSHIP: Any joint insurance fund affiliated with the Municipal Excess Liability Joint Insurance Fund which participated in the feasibility study may be a part of the Fund's application subject to approval by the Commissioner of Insurance and the Department of Community Affairs.

C. SUBSEQUENT MEMBERSHIP:

- 1.) Any joint insurance fund seeking membership after the Fund's initial approval by the Commissioners of the State Department of Insurance and Department of Community Affairs shall submit an application for membership to the Fund on a form acceptable by the Commissioner of Insurance. The application shall include

an executed Indemnity and Trust agreement and other documentation required under Section A above.

- 2.) An application may be approved by a majority vote of the Fund Commissioners or two-thirds vote of the full-authorized membership of the Executive Committee based on the following criteria:
 - a.) The applicant is affiliated with the Municipal Excess Liability Joint Insurance Fund.
 - b.) The applicant's claims history shows performance consistent with the Fund's objectives and the applicant demonstrates a prospective likelihood of satisfactory future claim performance.
 - c.) The Fund has the administrative capability to absorb additional memberships without undue inconvenience or strain.
- 3.) If the application is approved by the Fund, it shall be concurrently filed with the state Department of Insurance and the Department of Community Affairs and shall be accompanied by such amendments to the Fund's Budget and Plan of Risk Management as may be appropriate.
- 4.) No new membership in the Fund shall become effective until the Commissioners of Insurance and Community Affairs approve the application and accompanying amendments to the Fund's Budget and Plan of Risk Management.

The following is a listing of Fund Professionals serving at December 31, 2013:

Administrator: PERMA Risk Management Services (PERMA)---The Administrator shall act as the executive director of the Fund to carry out the policies established by the commissioners or executive committee. He shall be experienced in risk management matters and shall not be a commissioner of the Fund.

The Administrator shall perform the following:

1. The Administrator shall carry out the day to day operation of the Fund.
2. Shall advise on risk management matters and prepare draft modifications to the Fund's Risk Management Plan.
3. Shall maintain underwriting data.
4. Shall draft bid specifications for services as necessary.

5. Shall monitor the performance of service companies.
6. Shall write a draft budget for review by the Commissioners.
7. Shall perform such other duties as provided for by the Fund Commissioners, the by-laws and New Jersey Statutes.

Deputy Executive Director: AJ Gallagher –The Deputy Executive Director shall provide the following services for the Fund:

1. The Deputy administrator shall act as the Deputy Executive Director/Administrator to carry out the policies established by the Fund Commissioners/Executive Committee, and to otherwise administer and provide for the day-to-day management of the Fund.
2. Act as a liaison to prepare and distribute for the Fund a Members' Manual which shall include, at the very minimum, the following documents: Policy and Procedures Manual, Plan of Risk Management, Coverage Documents, and Fund By-laws.
3. Coordinate the Fund's underwriting files, prepare budgets, and compile and bill assessments.
4. Attend all meetings of the Executive Committee.
5. Assist in the overall operation of the FUND, except that the Deputy Executive Director/Administrator shall not be responsible for the errors and omissions of any other servicing organization except as to generally monitor the compliance of said organization with the directions of the FUND Commissioners/Executive Committee, or performance in accordance with their professional services agreement with the FUND, or the applicable statutes and regulations as to the form and timeliness of said undertakings by the contracted professional,
6. To professionally perform such other duties as may be determined by the Fund's Executive Committee by the Fund's By-laws, N.J.S.A. 40A: 10-36 et. seq., and N.J.A.C. 11:15-2 et.seq.

Fund Actuary: Actuarial Advantage – The Actuary shall certify the actuarial soundness of the Fund and shall provide such actuarial reports and reviews as required by the Fund and the New Jersey Department of Banking and Insurance.

Fund Auditor: Ferraiola, Wielkotz, Cerulla & Cuva, P.A. - The Auditor shall be an independent certified public accountant or a registered municipal accountant and not a commissioner. The Auditor shall conduct the annual audit of the Fund and shall perform such other duties as provided for by the Fund commissioners or executive committee, the By-laws and the laws and regulations of the State of New Jersey.

Fund Attorney: Dorsey and Semrau - The Fund Attorney shall be admitted to the Bar of the State of New Jersey and have the following responsibilities:

1. Advise the Fund on legal matters, attend the Fund's regular monthly meetings to advise the Fund on legal matters and consult with counsel representing the Fund in defense of claims.
2. Advise the Fund on selection of counsel to represent the Fund in the defense of claims.
3. Perform such other duties as provided for by the Fund Commissioners, the Fund By-laws and the laws and regulations of the State of New Jersey.

Treasurer: Charles Cuccia-- The Treasurer shall not be a commissioner and shall have the following duties and responsibilities:

1. Be the custodian of Fund assets and maintenance of various trust funds.
2. Approve receipts, disbursements and financial records.
3. Prepare cash management plan and invest funds
4. Perform other related duties as designated by the Fund Commissioners in accordance with the By-laws of the Fund and laws and regulations of the State of New Jersey.

Asset Manager: Wells Fargo. – The Asset Manager provides custodial services and assures the safekeeping of all security holdings of the Fund acting as a discretionary trustee over the assigned assets of the Fund in a manner which is consistent with the Fund’s Cash and Investment Management Plan.

In settling claims the Fund utilizes the services of a third party administrators contracted by the primary funds from which they assumed business.

MANAGEMENT AND CONTROL

Each participant shall appoint one commissioner to the Fund who shall be a member of the governing body or employee of the participant. In addition each participant shall appoint one alternate to attend either regular or special meeting on behalf of the participant in the absence of the Fund commissioner. The alternate shall exercise the full power and authority of the Fund commissioner and shall be either a member of the governing body or employee of the participant.

All terms of office shall expire on January 1st or until a successor is duly appointed and qualified. A Commissioner, who is a member of the local unit’s governing body shall hold office for two years or for the remainder of his/her term of office as a member of the governing body whichever shall be less. Commissioner shall hold office at the pleasure of the municipality and can be removed by the municipality at any time without cause.

The unexpired term of a commissioner, shall be filled by the appointing municipality in the manner generally prescribed by law.

Each commissioner’s vote shall be proportional to the current year’s assessment of the Participant represented by the commissioner.

The commissioners are hereby authorized and empowered to operate the Fund in accordance with these By-laws and appropriate state laws and regulations.

The following is listing of commissioners serving at December 31, 2013:

| <u>Commissioner</u> | <u>JIF</u> |
|----------------------------|-----------------------------------|
| William Close | Morris County |
| David Matchett | Burlington County |
| Richard Hirsch | Atlantic County |
| Kenneth Gabbert | Bergen County |
| Tom Nolan | Monmouth County |
| Madeline Cook | NJ Public Housing Authority |
| Paul Shives | Ocean County |
| Robert Landolfi | Central Jersey |
| Joseph Wolk | Camden County |
| Robert Law | Trico |
| William Cottman | Municipal Excess Liability |
| Scott Carew | Professional Municipal Management |
| Peggy Thomas | South Bergen County |
| Joseph Catenaro | Suburban Essex |
| James Gildea | Suburban Municipal |

If the total number of commissioners exceeds seven (7), as soon as possible after the beginning of the year they shall meet and elect five (5) commissioners to serve with the Chairperson and the Secretary as the executive committee of the Fund. During their terms of office, members of the executive committee shall exercise the full power and authority of the commissioners except as otherwise provided.

The executive committee shall serve until the January meeting of the following year, or until their successors is duly elected and qualified

In the event the Commissioners shall elect an Executive Committee as provided for above, they shall also elect seven (7) Commissioners to serve as alternate members of the Executive Committee to attend either regular or special meetings to serve in the absence of a member, or members, of the Executive Committee. An alternate or alternates serving in the absence of a member, or members, of the Executive Committee shall exercise the full power and authority of that absent member or members

The members of the executive committee and alternates elected and serving at December 31, 2013 were as follows:

David Matchett, Burlington County JIF, Chairman
William Close, Morris JIF, Secretary
Kenneth Gabbert, Bergen JIF
Brian Bigler, NJUA JIF
Thomas Nolan, Monmouth JIF
William Cottman, MEL JIF
Paul Shives, Ocean JIF

Alternates:

| |
|--------------------------------------|
| Madeline Cook, NJPHA JIF |
| Richard Hirsch, Atlantic JIF |
| Peggy Thomas, South Bergen JIF |
| Joseph Wolk, Camden JIF |
| Joseph Catenaro, Suburban Essex, JIF |
| James Gildea, Suburban Muni JIF |
| Scott Carew, PMM JIF |
| Robert Landolfi, Central JIF |
| Robert Law, Trico JIF |

At the January meeting the commissioners shall meet to elect officers of the Fund from their own membership including a chairperson and a secretary who shall be elected annually. Officers will serve until the January meeting of the following year or until a successor is duly elected and qualified.

The Chairperson shall preside at all meetings of the commissioners and shall perform such other duties provided for in the By-laws and the laws and regulations of the State of New Jersey.

The Secretary shall preside over meeting of the commissioners in the absence of the Chairperson, maintains minutes of meetings, retain all books, records, files and other documents of the Fund, and shall perform such other duties as provided for in the By-laws.

In the event of vacancy in any of the officer positions caused by other than the expiration of the term of office, the commissioners shall by majority vote, fill the vacancy for the unexpired term. Any officer can be removed without cause by two-thirds vote of the full membership of Fund commissioners. In this event the full membership of Fund commissioners shall fill the vacancy for the unexpired term.

At December 31, 2013 the Chairman was Joseph Matchett and the Secretary was William Close.

A review of the minutes indicates the transactions and events of the Fund are adequately reviewed.

INSURANCE COVERAGE AND EXCESS INSURANCE

The Municipal Excess Liability Residual Claims Fund (RCF) provides residual coverage for any claim which would otherwise be payable by a Member Joint Insurance Fund for the following coverages:

1. General Liability (including Police Professional Liability)
2. Employee Benefits Liability
3. Public Officials Liability
4. Automobile Liability
5. Works Compensation
6. Property

The following is a list of Members JIFS in the RCF and the fund years which are covered.

| Member | Fund Years Covered |
|---|--------------------|
| Municipal Excess Liability Joint Insurance Fund | 1987 through 2009 |
| B-MEL | 1987 through 1990 |
| Atlantic County Municipal Joint Insurance Fund | 1987 through 2009 |
| Bergen County Municipal Joint Insurance Fund | 1985 through 2009 |
| Burlington County Municipal Joint Insurance Fund | 1991 through 2009 |
| Camden County Municipal Joint Insurance Fund | 1987 through 2009 |
| Monmouth County Municipal Joint Insurance Fund | 1988 through 2009 |
| Morris County Municipal Joint Insurance Fund | 1987 through 2009 |
| New Jersey Utility Authority Municipal Joint Insurance Fund | 1991 through 2009 |
| Ocean County Municipal Joint Insurance Fund | 1987 through 2009 |
| Professional Municipal Managers Joint Insurance Fund | 1987 through 2009 |
| South Bergen Municipal Joint Insurance Fund | 1986 through 2009 |
| Suburban Essex Municipal Joint Insurance Fund | 1992 through 2009 |
| Tri County Municipal Joint Insurance Fund | 1991 through 2009 |

| | |
|---|--|
| Suburban Municipal Joint Insurance Fund | 1994 through 2009 |
| New Jersey Public Housing Authority Joint Insurance Fund | 1994 through 2009 |
| Central Jersey Joint Insurance Fund (Edison and Woodbridge) | Run-in Claims Incurred through 7/1/1998 |
| Brick Township | Run-in Claims Incurred through 1/1/1999 |
| Hillsborough Township | Run-in Claims Incurred through 12/1/2000 |

The terms and conditions of these coverages insured by the RCF shall be the terms and conditions of the coverages provided by the member joint insurance funds to their member local units in accordance with the coverage documents and plans of risk management of the member joint insurance funds.

The limit of coverage provided by the RCF shall be equal to the per occurrence self-insured limit of the Member Joint Insurance Funds. Claims in excess of the Member Joint Insurance Fund's self-insured retention shall be the responsibility of the excess insurer or reinsurer, the Member Joint Insurance Fund, or Member Local Unit in accordance with that Entities coverage documents and plan of risk management.

FIDELITY BOND AND OTHER INSURANCE COVERAGES

The Fund is required by N.J.S.A. 11:15-2.6 to maintain the following minimum insurance coverage:

1. A fidelity bond for all persons handling Fund assets
2. A surety bond for the claims administrator
3. Errors and omissions coverage for any servicing organization who negates excess insurance or reinsurance on behalf of the Fund.

Review of coverage in effect revealed at December 31, 2013 the professionals contracted by the Fund maintained the required coverage.

ACCOUNTS AND RECORDS

The record keeping of the Fund is comprised of three areas as follows:

1. PERMA handles all of the processing of the general ledger and the accounts payable functions. The system used to control these functions is the MAS 90 Accounting Software which is a product of State of the Art, Inc. This system produces a cumulative general ledger, whereby all of the activity in an account is recorded

together with its current balance. The accounts payable function under this system produces a history of payments made to individual vendors with amounts outstanding.

2. The Treasurer of the Fund is responsible for the tracking of cash and investments. PERMA developed a tracking system for both of these areas and supplied it to the Treasurer to use. This system uses Microsoft Excel and allows for the tracking of both cash and investment activity.
3. The third party administrators are responsible for the tracking of all claim activity.

The accounting procedures are based on fund accounting, whereby; all financial activity is allocated to the fund year to which it relates.

Pursuant to N.J.S.A. 18A:18B-1, N.J.A.C. 11:15-5.1 and the Fund's By-laws, an annual audit was performed by an independent certified public accounting firm Ferraioli, Wielkotz, Cerullo & Cuva, P.A. an audited report was filed with the Commissioner of the Department of Banking and Insurance.

TREATMENT OF MEMBERS

The Fund records all complaints in the minutes under the correspondence section. The minutes include a copy of the written complaint and disposition thereof. In addition the TPA maintains a complaint register. During the review no unfair treatment of members was noted.

FINANCIAL STATEMENTS

Comparative Balance Sheet as of December 31, 2013 and 2012

Comparative Statement of Revenue, Expenses and Changes in Fund Equity as of December 31, 2013 and 2012

EXHIBIT I

COMPARATIVE BALANCE SHEET
FOR YEARS ENDING DECEMBER 31, 2013 AND 2012

| | <u>2013</u> | <u>2012</u> |
|--------------------------------------|-----------------------------|-----------------------------|
| <u>ASSETS</u> | | |
| Cash & Cash Equivalents | \$ 18,727,325 | \$ 33,282,236 |
| Investments | 59,624,441 | 43,273,050 |
| Assessments Receivable | 1,021,172 | - |
| Other Accounts Receivable | 1,562,693 | 1,812,531 |
| Accrued Interest Receivable | 85,870 | 66,126 |
| Total Assets | <u>81,021,501</u> | <u>78,433,943</u> |
| <u>LIABILITIES</u> | | |
| Accounts Payable | 25,044 | 28,248 |
| Other Liabilities | 2,350,723 | 2,660,869 |
| Fund Equity Dividends Payable | 400,000 | 400,000 |
| Loss Reserves | 73,108,005 | 72,786,200 |
| Total Liabilities | <u>75,883,772</u> | <u>75,875,317</u> |
| <u>NET POSITION</u> | | |
| Net Statutory Surplus - Unrestricted | 5,137,729 | 2,558,626 |
| Total Liabilities and Surplus | <u>\$ 81,021,501</u> | <u>\$ 78,433,943</u> |

EXHIBIT II

COMPARATIVE STATUTORY INCOME STATEMENT FOR YEARS ENDING DECEMBER 31, 2013 AND 2012

| | <u>2013</u> | <u>2012</u> |
|---|----------------------------|----------------------------|
| <u>OPERATING REVENUE</u> | | |
| Assessments from Participating JIFs | \$ 24,974,946 | \$ 29,802,024 |
| Total Operating Revenue | <u>24,974,946</u> | <u>29,802,024</u> |
| <u>EXPENSES</u> | | |
| Provision for Claims and Claim Adj. Expense | 21,580,244 | 30,065,886 |
| Professional Services | 294,518 | 288,744 |
| Claims Administration | 53,629 | 52,577 |
| Other Expenses - Administration | 83,871 | 29,760 |
| Total Expenses | <u>22,012,262</u> | <u>30,436,967</u> |
| Operating Income (Loss) | <u>2,962,684</u> | <u>(634,943)</u> |
| <u>NON-OPERATING REVENUE</u> | | |
| Investment Income | 16,419 | 494,069 |
| Total Nonoperating Revenues | <u>16,419</u> | <u>494,069</u> |
| Change in Net Position | <u>2,979,103</u> | <u>(140,874)</u> |
| Net Position - Beginning of Year | 2,558,626 | 3,099,500 |
| Less: Distribution to Participating Members | (400,000) | (400,000) |
| Net Position - End of Year | <u>\$ 5,137,729</u> | <u>\$ 2,558,626</u> |

NOTE 1 LOSS RESERVES

The loss reserves reported by the Fund at December 31, 2013 were \$73,108,005. A review by an actuary from the New Jersey Department of Banking and Insurance indicated the reserves established by the Fund were reasonable.

Data supporting the Fund's actuarial calculation was reconciled to supporting records without exception. Samples of paid and outstanding losses were traced to claim files without material exception.

Acknowledgement

The examination was completed at the office of the Fund's Executive Director, PERMA Risk Management Services (PERMA), 9 Campus Drive, New Jersey 07054. The courteous cooperation extended to the examiners by Fund Management is acknowledged.

Respectfully submitted

A handwritten signature in cursive script that reads "Nancy Lee Chice".

Nancy Lee Chice, CFE
Insurance Examiner

MUNICIPAL EXCESS LIABILITY RESIDUAL CLAIMS FUND

I, Nancy Lee Chice, do solemnly swear that the foregoing report of examination is hereby represented to be a full and true statement of the condition and affairs of the subject insurer as of December 31, 2013 to the best of my information, knowledge and belief.


Respectfully submitted,



Nancy Lee Chice CFE
Examiner-In-Charge
New Jersey Department of Banking and Insurance

State of New Jersey
County of Mercer

Subscribed and sworn to before me,
on this *4th* day of *November* 2015


Notary Public of New Jersey

My commission expires: *July 2020*