

ANNUAL REPORT 2001

# @LAVY

EXCESS LINE ASSOCIATION OF NEW YORK

*@ducation @&S Compliance @lectronic Transmission*

# CHAIRMAN'S REPORT



GUY MIGLIACCIO

For 13 years, we lived with uncertainties surrounding the so-called “insurance market cycle,” asking, year-after-year, when the market would turn? Would it take a mega-catastrophe to jolt us into a turn? Or had the cycle become a thing of the past?

And then it came—not the result of any one event, but of the accumulated losses over years of hyper-competitive pricing.

In late 1999 and early 2000, insurers began to reverse the downward spiral of premium rates. Prices rose steadily through 2000, and on into 2001 to create what could be genuinely termed a hard market. Unlike the hard market of the mid-1980's, which was a liability crisis, the new hardening is being experienced across virtually all lines of insurance.

And then things changed again...and this time dramatically...

While waiting for “the big one”—an earthquake or a hurricane—a man-made disaster struck, a disaster like none ever experienced. The tragedy of September 11, beyond its devastating human toll, is still reverberating throughout the insurance marketplace, as well as our economy and society in general. 9/11 revealed dimensions of risk, specifically terrorism risk, that were unknown to us before. The size of loss in monetary terms runs well higher than any previous disaster. Hurricane Andrew, an \$18 billion loss, stands as a distant second-largest industry loss.

To make matters worse, the fallout from the collapse of Enron is affecting lines of insurance coverage, such as D&O, that were virtually untouched by 9/11. Enron has also hit the surety market harshly and can be expected to have an ongoing ripple effect throughout the insurance industry and the economy.

In last year's Chairman's Report, I mentioned that for the first time in ELANY's eleven-year history, it was faced with a market turn that is creating greater demands as the level of excess and surplus lines placements continues to increase. This past year, the activity continued to spiral upward to levels never experienced by the Association in its now twelve-year history.

In 2001, ELANY processed 95,000 documents, generating premium volume that was up 33% over the prior year. There is every indication to expect record document numbers and record premium volume for the current year as well.

To meet these demands and with an eye on continuous improvement and the need to meet member requirements, we have accomplished the following in 2001:

- ☛ As part of ELANY's reauthorization legislation, ELANY obtained specific authority to create a system for electronic submission and signature to replace the cumbersome, slow method of mailing original policy documents to ELANY for stamping.
- ☛ As a first step in the process of moving towards an electronic filing system, ELANY created smart software for members in preparing affidavits and other required documents.
- ☛ The release of this software in 2001 was accompanied by ELANY providing compliance and software training at ELANY headquarters, at the offices of members and various industry meetings, including at PIWA and PIA meetings. The number of training sessions ELANY has put on since releasing the software eclipsed prior hands-on training efforts by a wide margin.
- ☛ In 2001, ELANY also undertook to replace its current system of mailing bulletins, newsletters and other documents by installing an email system to deliver more information at a faster speed and do so much more efficiently while simultaneously cutting costs.
- ☛ A substantial upgrade to ELANY's website began in 2001. ELANY's site is experiencing as many as 100 hits a day.

Needless to say, your association is dedicated to providing efficient business processes. We welcome and encourage your suggestions in this regard. 📌



DANIEL F. MAHER

# EXECUTIVE DIRECTOR'S REPORT

*The attack on the World Trade Center was not only the most devastating, cataclysmic event of my generation; it was, by far, the largest single event in the history of insurance.*

—Daniel F. Maher

A long overdue turn in the insurance market was well underway by September of 2001 when the tragic events of September 11th unfolded. No words in the English language can adequately describe my feelings regarding this mass murder of innocent people which occurred literally blocks away from ELANY headquarters. Nevertheless, I am compelled to address the attack. The attack on the World Trade Center was not only the most devastating, cataclysmic event of my generation; it was, by far, the largest single event in the history of insurance.

The industry's struggle to return to profitable underwriting in 2001, already hampered by adverse loss development, underreserving, losses in stock portfolios, reduction in interest rates and price increases in reinsurance, was destroyed on September 11th. Year 2002 will bring on a new effort to return to underwriting profitability with a more severe contraction, greater price increases and increases in both policy restrictions such as terrorism exclusions as well as an increase in insurer insolvencies.

Both the turn or hardening in the market and the World Trade Center attack substantially affected ELANY.

- ☛ ELANY's review and analysis of the financial condition of excess line insurers is ever vigilant in these difficult times.
- ☛ ELANY's offices were shuttered as a result of the World Trade Center attack for a number of days. It is with genuine gratitude that I thank the staff for a quick return to work. ELANY avoided the real likelihood of long delays and backlogs by the efforts of the staff.

- ☛ ELANY geared up and staffed up for the anticipated increase in excess line volume.
- ☛ The efforts of Jay Hilton and Valeriy Berlyand resulted in the release of ELANY's first stage affidavit software.
- ☛ New affidavit forms were released. The new simplified Part C was particularly intended to reduce the problems excess line brokers had with producing broker errors.

ELANY continues to focus on providing member services in a manner which continuously reduces the burdens of compliance. Our ongoing efforts include converting our information distribution to members from traditional paper bulletins by mail to emailed information and a revamped user friendly website. These are the short term goals that we seek to achieve. A fully electronic filing process is the longer term goal.

In this regard, ELANY presents to you for the first time, on the cover of this annual report, our new logo. Its desired effect is to demonstrate our commitment to providing you our services electronically and to increase the visibility of the services ELANY can provide by spotlighting our commitment to assist you with E&S compliance. 🚀

*In 2001, ELANY processed 95,000 documents, generating premium volume that was up 33% over the prior year.* —Guy Migliaccio



**INDUSTRY LIAISON  
LEGISLATION AND  
REGULATION COMMITTEE**



**KURT  
BINGEMAN,  
CHAIRMAN**

The pace of our Industry involvement did not ebb during 2001. Executive Director Daniel Maher and committee members remain active on numerous fronts. Most importantly, the need to pass legislation to extend the life of the organization was achieved. The legislation passed with authorization for 4, not 3 years. We were most pleased to read Assemblyman Pete Grannis' comments regarding ELANY. "Foremost among ELANY's accomplishments has been its success in collecting and processing insurance data and monitoring the solvency of insurers in the excess line marketplace. These activities are fundamental to a properly functioning excess line market in New York. ELANY has protected the interests of New

York State consumers by ensuring that their insurance needs are met by the most financially secure insurers possible. Based on this record over its twelve-year existence, it is clear that ELANY has demonstrated its importance to the insurance marketplace."

We continue our push for non-resident E&S licensing in NY, as long as it includes provisions for full reciprocity. We were successful in repealing the excess line licensing bond requirement and we continue our efforts to remove this requirement country-wide in connection with reciprocal non-resident E&S licensing and the requirements of Gramm-Leach-Bliley. Dan has worked closely with NAPSLO and the NAIC on this issue, gaining support from NCOIL, which rejected a push by the Surety Association of America to reverse NCOIL's earlier decision to support elimination of the bond requirements.

ELANY's focus is to raise the credibility of the Industry. We maintain a strong dialogue with PIWA, IBANY, NAPSLO, PIA, IIAA and the other state stamping offices. We interact with various state agencies, including a recent visit to the Department of Environmental Conservation in Albany regarding use of non-admitted insurers for coverage required of pesticide applicators. Although we will continue this effort, we did

learn that DEC will accept non-admitted insurers who are also on the NYSID list of Accredited Reinsurers.

As "hard market" conditions engulf us, we have not stopped in our efforts to facilitate use of non-admitted

insurers for certain health care related risks. Our efforts to redefine the term "hospital" in Insurance Law Section 2118 would allow export of risks such as Nursing Homes, Clinics, etc., without requiring a declination from the malpractice pool, which entity does not decline risks. Our bill did not pass the last legislative session but the item was reintroduced this year and was a hot topic during a recent joint ELANY/PIWA legislative visit to Albany in March.

An upcoming Board trip to London includes educational presentations to brokers and underwriters at Lloyd's as well as the IUA companies. We endeavor to honor every request to participate in seminars, on panels and at industry events, all focused on explaining the role of E&S insurers and brokers in NY's marketplace. 

**INFORMATION RESOURCES  
AND SECURITY COMMITTEE**

The Information Resources and Security Committee monitors the solvency of companies on ELANY's list of companies eligible to write surplus lines business in New York. The poor operating results being reported by the industry have caused us to be ever more vigilant in our duties. The terrorist attacks of September 11 produced record losses for the industry and put added pressure on already deteriorating results. For the first time since 1992 the industry reported an after-tax operating loss as a result of the largest catastrophe loss ever recorded, adverse loss development, a decrease in investment income due to the decline of the equity market and lower interest rates. It is estimated that the net loss in 2001 will be between \$6-9 million for the industry. A.M. Best estimates that surplus will decline by 12.1%. The Committee has been paying particularly close attention to year-end results and the rating agencies' responses to these results.

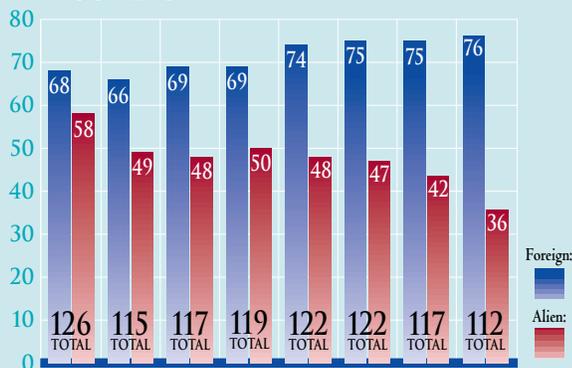
Rating downgrades have outpaced upgrades by a wide margin. ELANY currently has 112 companies on its list, and 22 foreign companies and 14 alien companies have been downgraded since 9/11. These downgrades will quicken insureds' 'flight to quality'. Despite the large number of downgrades, approximately 85% of the property/casualty companies carry a 'secure' rating from one or more rating agencies. Approximately 95% of surplus lines carriers are rated in the 'secure' category. Surplus lines insurers continue to maintain a high level of financial strength and only 17 companies on ELANY's eligibility list do not carry an 'A' rating from either A.M. Best or S&P, 6 of which are alien companies not formally analyzed by either rating agency.

A number of companies have experienced financial difficulties. The property and casualty industry had 24 insurer failures in 2001, compared with 31 failures in 2000. Some companies have discontinued writing lines of business that were unprofitable and are now focused on risk exposure

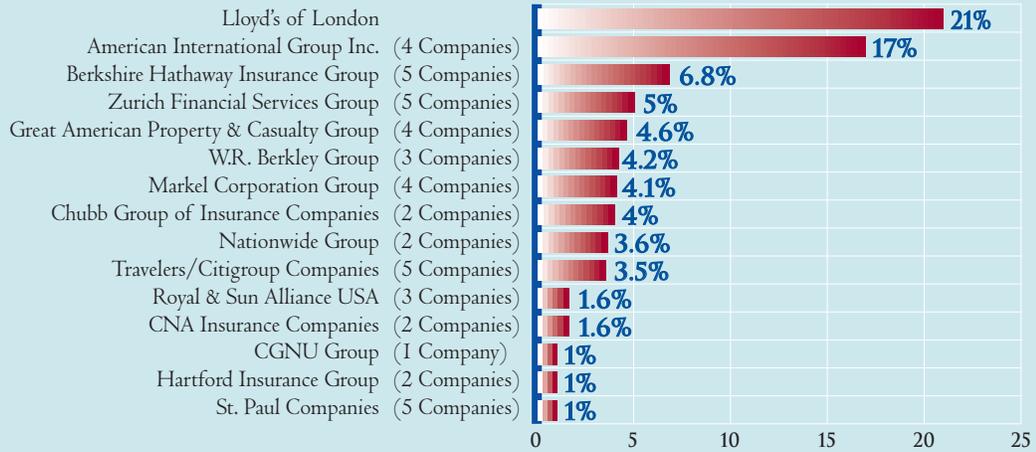


**MARGARET M.  
BEIRNE,  
CHAIRMAN**

**ACTIVE UNAUTHORIZED  
INSURERS**



## 2001 NEW YORK PREMIUM BY INSURANCE GROUP



and adequate pricing. Sustained rate increases are necessary to return the industry to profitability. However, reserve strengthening, restructuring charges, and the decline in investment income have the potential to derail the benefit of these increases.

ELANY's biggest market continues to be Lloyd's. Lloyd's capacity for 2002 has increased 10% to £12.3 billion. Lloyd's has recently announced a series of proposed reforms in an attempt to modernize this market. Among the proposed reforms is a change in the three-year accounting system to a one-year GAAP standard. Regulatory and market boards will be replaced by a single franchise board, where Lloyd's will act as the franchiser with managing agents acting as franchisees. Further, Lloyd's is seeking an end to the unlimited liability Names and to convert existing Names to limited liability by 2005. These proposals are quite controversial and will be voted on by members later this year.

Lloyd's estimates a gross loss of £5.7 billion (\$8.1 billion) and a net loss of £1.9 billion (\$2.7 billion) from the terrorists attacks of 9/11. It is anticipated that a drawdown from the Central Fund could be necessary in 2002 or 2003. The Lloyd's chain of security has four links: Premium Trust Funds which are used to meet the majority of claims and expenses; Funds at Lloyd's, which is broadly analogous to share capital; Other Personal Wealth, which includes members' other assets in the event the first two links are inadequate; and the Central Fund which is available to meet claims in the event the first three links are inadequate. Since January 1, 1999, the fund has been reinforced by a layer of reinsurance of £350 million excess £100 million any one year subject to an aggregate limit of £500 million over a 5-year period. Lloyd's has increased the premium levy on all syndicates for the 2002 and 2003 years and the additional income will be added to the Central Fund. Within the Premium Trust Funds, separate trusts operate in respect of U.S. denominated and situs business. The U.S. Situs Surplus Lines Trust Funds were \$1.04 billion at 12/31/2000.

The Information Resource & Security Committee is responsible for screening all new applicants, in addition to

monitoring the financial strength and viability of those companies currently on the Insurer Data File eligibility list. ELANY places great emphasis on this responsibility as insureds covered under policies issued by surplus lines carriers do not have access to any guaranty fund protection. The Committee benefits from the expertise of ELANY's staff, who coordinate their efforts with the New York State Insurance Department, and from feedback from the member brokers. While the work of the Committee continues to serve ELANY, its members and the State, it is important to note that this oversight process is intended as a complement, not a substitute, for the due diligence of each broker. ➔

## OPERATIONS AND PROCEDURES COMMITTEE

ELANY met some significant operating challenges in 2001. As the market hardened, both premium and transaction volume increased significantly. In fact, total documents processed in 2001 increased by 17% to 94,800.

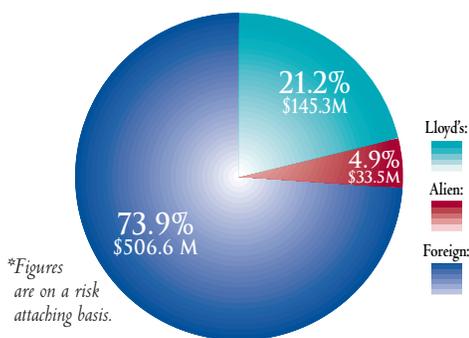
ELANY staffed up to meet market conditions and was largely successful in mailing stamped documents back to members within two business days of receipt. This was all the more remarkable when the World Trade Center attack is considered since it caused ELANY's offices to be shut down for approximately one week and otherwise seriously disrupted operations for more than a month thereafter. Similar to many of ELANY's member companies, the staff at ELANY struggled to overcome the emotional and physical damage suffered by everyone and ultimately succeeded in restoring operations.

As a result of the World Trade Center attack, we recognized that many of our members suffered, at a minimum, serious service disruptions. Others were locked out of offices for weeks or



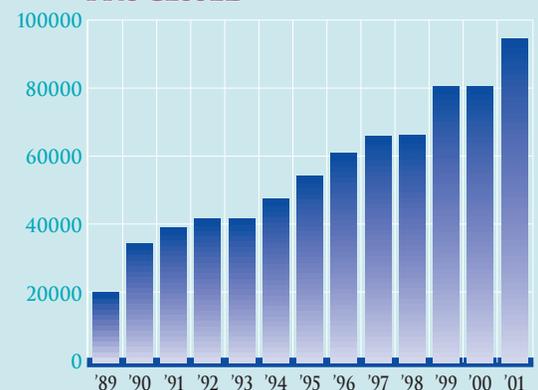
DAVID  
ISENBERG,  
CHAIRMAN

## PERCENTAGE OF YEAR 2001 PREMIUM DISTRIBUTION BY ELIGIBLE INSURERS\*



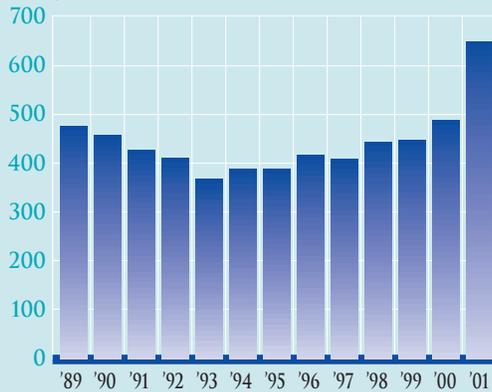
All figures and statistics are based on calendar year premium except where otherwise noted.

## POLICIES & ENDORSEMENTS PROCESSED



OPERATIONS *continued from page 5*

**TOTAL PREMIUMS  
(IN MILLIONS)**



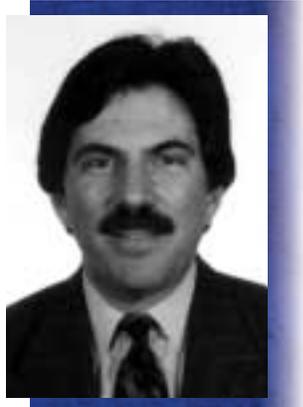
months and worst of all, others lost lives. ELANY's, responses to this tragedy included offering displaced members temporary operating space, a suspension of the late and erroneous filing fees for seven months and personal hands on assistance in processing documents wherever possible.

Throughout 2001, ELANY continued its efforts to modernize the compliance process to ease the burden on members. ELANY released its affidavit software in late 2001; and for those members who devoted some time to having staff trained on the software, it has been successful so far. ELANY began the process of emailing bulletins to members in 2001. In 2002, ELANY plans to convert the issuance of bulletins and newsletters to email and facsimile exclusively. Eliminating the traditional mailing process will increase the speed, relevancy and volume of important communications, simultaneously reducing costs. ELANY is also creating a new website for easier communications with members and of course, continues its efforts in building a fully electronic filing process.

**FINANCE**

The 2001 year of operation saw the processing of a record 94,800 documents, accompanied by a significantly expanded premium volume of \$649,000,000. These figures represent increases over 2000 results of 17% and 33%, respectively.

There was a corresponding 33% growth in stamping fees to \$2,595,909. Total revenues were up some 29% to \$2,877,018, while total expenses increased a like 29% to \$2,354,855.



LES ROSS,  
CHAIRMAN

It should be noted that in spite of the challenges presented by a tightening market, a record number of

processed documents, necessary additions to staff and related investments in infrastructure, ELANY was able to contain the cost per stamped document to \$24.84, while building the Fund Balance by \$522,163 to \$2,439,570.

**2001 REVENUES**

Stamping Fees.....	\$2,595,909
Investment &	
Miscellaneous Income.....	281,109
<b>TOTAL .....</b>	<b>\$2,877,018</b>

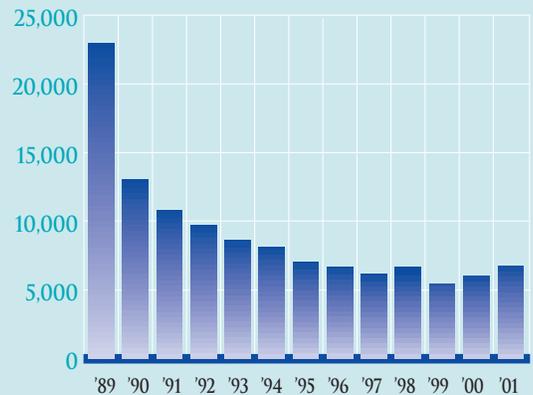
**2001 EXPENSES**

Payroll .....	1,068,187
Computer Charges.....	123,469
Rent & Utilities.....	187,797
Professional Fees .....	174,571
Postage/Printing/Stationery .....	105,572
All Other .....	695,259
<b>TOTAL.....</b>	<b>\$2,354,855</b>

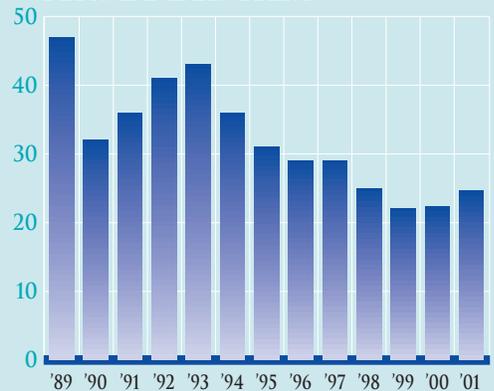
**FUND BALANCE .....** \$2,439,570

The annual independent audit of the Association's books and records has been completed and copies are available at the ELANY offices for members to review.

**PREMIUMS PER STAMPED  
INSURANCE DOCUMENT**



**PROCESSING COST  
PER STAMPED ITEM**



*All figures and statistics are based on calendar year premium except where otherwise noted.*



# 2001 STATISTICS\*

\*The following statistics are on a year 2001 risk attaching basis.

## TOP 10 INSURERS

Insurer	New York Premium	%
1. Lloyd's of London	\$ 145,331,612	21%
2. Lexington Insurance Company	\$ 65,000,323	10%
3. Great American E&S Insurance Co.	\$ 40,627,505	6%
4. U.S. Underwriters Insurance Company	\$ 28,256,850	4%
5. Admiral Insurance Company	\$ 27,663,252	4%
6. Steadfast Insurance Company	\$ 25,727,201	4%
7. Scottsdale Insurance Company	\$ 24,242,568	4%
8. United National Insurance Company	\$ 23,165,174	3%
9. American International Specialty Lines Insurance Company	\$ 19,213,564	3%
10. Columbia Casualty Company	\$ 15,669,044	2%
<b>SUBTOTAL</b>	<b>\$ 414,897,093</b>	<b>61%</b>
All Others	\$ 270,501,058	39%
<b>TOTAL</b>	<b>\$ 685,398,151</b>	<b>100%</b>

The top 10 insurers accounted for 60.5% of total premiums written in 2001, compared to 62.9% in 2000, 63.4% in 1999, and 65.8% in 1998.

## PURCHASING GROUP ACTIVITY

Of the \$685 million in premiums written and reported to ELANY, \$11 million of written premium was attributable to purchasing groups. Past years' premiums attributable to purchasing groups were as follows:

2001 . . . \$10,992,045	1998 . . . \$ 6,886,396
2000 . . . \$10,024,822	1997 . . . \$ 4,700,000
1999 . . . \$ 7,289,724	

## ELANY ACTIVE MEMBERS

ELANY had 355 active licensees submit business in 2001.

## TOP 10 PERILS

PERIL	NEW YORK PREMIUM	2000 RANKING
1. General Liability	\$ 226,995,273	2
2. Errors and Omissions	\$ 159,651,448	1
3. Multiple Peril	\$ 67,257,848	3
4. Residual Value	\$ 34,917,477	—
5. All Risk	\$ 28,823,030	5
6. Inland Marine	\$ 26,166,394	4
7. Umbrella Liability	\$ 26,104,174	9
8. Fidelity and Surety	\$ 22,340,043	—
9. Auto Physical Damage	\$ 18,491,252	6
10. Fire	\$ 14,581,884	10
<b>SUBTOTAL</b>	<b>\$ 625,328,823</b>	
All Others	\$ 60,069,328	
<b>TOTAL</b>	<b>\$ 685,398,151</b>	

## E & S TAX

Total excess line taxes (based on a 3.6% rate) paid to the State on business placed through licensed excess line brokers are itemized below:

2001 . . . \$24,674,333	1998 . . . \$16,452,984
2000 . . . \$18,647,436	1997 . . . \$14,705,600
1999 . . . \$15,784,439	

## EXCESS LINE ASSOCIATION STAFF

Daniel F. Maher, *Executive Director*  
 Theresa Hetherington, *Stamping Office Manager*  
 Nancy Born, *Office Manager*  
 James Hilton, *IT Manager*  
 Robert Perez, *Financial Director*  
 Carmen Allende, *Examiner*  
 Lorraine Chin, *Coder/Data Entry Operator*  
 Khalil Elaouni, *Examiner*  
 Joanna D'Amico, *Executive Secretary*  
 Rosabel Garcia, *Examiner*  
 Noreen Hansen, *Examiner*  
 Jenny Kyi, *Coder/Data Entry Operator*  
 Lillian Muniz, *Data Entry Operator/Coder*  
 Rebecca Muniz, *Coder/Mail Clerk*  
 Djenaba Nwoke, *Examiner*  
 Carlos Padilla, *Examiner*  
 Annette Persaud, *Examiner*  
 Erna Perz, *Senior Coder*  
 Beth Pfluger, *Examiner*  
 Dana Rathje, *Examiner*  
 Theresa Ryan, *Senior Examiner*  
 Tiffany Sheppard, *Coder*  
 Jose Torres, *Coder*  
 Jacqueline Washington, *Receptionist*

Valeriy Berlyand, *IT Consultant*  
 Marshall Pinnix, *Consulting Financial Analyst*



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*Association Counsel*  
LeBoeuf, Lamb, Greene & MacRae

JOHN McPARLAND, CPA

*Independent Accountant*  
RSM McGladrey, Inc.

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