

STATE OF ALABAMA

DEPARTMENT OF INSURANCE

MONTGOMERY, ALABAMA

REPORT OF EXAMINATION

OF THE

AMERICAN TRUST LIFE INSURANCE COMPANY

BIRMINGHAM, ALABAMA

AS OF

DECEMBER 31, 1990

EXHIBIT

31

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June 12, 1991
Birmingham, Alabama

Honorable Mike Weaver
Commissioner of Insurance
State of Alabama
135 South Union Street
Montgomery, Alabama 36130-3401

Dec.
31,
1987
-
Dec.
31,
1988

Dear Commissioner:

Pursuant to your authorization and in compliance with the statutory requirements of the State of Alabama and the resolutions adopted by the National Association of Insurance Commissioners, an examination has been made of the affairs and financial condition of the

AMERICAN TRUST LIFE INSURANCE COMPANY

BIRMINGHAM, ALABAMA

at its Home Office located at 1614 Third Avenue North, Birmingham, Alabama 35203, as of December 31, 1990. The report of examination is submitted herewith.

Where the description "Company" appears herein, without qualification, it will be understood to indicate American Trust Life Insurance Company.

SCOPE OF EXAMINATION

The Company was last examined for the three year period ended December 31, 1987, by an examiner representing the State of Alabama. The current examination covers the intervening period from the date of the last examination through December 31, 1990. Where deemed appropriate, transactions subsequent to 1990 were reviewed.

The examination was made in accordance with the statutory requirements of the Alabama Insurance Code and the Alabama Insurance Department's regulations and bulletins; in accordance with the applicable guidelines and procedures promulgated by the National Association of Insurance Commissioners (NAIC); and in accordance with generally accepted examination standards in connection with the verification of assets and determination of liabilities.

The examination included an inspection of corporate records, test checks of recorded income and disbursement items for selected periods, and a general review of records and files pertaining to operations, administrative practices and compliance with statutes and regulations. Assets were verified and valued and all known liabilities were established or estimated as of December 31, 1990, as shown in the Financial Statements contained herein. However, the discussion of assets and liabilities contained in this report is confined to those items where a material change was made,

or which indicated violation of the Alabama Insurance Code, or which are deemed to require comments and/or recommendations.

A Company work copy of the Annual Statement for 1990 was compared with or reconciled to account balances with respect to ledger items. A signed certificate of representation was obtained during the course of the examination. In this certificate, management attests to having valid title to all assets and to the non-existence of unrecorded liabilities as of December 31, 1990.

ORGANIZATION AND HISTORY

The Company was incorporated in Jefferson County, Alabama in 1932 as the Jordan Mutual Aid Association.

The Company's charter originally provided for capital of \$5,000, divided into 500 shares of \$10.00 par value common stock. There have been subsequent amendments to the charter in order to increase the amount of capital to \$50,000, divided into 5,000 shares of \$10.00 par value common stock.

On September 30, 1977 Hilliards and Company, Inc. purchased 2,493 of the then outstanding 2500 shares of the common stock of the Company. At this time the name of the Company was changed to American Trust Life Insurance Company. The Company merged with Lincoln Industrial Insurance Company per a court order dated December 14, 1981. The Company was the survivor.

In 1982, Hilliards and Company, Inc. acquired 100% ownership of the Company by purchasing the remaining seven

shares of common stock from the Alabama Department of Revenue, under the provisions of the Uniform Disposition of Unclaimed Property Act. Due to the subsequent amendments to the charter, Hilliards and Company, Inc. was the sole stockholder of the 5,000 shares of \$10.00 par value common stock at the date of examination.

MANAGEMENT AND CONTROL

Stockholders

It was noted in the last examination report that the Company was not in compliance with Section 27-30-30(a), Code of Alabama 1975, as amended, which states that,

"The affairs of every domestic mutual aid association shall be governed by a board of directors or board of trustees consisting of not less than seven members, each of whom must be a member or stockholder of the corporation."

As of the date of this examination report, the stock of the Company was still wholly owned by Hilliards and Company, Inc.

Board of Directors

The By-Laws provide that the corporate powers of the Company shall be vested in a Board of no fewer than seven and no more than fifteen members. The directors shall be elected by a majority vote at the annual meeting of the stockholder(s). The following individuals were serving as directors at December 31, 1990 per the Company's 1990 Annual Statement.

<u>Director/Address</u>	<u>Principal Occupation</u>
Earl Frederick Hilliard Birmingham, Alabama	Senator, State of Alabama
Mary Franklin Hilliard Birmingham, Alabama	Vice President, Company
John Randall Hilliard Birmingham, Alabama	Director, Alabama Community Assistance Program
Beverly Poole Baker Birmingham, Alabama	Attorney
Jeff Germany Birmingham, Alabama	Commissioner, Jefferson County
Arthur Rice Birmingham, Alabama	Retired
William Andre Parker Birmingham, Alabama	Grand Chancellor Knights of Pythias
George Perdue, Jr. Birmingham, Alabama	Auditor, UAB Hospital
Curtis Eugene Stallworth Birmingham, Alabama	Vice President, Company
Frederick Earl Hilliard Birmingham, Alabama	Field Representative, Boy Scouts of America

The Examiner noted that the Company did not list the full names (initials not acceptable) of its directors in the 1988, 1989, and 1990 Annual Statement as required by the instructions thereto.

Executive Committee

The By-Laws of the Company provide that the Board of Directors may appoint an executive committee consisting of three or more directors which shall include the Chairman of the Board and the President. There was no evidence that an

executive committee had been utilized during the period covered by this examination.

officers

Officers of the Company elected by the Board of Directors and serving at December 31, 1990 were as follows:

<u>Officer</u>	<u>Title</u>
Earl Frederick Hilliard	President
Mary Franklin Hilliard	First Vice President
John Randall Hilliard	Second Vice President
Arthur Rice	Third Vice President
Curtis Eugene Stallworth	Fourth Vice President
Elvira Willoughby	Secretary
Earl Frederick Hilliard	Treasurer
John Rippendelli	Actuary

The Company did not include the full names (initials not acceptable) of its officers in the Annual Statement as required by the instructions therewith.

Conflict Of Interest

The Board of Directors approved and adopted a formal policy statement on business ethics and conflicts of interest. The policy statement adopted required that all directors, officers, and employees report annually, on a form approved by the Board of Directors, any conflicts between the Company's

interests and the interests of directors, officers and employees.

The conflict of interest statements filed during the three year period covered by this examination were reviewed. The examiner noted that one conflict statement for 1990 was not completed by a director, who did not attend the annual board meeting. The aforesaid review determined that no material conflicts were reported for those statements that were filed.

CORPORATE RECORDS

The Certificate of Incorporation and By-Laws, as amended, were inspected during the course of the examination and appeared to provide for operation of the Company in accordance with usual corporate practice and applicable statutes and regulations.

Minutes of meetings of the stockholders and Board of Directors were reviewed for the period under examination. The minutes appeared to be perfunctory in nature. Purchases and sales of investments were not approved by the Board of Directors. The minutes were deemed to be incomplete with regard to recording actions taken on matters before the respective bodies for deliberation and action.

HOLDING COMPANY AND AFFILIATE MATTERS

Holding Company

The Company is deemed to be subject to the Alabama Insurance Holding Company Regulatory Act as defined in Section 27-29-1, Code of Alabama 1975, as amended. In connection therewith, the Company is registered with the Alabama Department of Insurance as registrant of an Insurance Holding Company System.

According to previous examination reports, the Company originally filed their Form B amendment with the Commissioner of Insurance in 1977; however, the Company was unable to locate this filing. The Company had not updated or amended its Holding Company filings since the initial filing.

Material transactions which occur among the related companies of the Holding Company System are required to be filed within fifteen days after the end of the month in which the transaction occurred, per Section 27-29-4(c) and (d), Code of Alabama 1975, as amended.

During the course of the examination, the Company filed an updated Form B filing with the Alabama Department of Insurance.

Dividends to Stockholders

The Company paid \$6,000 to the Hilliards and Company, Inc. on August 11, 1988; this payment was charged to a line item entitled "Management fees." The Company responded that this was an error and that the transaction should have

reflected a loan to Hilliards and Company, Inc. At the date of examination there was no promissory note to evidence this loan; therefore, it appeared to the examiner that the Company was in violation of Section 27-27-37(a), Code of Alabama 1975, as amended, which states that,

"A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business."

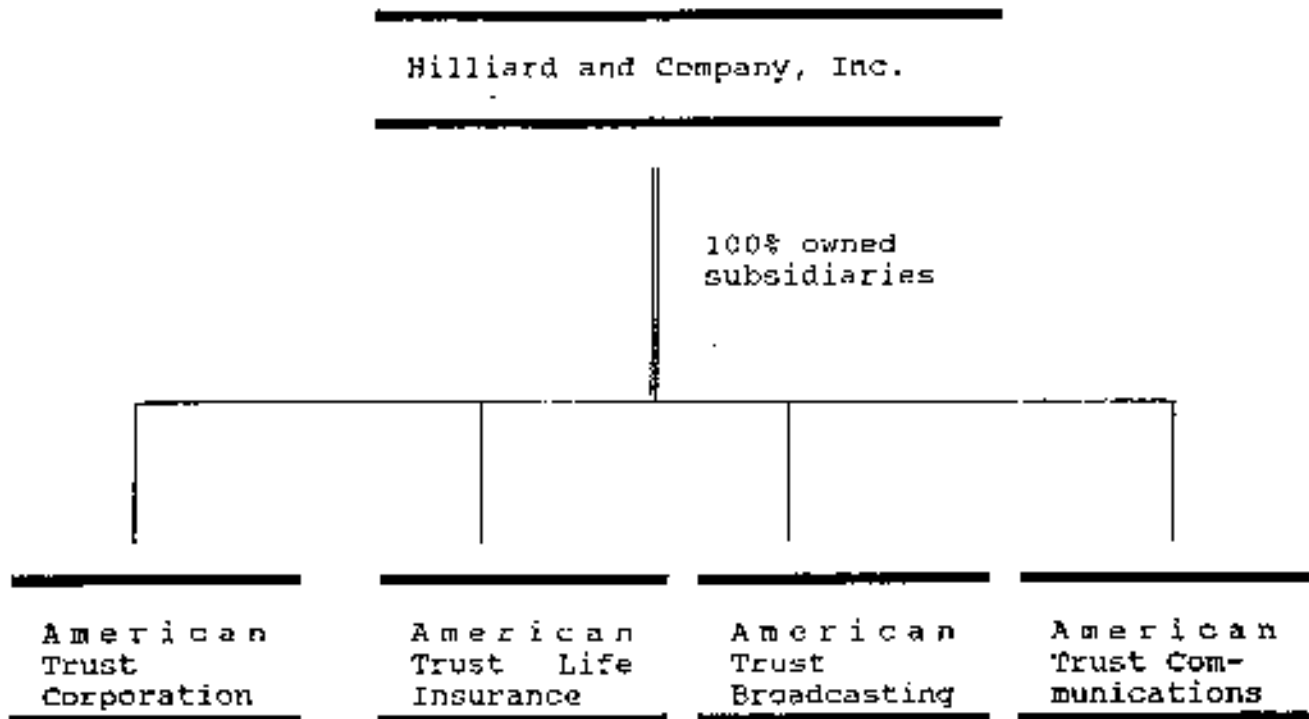
In addition, the Board of Directors did not approve a dividend payment. Consequently, the examiner has established and non-admitted an account receivable from Hilliards and Company, Inc. in the amount of \$6,000.

Management and Service Agreements

The Company had no written management or service agreements.

Organizational Chart

The following chart presents the identities of and interrelationships among all affiliated persons within the Insurance Holding Company System at December 31, 1990:



FIDELITY BOND AND OTHER INSURANCE

The Company did not maintain fidelity bond coverage. An escrow account in the amount of \$1936, which consisted of withheld commissions, was maintained by the Company for its agents. Per NAIC guidelines, the Company should maintain fidelity bond coverage in a minimal amount of \$125,000.

The Company had a business/property insurance policy in effect on the home office property. In conjunction with the property insurance, the business policy also provided liability, fire, and medical coverages.

EMPLOYEE AND AGENTS WELFARE

The Company provided its employees and agents with the following benefits at December 31, 1990:

Vacation Leave
Sick Leave
Major Holidays
Health Insurance

SCHEDULE OF ALL OTHER DEPOSITS

In order to comply with the statutory requirements of the State of Alabama the following deposits were held at December 31, 1990:

<u>Certificates of Deposit</u>	<u>Amount</u>
Citizens Federal Savings Bank, Birmingham, AL 6.25% due 4/30/92	\$ 1,000
Citizens Federal Savings Bank, Birmingham, AL 6.25% due 4/30/92	<u>21,000</u>
Total	<u>\$22,000</u>

The above deposits, confirmed directly with the custodian, were maintained for the benefit of all policyholders.

FINANCIAL CONDITION/GROWTH OF THE COMPANY

The following table sets forth the significant items indicating the growth and financial condition of the Company for the period under review:

		<u>1987*</u>	<u>1988</u>	<u>1989</u>	<u>1990*</u>
Admitted Assets	5	453,679	512,241	510,210	263,699
Liabilities		465,639	354,088	345,237	359,982
Common stock and paid in surplus		(11,965)	168,153	164,973	(96,183)
Premiums Earned		45,980	42,163	35,405	30,494

* Per Examination

MARKET CONDUCT ACTIVITIES

Plan of Operation

The Company's agency operations are conducted under the supervision of a Company Vice President. All policies are sold on a monthly debit basis, through the Company's own debit agents.

Territory

The Company was licensed to transact business in the state of Alabama only, during the examination period and at December 31, 1990.

Advertising and Marketing

The Company had promotional calendars, pens, and sewing kits distributed to the public through its agents and the home office. The Company also started a limited amount of radio advertising during the period covered by this examination.

Policy Forms and Underwriting Practices

During the period covered by this examination, the Company issued only three policy forms.

- A.) Monthly Debit Ordinary Policy - provided 3, 5, 10, or 20 years pay life plans, with contract denominations in amounts of \$500 to \$2500.
- B.) Educational Endowment Policy - sold only to juveniles under 14 years of age, providing an endowment at age 18, with contract denominations in amount of \$500 to \$2,500.
- C.) Accidental Injury and Death Policy - provided benefits for injuries, dismemberments, or death which resulted from an accidental means with a maximum aggregate benefit of \$2,500.

Claims Review

A review of the Company's claims register was made during the course of examination. A selected sample of claims files was reviewed and the following observations were made by the examiner.

The claims register was not always complete in regards to listing the date of death, date received, and date paid by the Company. The claims files were poorly documented. Certain claims were not paid for three months from the date received by the Company; moreover, there was limited documentation in the claims files to support delays in payment.

When this was brought to the attention of the Vice President in charge of operations, she stated that in many instances they (the Company) are awaiting additional documentation such as death certificates or assignments. She continued by saying that in some instances claims payments were delayed due to a "cash flow problem" of the Company.

The examiner recommended during the review of claims that the Company institute some type of procedure to track all claims pending payment. This information should be available for review in each claim file during any subsequent examinations.

Policyholder Complaints

During the three year period covered by this examination, the Alabama Insurance Department received two complaints. Both complaints occurred during 1988 and appeared to have been caused by the beneficiaries' misinterpretation of benefits.

Compliance With Agents Licensing Requirements

A review of Company records was made by the examiner to determine that agents representing the Company were duly licensed by the Alabama Department of Insurance.

A listing of licensed agents was obtained from the Agent's License Division of the Alabama Department of Insurance. A review was made of the Company's cash disbursements for commissions paid during the examination period and compared to the listing of licensed agents. This review disclosed that the Company paid commissions in the amount of \$326.51 to one unlicensed person during 1988. This individual was subsequently licensed as an agent in 1989 and 1990. The Company was in apparent violation of Section 27-8-27(a), Code of Alabama 1975, as amended which states that

"No insurer, agent or broker shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as an agent or broker within this state unless such person holds a currently valid license as an agent or broker as to the kind or class of business involved as required by this chapter."

REINSURANCE

During the period covered by this examination, the Company did not cede or assume any business.

ACCOUNTS AND RECORDS

The Company's accounting operations were under the supervision and direct control of a Vice President of the Company. The Company's accounting records were maintained

manually. The Company retained an outside bookkeeper for the purposes of creating a trial balance quarterly and preparing the Annual Statement. The Company does not maintain a general ledger. The trial balances which were created were of little use to the examiner as the flow of assets, especially real estate investments, could not be traced to the disbursements or receipts journal. Some asset accounts were established by the Company President providing a listing of the amount which to carry a specific asset with no support documentation. (See "Note 3 - home office property.")

The workpapers which were used to prepare the Annual Statement were not sufficient to trace all the trial balance amounts to the Annual Statement. The Annual Statement was incomplete with regard to various schedules which will be specifically covered in the Notes to Financial Statements section of this report. Additionally, it was noted that some of the Company's records were not kept in the home office.

Section 27-30-21, Code of Alabama 1975, as amended, states as follows:

- "(a) Every mutual aid association shall keep complete and accurate accounts and records of its affairs and transactions, in accordance with the usual and accepted methods and principles of insurance accounting and record keeping as applicable to the kind of business transacted by the association.
- (b) All such accounts and records of a mutual aid association shall be kept in the principal offices of the association located in this state and be available for inspection thereat by the commissioner on any general business day.

(c) The commissioner may suspend or revoke the certificate of authority of any association found by him to be in violation of this section."

This is the second consecutive examination which has cited this problem. An inordinate amount of time was required to complete this examination as records were not readily available or locateable by Company personnel. Certain items that were not promptly provided, which should have been available immediately upon request, included minutes of the stockholders' meetings, conflict of interest statements, and the By-Laws of the Company.

The Company records were not in conformity with accepted industry practices or the NAIC guidelines. The three Annual Statements, applicable to the examination period, were not completed in their entirety. This is now the second consecutive examination which has noted this deficiency.

FINANCIAL STATEMENTS

The Financial Statements included in this report were prepared on the basis of the Company's records, and the valuations and determinations made during the examination for the year 1990. Amounts shown in the comparative statements for the years 1988 and 1989 were compiled from Company work copies of Annual Statements. The statements are presented in the following order:

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The notes immediately following the Financial Statements in this report are an integral part thereof.

STATEMENT OF ASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS

For the Year Ended December 31, 1990

<u>ASSETS</u>	<u>Ledger Assets</u>	<u>Non- Ledger Assets</u>	<u>Non- Admitted Assets</u>	<u>Net Admitted Assets</u>
Bonds (Note 1)	\$ 15,000	\$	\$	\$ 15,000
Mortgage loans on real estate (Note 2)	110,983		5,354	105,629
Real estate- home office (Note 3)	495,763		482,352	13,411
Investment real estate (Note 4)	183,503		16,976	105,527
Cash on deposit (Note 5)	22,257			22,257
Life insurance premiums and annuity considerations deferred and uncollected on in force Dec. 31st of current year		227		227
Investment income due and accrued (Note 6)		11,848	10,200	1,648
Furniture and equipment	3,837		3,837	
Loans on personal security	15		15	
Utility deposits	1,660		1,660	
Receivable from parent company (Note 7)	-----	291,500	291,500	-----
Total Assets	<u>\$811,018</u>	<u>\$303,575</u>	<u>\$872,994</u>	<u>\$263,699</u>

The notes immediately following the Financial Statements and Exhibits in this report are an integral part thereof.

STATEMENT OF ASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS

For the Year Ended December 31, 1990

LIABILITIES

Aggregate reserve for life policies and contracts (Note 8)	\$348,616
Policy and contract claims (Note 9)	3,500
Premiums and annuity considerations received in advance	936
General expenses due or accrued	556
Taxes, licenses and fees due or accrued (Note 10)	150
Amounts withheld or retained by company as agent or trustee	695
Amounts held for agents' account	1,936
Mandatory securities valuation reserve	240
Pythian Lodge Account (Note 11)	<u>3,663</u>
Total Liabilities	<u>\$359,882</u>

SURPLUS AND OTHER FUNDS

Common capital stock	\$ 50,000
Gross paid in and contributed surplus (Note 12)	\$(146,183)
Total Surplus	<u>\$(146,183)</u>
Total Capital and Surplus	<u>\$196,183</u>
Total Liabilities, Surplus and Other Funds	<u>\$263,699</u>

The notes immediately following the Financial Statements and Exhibits in this report are an integral part thereof.

STATEMENT OF INCOME

For the Years Ended December 31, 1988, 1989 and 1990

	<u>1988</u>	<u>1989</u>	<u>1990</u>
Premiums and annuity considerations	\$ 42,163	\$ 35,405	\$ 30,494
Net investment income	2,888	8,143	(7,597)
Beverage coin machine	<u>322</u>	<u>421</u>	<u>184</u>
Total income	\$ <u>45,373</u>	\$ <u>43,969</u>	\$ <u>23,081</u>
Deductions:			
Death benefits	\$ 15,163	\$ 13,813	\$ 16,544
Matured endowments	1,700		
Surrender benefits and other fund withdrawals	1,123	2,288	2,170
Increase in aggregate reserves for life and accident and health policies and contracts			19,620
Increase in reserves for policy and contract claims			3,000
Commissions on premiums and annuity considerations	9,819	8,511	7,501
General insurance expenses	52,534	38,952	28,817
Insurance taxes, licenses and fees	10,185	2,828	1,623
Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	<u>175</u>	<u>34</u>	<u>76</u>
Total deductions	\$ <u>90,719</u>	\$ <u>65,426</u>	\$ <u>79,351</u>
Net income (loss)	\$ <u>(45,346)</u>	\$ <u>(22,457)</u>	\$ <u>(56,270)</u>

The notes immediately following the Financial Statements and Exhibits in this report are an integral part thereof.

CAPITAL AND SURPLUS ACCOUNT

For the Years Ended December 31, 1988, 1989 and 1990

	<u>1988</u>	<u>1989</u>	<u>1990</u>
Surplus as Regards Policyholders December 31, Previous Year	\$ <u>237,739</u>	\$ <u>168,153</u>	\$ <u>164,973</u>
Gains and (Losses) in Surplus:			
Net income (loss)	\$(45,346)	\$(22,466)	\$(56,270)
Net unrealized capital gains and (losses)	109,143	(268)	(254,706)
Change in non-admitted assets Change in reserve on account of change in valuation basis	861	11,427	
Change in mandatory securities valuation reserve	(10)	(30)	(30)
Paid in capital	(749,704)		
Paid in surplus	72,132	8,157	49,850
Auditors net adjustments	2,528		
Permanent improvements home office	4,000		
Repayment of Amsouth loan	<u>6,000</u>		
Net Increase (Decrease)	\$ <u>(569,586)</u>	\$ <u>(13,100)</u>	\$ <u>(261,156)</u>
Surplus as Regards Policyholders December 31, Current Year	\$ <u>168,153</u>	\$ <u>164,973</u>	\$ <u>(96,183)</u>

The notes immediately following the Financial Statements and Exhibits in this report are an integral part thereof.

NOTES TO FINANCIAL STATEMENTS

Note 1 - Bonds

\$15,000

The above referenced amount is the same amount as reported in the Company's 1990 Annual Statement.

The two bonds that composed this account were physically located at out-of-state brokerage firms at December 31, 1990. Section 27-27-29(b), Code of Alabama 1975, as amended, requires the Company to maintain all its assets in the state of Alabama. In addition to the bonds being located out of state, there was no custodial agreement with the brokerage firm to evidence this arrangement.

During the course of the examination, the examiner gave the Company the opportunity to bring the bonds back to the state of Alabama. The Company did comply and the bonds were located in a safe deposit box at Southtrust Bank of Alabama, supported by a custodial agreement at the conclusion of this examination.

It was noted that the Company did not complete Schedule D in its entirety. The Company failed to list Cusip numbers for the bonds owned; in addition, they failed to complete Part 1A and columns 14 and 15 of Schedule D. It was also noted that the Company indicated a "yes" designation under column 13 for the NAIC designation. The rating system of the NAIC has been changed to a numerical rating system. The bonds that the Company owned were fully amortizable; however, the correct designations should have been as follows:

Alabama Power, 9.5%, maturing 2/2008, Cusip number
010392-BN-7, NAIC designation of (1).

Detroit Edison, 9.0%, maturing 10/2008, Cusip number
250847-AZ-3, NAIC designation of (2).

Note 2 - Mortgage loans on real estate \$105,629

The above captioned amount is \$95,881 less than the
\$201,510 amount reported in the Company's 1990 Annual
Statement.

\$90,527 has been reclassified to the more appropriate
caption "Investment Real Estate." This reclassification
occurred due to three parcels of real estate being foreclosed
upon during 1990.

\$5,354 has been non-admitted as a judgement was rendered
against the Company on October of 1990 reducing the balance of
a mortgage note from \$6,354 to \$1,000.

During the review of this account, the examiner noted
that the files were poorly maintained. Certain files were not
located at the home office property; other files had to be
updated during the course of examination to prove ownership of
the applicable assets. This is the third consecutive
examination which has recommended that the Company keep their
files current with regard to documentation to titles,
encumbrances, appraisals, paid taxes, insurance coverages, and
all transactions which affect the ownership value of the
properties.

Note 3 - Real estate

Properties occupied by the company

\$13,411

The amount listed above is \$188,352 less than the amount reported in the Company's 1990 Annual Statement.

The Company acquired this property from Earl Hilliard on August 24, 1987. At the time the property was contributed to the Company, there were two existing mortgages on the property.

The first mortgage resulted from a loan made to Earl Hilliard May 30, 1987 payable to Southtrust Bank in the amount of \$100,000. This loan was made for the purpose of renovation and improvements to be made by Rainbow Building of Birmingham. This transaction took place prior to Earl Hilliard contributing the property to American Trust Life Insurance Company. Southtrust Bank did not agree to allow the property to be sold (contributed) as the property was the security for their loan to Earl Hilliard. It was noted by the examiner that this loan was amortized over a fifteen year period but matures in five years, or May 1992. No agreement was made for the Company to assume payments on this loan; however, it was noted that since November 19, 1987 the Company has paid \$34,305 in mortgage payments to Southtrust Bank.

The second mortgage resulted from the original purchase of the property in August of 1986 by Earl Hilliard. The seller agreed to hold a mortgage in the amount of \$118,500. In addition, the seller agreed to subordinate his lien to Southtrust Bank when the May 30, 1987 loan transaction took

place; therefore, making the seller the second mortgage holder. It was also noted on this loan that the borrower was Earl Hilliard: no assumption of mortgage has been agreed to by the lender (seller). The Company has paid \$20,250 in mortgage payments to the seller.

Upon examination of the deeds of the property, the examiner noted that there were five different recorded deeds within a fourteen month period. The owners of the property at various points during this fourteen month period included Earl Hilliard, Hilliards and Company, Inc., and American Trust Life. The last title policy in file was in 1986 when Earl Hilliard originally acquired the property. The examiner requested a current title search and title policy to verify current ownership of the property. The title search did confirm that the Company was the owner of this property as of May 24, 1991.

On September 23, 1989, the Company contracted with Hilliards and Company, Inc., the parent of the Company, to renovate the home office property at a cost of \$105,000. The Company issued Hilliards and Company a check for the full amount of \$105,000 on December 29, 1989. As of the date of this examination report, the renovation had not been completed. See "Note 5 - Cash on hand and on deposit" for further discussion on this payment and "Note 7 - Amounts receivable from parent" for further discussion.

Per the 1987 examination report the net admitted value of the home office property was \$31,185. The most recent appraisal available to the examiner was dated March 3, 1987. This appraisal listed a land value of \$49,000 and improvements of \$211,000 for a total value of \$260,000. The examiner questioned Company officials as to how the value of the property was determined. They responded by stating that the value was increased due to renovation of the property. With the renovation not being completed fifteen months after Williards and Company was paid for the improvements, the examiner requested a new appraisal to determine the value of any improvements that might have been completed. The examiner temporarily recessed the examination in order that the Company might obtain an appraisal on this property. When the examination was reconvened, four weeks after the initial request for a new appraisal, the President of the Company stated that he could not obtain a qualified appraisal within this four week period. Without a new qualified appraisal, the examiner was forced to use the last qualified appraisal which was dated March 3, 1987.

The Company had depreciated the property at a rate of \$19,158 per year beginning in 1987. Therefore, the value of this property is determined as follows:

Appraised value of property	\$260,000
Less encumbrances	(207,219)
Less accumulated depreciation	<u>(39,370)</u>
Value per examination December 31, 1990	<u>\$ 13,411</u>

It was also noted that the Company omitted the date of last appraisal in Schedule A of the Annual Statement.

Note 4 - Real Estate

Investment property

\$105,527

The above captioned amount is \$31,473 more than the \$76,000 reported in the Company's 1990 Annual Statement.

The changes resulting from this examination are as follows:

Amount per 1990 Annual Statement before non-admitted assets	\$ 92,976
Reclassification from Mortgage loans	90,527
Encumbrances on properties	(14,500)
Non-admitted real estate per Company	(16,976)
Non-admitted per examination, in addition to Company's non-admit	<u>(46,500)</u>
Value per examination	<u>\$105,527</u>

The \$90,527 which was reclassified from the caption mortgage loans was due to three foreclosed properties being incorrectly classified in the 1990 Annual Statement.

The non-admitted amounts resulted primarily from properties which were contributed from Hilliards and Company, Inc. These properties had no qualified appraisals upon which to base a value. Once again, the examiner gave the Company the opportunity to obtain qualified appraisals; however, the Company stated that they could not comply with this request. The cost of these properties to Hilliards and Company was substantially less than what the Company was carrying on its books. The President of the Company stated that improvements were made to these properties which increased the value; however, he could not provide receipts for these expenditures.

The examiner non-admitted the difference between the cost of the properties to Hilliards and Company, Inc. and the amount that the Company was carrying these properties. The non-admitted amounts are disclosed below.

- 1.) 2322 11th Place, Birmingham, Alabama - The book value per the Company was \$23,500. This property was contributed from Hilliards and Company, Inc. on December 28, 1990. Hilliards and Company acquired this property on December 10, 1990 for a cost of \$5,000. No appraisal was available for review; therefore, the examiner non-admitted the difference of \$18,500.
- 2.) 1223 Pineview, Birmingham, Alabama - The book value per the Company was \$38,500. This property was contributed by Hilliards and Company, Inc. on December 28, 1990. The examiner was unable to determine the original purchase price which Hilliards and Company paid; however, the Company did owe \$14,500 on a mortgage on the property which the seller of the property held. Therefore, the examiner non-admitted \$24,000, allowing a value of \$14,500 which was offset by the amount of the encumbrance.
- 3.) Ridge Place Lot - The book value per the Company of this lot was \$4,000. This property was contributed in 1981. No documentation was in file regarding the cost of this lot or appraised value. The examiner non-admitted the \$4,000 book value.

The investment property files were lacking in documentation as to ownership, hazard insurance, mortgages on properties, and leases. During the course of the examination, the examiner was able to obtain sufficient information to verify ownership of the admitted portion of this asset.

It was noted that the Company surrendered an investment property located at 122 West South Street, Montgomery, Alabama to the mortgagee during the period covered by this examination. This property had a net admitted value of

\$58,679 per the 1987 report of examination. The mortgage holder accepted a deed in-lieu-of foreclosure from the Company; therefore, the Company did not have any additional liability in the event of a loss by the mortgagee. The loss of this property resulted from the Company's failure to meet the terms of the mortgages on this property.

The Company failed to list each property separately in Schedule A that exceeded one-tenth of one percent of the Company's admitted assets (or \$528) as required by the Annual Statement instructions; in conjunction, the date of last appraisal should be listed for each property.

It was also noted that the Company was not depreciating any of its investment real estate. The NAIC publication Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies states that, "The cost of property, other than land, should be depreciated over its estimated useful life."

Note 5 - Cash on hand and on deposit \$22,257

The above referenced amount is the same as reflected in the 1990 Annual Statement; however, It was noted by the examiner that the above amount consisted of \$22,000 in the form of certificates of deposit, which were held by the State of Alabama as statutory deposits. The remaining \$257 was located in the Company's sole checking account at Amsouth Bank.

It was noted by the examiner that the Company purchased a certificate of deposit in the amount of approximately \$120,000 from Amsouth Bank during June of 1988. The President of the Company stated that the funds used to purchase this certificate of deposit were from the sale of an investment property located on 1605 8th Avenue North. On December 29, 1989, the Company listed in its cash receipts journal a deposit for \$105,650, with a description of "withdrawal from CD-Amsouth." On the same day, the cash disbursements journal listed a check payable to Hilliards and Company, Inc. for \$105,650 for "home office improvements." See "Note 3 - Home Office Real Estate" for further discussion on this payment. Upon examination of the December 1989 Amsouth bank statement, the examiner ascertained that the Company wrote the check to Hilliards and Company for \$105,650. Hilliards and Company endorsed the check and returned the check to the Company. The Company then deposited the check and listed the deposit as a "withdrawal from CD." Thus, the check and its deposit "wash." It appeared to the examiner that this was a deliberate attempt to conceal the true withdrawal of funds from the certificate of deposit. The examiner was not able to verify the disposition of the \$120,000 certificate of deposit.

The examiner noted that disbursements, with no support documents, were made during the 1988, 1989 and 1990 period totalling \$18,360 to family members of the President of the Company. These expenditures were charged to various line

items including office help, travel, and professional services. Payroll taxes were not withheld for payments classified as office help or professional services. There was an annual agreement for payments entitled "travel." This agreement allowed for round trip transportation from the residence of the individual to the Company office; in addition, a per diem amount of \$5.00 per day was allowed. 1999 filings were not made to the Internal Revenue Service for any of the aforementioned payments. The Company is in apparent violation of Section 27-27-30 (a and b), Code of Alabama 1975, as amended, which states that:

- "(a) No insurer shall make any disbursement of \$15.00 or more unless evidenced by a voucher or other document correctly describing the consideration for the payment and support by a check or receipt endorsed or signed by, or on behalf of, the person receiving the money.
- (b) If the disbursement is for services and reimbursement, the voucher or other document, or some other writing referred to therein, shall describe the services and itemize the expenditures."

Note 6 - Investment income due and accrued **\$1,648**

The above referenced amount is \$10,200 less than the amount reflected in the 1990 Annual Statement. This change resulted from two accruals which are not admissible.

The Company had established an accrual in the amount of \$10,200 for rental income from W A Casey and Earl Hilliard. These two accruals were not accepted for purposes of this examination as:

- 1.) leases were not available to substantiate that these amounts were actually due.
- 2.) a review of the 1991 cash receipt journal did not indicate that these amounts had been received.

Note 7 - Receivable from parent, subsidiaries,
and affiliates

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The 1987 examination report non-admitted a collateral loan in the net amount of \$180,300. Subsequent to the 1987 examination, the Company transferred this loan back to the parent company for no consideration. Even though this loan was not an admissible asset in accordance with Sections 27-37-6 and 27-37-2, the loan had an actual market value. No documentation was provided to the examiner to support or evidence this transaction; therefore, the examiner has established and non-admitted a receivable from Hilliards and Company, Inc. for \$180,300, the same amount the Company listed in their 1987 Annual Statement.

The examiner also established and non-admitted an additional \$6,000 receivable from Hilliards and Company, Inc. due to what appeared to be an illegal dividend payment June 3, 1988. See "Dividends to Stockholders" for further discussion on this payment.

In addition to the receivables listed above, the examiner also established and non-admitted a receivable in the amount of \$105,000 from Hilliards and Company, Inc. due to the non-completion of improvements on the home office property.

The aggregate amount of the receivable from parent is \$291,500.

Note 8 - Aggregate reserve for life policies **\$348,616**

The captioned amount is \$16,603 more than the liability established by the Company in its 1990 Annual Statement.

It was noted that the Company did not compute its reserves in accordance with Section 27-30-16, Code of Alabama 1975, as amended, which requires that the Company,

" . . . compute the net value as of December 31 of the preceding year of all benefits payable in cash under all outstanding contracts or policies...made upon the basis of the "combined experience" or "actuarial table" or "the American experience table" rate of mortality (Illinois standard of valuation), with interest at the rate of four percent per annum."

The tables which the Company is using are at least as conservative as the American Experience Table with interest at 4%. The changes arose from missing factors and from using whole life factors on some plans where the premium paying period had expired.

Note 9 - Policy and contract claims **\$3,500**

The captioned amount is \$3,000 more than the \$500 amount reported in the Company's 1990 Annual Statement.

The \$3,500 represented an average of the last three years incurred but not reported claims. The last examination report cited this same understatement of liability. In written response to the last examination report, the President of the Company stated that "The Company has and will maintain an

adequate amount of reserves for its incurred but not reported claims in compliance with Section 27-36-1(1), Code of Alabama, 1975."

The \$500.00 liability that the Company established for each year covered by this examination is not sufficient to pay claims incurred prior to the date of the Annual Statement; therefore, the Company is in violation of Section 27-36-1(2), Code of Alabama 1975, as amended, which states that:

"In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include: (2) The amount, estimated consistent with the provision of this title, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof."

Note 10 - Taxes, licenses and fees due or accrued \$150

The amount listed above is the same amount as listed in the 1990 Annual Statement. Upon examination of the 1991 payments for taxes; it was determined that the actual amount paid was \$432 which was incurred during 1990. Due to the immaterial amount of this difference, no changes have been reflected in the financial statements of this report.

Note 11 - Pythian Lodge Account 3,663

It was noted by the examiner that the last two examination reports recommended that the Company submit this block of business to its actuary in order to establish a proper reserve. As of the date of this examination, the Company had not complied with this recommendation. Adequate

records were not available to the examiner in order to submit this line of business to the consulting actuary who participated in this examination.

Note 12 - Unassigned surplus **\$(146,183)**

The following schedule presents a reconciliation of the unassigned funds reported by the Company with that developed by the examination:

	<u>Increase (Decrease)</u>	<u>Balance</u>
Gross paid in and contributed surplus per the Company		\$ 138,326
<u>Assets:</u>		
Mortgage loans, reclassified	\$ (90,527)	
Mortgage loans, non-admitted	(5,354)	
Home office Property	(188,352)	
Investment real estate, reclassified from mortgage loans	90,527	
Investment real estate, non-admitted	(61,000)	
Investment income accrued	(10,200)	
Receivable from parent established	291,500	
Receivable from parent non-admitted	(291,500)	
Net decrease in assets		\$(264,906)
<u>Liabilities:</u>		
Policy and contract claims	\$ 1,000	
Aggregate reserve for life policies	<u>15,603</u>	
Net increase in liabilities		\$ <u>(19,603)</u>
Unassigned surplus per examination		<u>\$(146,183)</u>

CONTINGENT LIABILITIES AND PENDING LITIGATION

It was noted that the Company was named as a co-defendant in a counterclaim filed against American Trust Corporation, an affiliated company. This counterclaim was filed February 4, 1991 by Gary Richardson and Richardson Broadcasting System. The Company was named as a co-defendant in the counterclaim as the property, mortgage notes, and security agreements in question were assets of the Company.

This counterclaim sought a judgement for breach of contract, fraud and wrongful interference with business transactions, money paid by mistake and/or money had and received; in addition, the counterclaim plaintiffs sought declaratory relief from notes, security interest and stock pledge agreements.

A motion to dismiss the Company as a counterclaim defendant was filed on February 26, 1991. As of the date of this report, the case was continued pending discovery of evidence.

COMPLIANCE WITH PREVIOUS RECOMMENDATIONS

A review was conducted during the current examination with regard to the Company's compliance with the recommendations made in the previous examination report. This review indicated that the Company had not satisfactorily complied with the prior recommendations. These items are discussed below.

Management and Control

The previous examination report recommended that the Company comply with Section 27-27-30, Code of Alabama 1975, as amended, which requires that all of its directors be stockholders of the Company. Hilliards and Company, Inc. was the sole stockholder as of the date of this examination report.

Mortgage Loans and Real Estate

The previous two examinations made recommendations that the Company keep its records regarding mortgage loans and real estate current and complete. The findings of this examination did not indicate that this has been accomplished

Aggregate reserve for life policies

The prior examination recommended that the Company establish an adequate amount of reserve for its incurred but not reported claims. It appears that the Company has not made any change in its procedure for computing this line item.

Pythian Lodge Account

Examiners recommended during the 1984 and 1987 examinations that the Company submit this block of business to its actuary, in order that proper reserves be ascertained. As of the date of this examination, this block of business had not been submitted to its actuary.

IMPORTANT POINTS, COMMENTS AND RECOMMENDATIONS

The following summary presents the important points, comments and recommendations which are made in the current report of examination.

Management and Control - Page 4

It is recommended that the Company comply with Section 27-30-30(a), Code of Alabama 1975, as amended, which requires that all of its directors be stockholders.

Board of Directors/Officers- Pages 4 and 6

It is recommended that the Company use full names in future Annual Statements in compliance with the Annual Statement instructions.

Conflict of Interest- Page 6

It is recommended that all officers, directors, and employees file conflict of interest statements annually in accordance with the conflict of interest policy of the Company.

Corporate Records - Page 7

It is recommended that the Company maintain complete and informative records as to the meetings of the Board of Directors and Stockholders.

Holding Company - Page 8

(P) It is recommended that the Company files amendments to its Holding Company filings in accordance with Section 27-29-4, Code of Alabama 1975, as amended.

Dividends to Stockholders - Page 8

OK? Indenture drafts reviewed
It is recommended that the Company follow the guidelines for dividends payments as directed by Section 27-27-37(a), Code of Alabama 1975, as amended. See recommendation entitled "Receivable from parent, subsidiaries, and affiliates" for further discussion.

Fidelity Bond and Other Insurance - Page 11

(K) It is recommended that the Company maintain fidelity bond insurance in accordance with ^{the} guidelines of the NAIC.

Claims Review - Page 13

It is recommended that the Company maintain complete claim files and registers.

It is also recommended that the Company accurately document any delay in payment of claims.

Compliance with Agents' Licensing Requirements - Page 15

OK It is recommended that the Company only pay commissions to agents licensed by the State of Alabama in accordance with Section 27-8-27(a), Code of Alabama 1975, as amended.

Accounts and Records - Page 15

It is recommended that the Company maintain its records in conformity with accepted industry standards, NAIC guidelines, and Section 27-30-21, Code of Alabama 1975, as amended.

Bonds - Page 23

It is recommended that the Company maintain its securities in the state of Alabama in compliance with Section 27-27-29, Code of Alabama 1975, as amended.

It is recommended that the Company have written agreements evidencing safekeeping or custodial agreements.

It is recommended that the Company complete Schedule D accurately and completely in future Annual Statements.

Mortgage loans on real estate - Page 24

It is recommended that the Company include only valid mortgage loans on real estate under this caption.

It is recommended that the Company have proof of hazard insurance on each mortgage loan.

It is recommended that the Company keep its mortgage files up to date; furthermore, it is recommended that these files be maintained in the home office of the Company.

Real estate-property occupied by the Company - Page 25

It is recommended that the Company value the home office property in accordance with Sections 27-37-7, Code of Alabama 1975, as amended and Regulations 18 and 59.

It is recommended that the Company only make payments for debt obligations for which they are legally responsible.

It is recommended that the Company keep its files complete regarding ownership, improvements, depreciation, insurance, appraisals, and taxes on the home office property.

Investment real estate - Page 28

It is recommended that the Company depreciate its investment real estate in accordance with the NAIC Accounting Practices and Procedures Manual for Life, Accident and Health Insurance Companies.

For the third consecutive examination, it is recommended that the Company keep its real estate files up to date. These files should be kept current in regard to documentation of titles, encumbrances, appraisals, paid taxes, insurance coverages, and all transactions which affect the ownership or value of the property.

It is also recommended that the information listed in the preceding paragraph be maintained in the home office of the Company.

Cash on Hand and on Deposit- Page 30

It is recommended that the Company maintain vouchers for any expenditure \$25.00 or more in accordance with Section 27-27-30(a and b), Code of Alabama, 1975, as amended.

It is recommended that the Company file Form 1099 per the Internal Revenue Service requirements on any applicable individuals or businesses.

It is recommended that the Company provide a written explanation and substantial proof of the same to the Alabama Department of Insurance as to the disposition of the \$120,000 certificate of deposit.

Investment income due and accrued - Page 32

It is recommended that the Company only accrue amounts receivable which are evidenced by a lease or other verifiable sources. It is also recommended that the Company not accrue income where the collectibility of unpaid rent is in doubt.

Receivable from parent, subsidiaries, and affiliates - Page 33

It is recommended that Hilliards and Company, Inc. return the \$6,000, that appeared to be a dividend payment, to the Company and send verification of the same to the Alabama Department of Insurance. It is also recommended that the Company receive a fair and reasonable payment for the collateral loan which was transferred to Hilliards and Company, Inc. The Company established a value of \$180,500 in their 1987 Annual Statement; therefore, the examiner has established a receivable in the same amount.

It is recommended that the \$105,000 payment to Hilliards and Company, Inc. for home office improvements be refunded

back to the Company until the improvements have been completed.

The examiner also recommends that all transactions with Hilliards and Company, Inc., or any subsidiary be handled fairly and reasonably to both parties in accordance with Section 27-29-5(a), Code of Alabama 1975, as amended.

Aggregate reserve for life policies - Page 34

It is recommended that the Company compute its reserves in accordance with Section 27-30-16, Code of Alabama 1975, as amended.

It is also recommended that the Company's actuary use correct factors in computing reserves where the premium paying period has expired.

Policy and contract claims - Page 34

It is recommended that the Company establish an adequate amount of reserve for its incurred but not reported claims, in compliance with Section 27-36-1(5), Code of Alabama 1975, as amended.

Taxes, licenses, and fees - Page 35

It is recommended that the Company accrue a sufficient amount to cover the payment of taxes, licenses, and fees.

Pythian Lodge account - Page 35

It is recommended that the Company submit this block of business to its actuary in order to establish proper reserves.

CONCLUSION

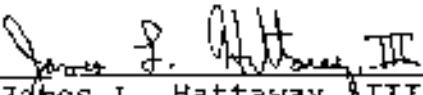
This examination disclosed that as of December 31, 1990, the Company was insolvent.

The customary insurance examination procedures, as recommended by the National Association of Insurance Commissioners, have been followed to the extent appropriate in connection with the verification and evaluation of assets and determination of liabilities set forth in this report.

Acknowledgement is hereby made of the courteous cooperation extended by the officers and employees of the Company during the course of this examination.

In addition to the undersigned, Harland Dyer, Consulting Actuary for the Alabama Department of Insurance, participated in this examination of American Trust Life Insurance Company.

Respectfully submitted,


James L. Hattaway, III
Examiner-in-Charge
Department of Insurance
State of Alabama