

DEFICIT RECONSTRUCTION AND
2012 ASSESSMENT
for
OHI WORKERS' COMPENSATION TRUST
for
THE NEW YORK STATE WORKERS'
COMPENSATION BOARD
by
LUMSDEN & McCORMICK, LLP
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**DEFICIT RECONSTRUCTION AND
2012 ASSESSMENT OF
OHI WORKERS' COMPENSATION TRUST**

CONTENTS

	TAB
Executive Summary	1
Methodology	2
A. Audited Members' (Deficit) Surplus	
B. Elimination of Net Deferred Income Tax Benefit	
C. Reallocation of Contribution Revenue	
D. Elimination of Revenue Pertaining to 2010 Assessment to Members	
E. Reallocation of Certain Operating Expenses	
F. Reallocation of Claims Expense	
G. Reallocation of New York State Assessments	
H. Reallocation of 2010 and 2011 Other Revenue and Administrative Expenses	
I. Future Contribution Revenue from WCB	
J. Allocation of Other Operating Expenses Subsequent to August 31, 2011	
K. Method used to Allocate (Deficits) Surpluses to Individual Members (Schedule 3)	
L. Total Due from Individual Members Before Reduction for Assessments Paid (Schedule 4)	
M. Allocated Portion of Modified Members' Deficit Due from Each Member and Amount Due Under Joint and Several Provision Before Reduction for Assessments Paid (Schedule 5)	
N. Sources of Information	
Exhibits	
Schedule 1	
Summary of Revenues, Expenses, and Other Deficit Changes for 1998 – 2011	3
Schedule 2	
Calculation of Modified Members' Surplus (Deficit) by Period for 1998 – 2011	4
Schedule 3	
Allocation of Modified Members' Deficit to Individual Members	5
Schedule 4	
Total Amounts Due From Individual Members	6
Schedule 5	
Allocated Portion of Modified Members' Deficit Due From Each Member And Amount Due Under Joint and Several Provision	7

EXECUTIVE SUMMARY

OHI Workers' Compensation Trust (OHI) ceased offering coverage to its members effective January 1, 2010, and on July 1, 2011 the New York State Workers' Compensation Board (WCB) assumed control of OHI, primarily as a result of OHI's failure to meet the WCB's security deposit requirement after OHI's letter of credit expired on June 30, 2011. The WCB sought assistance to determine the cumulative members' deficit allocated to the period January 1, 1998 through December 31, 2009, and each member's proportionate share of the cumulative members' deficit. The deficit assessment billing to each member based on its proportionate share, does not relieve a member of liability under the joint and several provision.

Lumsden & McCormick, LLP (L&M) was engaged to provide assistance to the WCB. The information, methodology, and assumptions used to determine the cumulative members' deficit and the reallocation of various revenue and expenses to the proper years to arrive at a modified members' deficit in total and by member, are outlined in detail herein.

In 2010 OHI issued assessments to members totaling \$3,600,000. As explained in more detail in Section D, L&M determined that the methodology used to bill the member assessments was not fair and equitable. Accordingly, the assessment revenue recognized was eliminated on Schedule 2. All payments made by members on the \$3,600,000 of assessments billed will be reflected as a reduction of the balance due from each member (as calculated on Schedule 3) that will be subsequently invoiced to the members by the WCB as a result of this report.

The following table identifies the gross modified members' (deficit) surplus by year ended. Calculation of the gross modified members' (deficit) surplus by year is itemized in Schedule 2. Per Schedule 2, the 1998 and 1999, and 2003 years each generated a surplus. Since most years are deficits, and funds are needed for those deficit years now, it is the WCB's policy that a surplus year cannot be used to offset deficit years until all obligations for the surplus year have been paid. The August 2011 actuary report indicates that all 1998 and 1999 claims have been fully paid while certain claims for 2003 remain open. Accordingly, the \$8,273,275 gross modified deficit as calculated on Schedule 2 is net of the \$92,279 surplus calculated for the 2003 year. The 2003 year surplus will be credited or refunded to the members that participated in 2003 after all claim related obligations for that year have been satisfied. Amounts due from individual members at August 31, 2011 before any offsetting reduction for amounts paid on the assessments are detailed in Schedule 4.

<u>Year Ended</u>	<u>Gross Modified Members' (Deficit) Surplus (Schedule 2)</u>
12/31/1998	\$ 10,082
12/31/1999	13,119
12/31/2000	(227,086)
12/31/2001	(419,882)
12/31/2002	(895)
12/31/2003	92,279
12/31/2004	(862,872)
12/31/2005	(1,766,695)
12/31/2006	(430,092)
12/31/2007	(876,111)
12/31/2008	(1,291,815)
12/31/2009	<u>(2,421,028)</u>
Net modified deficit	(8,180,996)
Add back surplus in 2003 year	<u>(92,279)</u>
Gross modified deficit	<u>\$ (8,273,275)</u>

METHODOLOGY

A. Audited Members' (Deficit) Surplus

Schedule 1 presents a summary of OHI's revenues, expenses, and other deficit changes as reported in the annual audited financial statements for the years ended 1998 – 2010 and the eight months ended August 31, 2011. The members' surplus (deficit) from these financial statements was used as the starting point to calculate the modified members' surplus (deficit) for each period.

The members' surplus (deficit) for the 1998 – 2011 periods as summarized on Schedule 1 is carried forward to the first line on Schedule 2.

B. Elimination of Net Deferred Income Tax Benefit

A \$1,939,125 net deferred income tax benefit (asset) was recognized in 2005 - 2011 primarily relative to the future estimated income tax benefit of OHI's net operating loss carryforward. This benefit was eliminated at the direction of the WCB since it does not result in any cash to satisfy OHI's obligations; rather, it will result in a reduction of future years' income taxes that would otherwise be due.

C. Reallocation of Contribution Revenue

OHI had the member payroll audits performed shortly after each applicable year. Accordingly, the additional amounts due to and from members resulting from the payroll audits were included in the audited financial statements for the applicable year. Thus, Schedule 2 does not reflect a reallocation of contribution revenue to correct for member contribution cutoff issues that otherwise would have occurred.

D. Elimination of Revenue Pertaining to 2010 Assessment to Members

OHI recognized gross assessment revenue totaling \$3,587,855 relating to amounts billed to members by Cody Management Services, Inc. (Cody) under the \$3,600,000 issued assessment (\$1,113,725 in 2010 and \$2,474,130 in 2011 via a prior period adjustment). The \$3,587,855 of assessment revenue recognized was net of \$12,649 of discounts provided to members who paid the full amount in one lump sum.

L&M reviewed information supporting the assessment and determined at least two members were allocated their portion of the assessment using individual member contribution amounts higher than what they were actually billed. Accordingly, L&M reversed the transactions that recorded the \$3,587,855 of assessment revenue to calculate the modified members' deficit in Schedule 2 due to L&M's conclusion the methodology used to bill the assessment was not fair and equitable to all members.

Payments made by each member on their portion of the \$3,600,000 of assessments billed will be reflected as a reduction of the balance due from each applicable member (as calculated on Schedule 3) that will be subsequently invoiced to the members by the WCB as a result of this report.

This treatment ensures that only members who made payments on the assessments receive credit for this revenue.

E. Reallocation of Certain Operating expenses

Schedule 2 shows the reallocation of three operating expenses identified as excess insurance, bad debt, and management fees. These three items were allocated to different years to attain a proper matching of expenses with the underlying revenue as explained below. The matching concept results in same year recognition of expenses and related revenue.

OHI had excess insurance in force throughout its entire existence. Excess insurance premiums paid to insurance carriers are based on total covered payroll for a trust's members, and generally require a certain minimum premium. Estimated premiums are paid during a policy year, with a final additional amount due or refund to be received calculated after the excess carrier conducts an audit. Based on information obtained, L&M determined that certain premium adjustments resulting from the annual insurance carrier audits were reflected in a subsequent period. Accordingly, L&M reclassified these amounts to the correct policy period.

Bad debt expense was recognized in 2006 and 2007 for uncollectible member contributions written off. L&M reclassified the bad debt expense associated with these write-offs to the year the related revenue was recognized. Additionally, in 2010 a bad debt expense of \$32,409 was recognized to reflect management's estimate of the assessment revenue that would not be collected. This bad debt allowance was eliminated in 2011. Accordingly, L&M offset the \$32,409 of expense in 2010 against the corresponding \$32,409 revenue in 2011.

The management fee to Cody under the Service Agreement in effect from January 1, 1998 through December 31, 2009 was equal to a percentage of total members' covered payroll, subject to a minimum and maximum fee for the 2000 – 2009 years. Cody's initial fee was calculated as a product of the members' estimated manual contributions, with a subsequent balance to/from Cody based on the difference between the estimated and final adjusted contribution (per the members' annual payroll audits).

L&M calculated what the annual management fee expense should have been based on the final adjusted contributions for each year, subject to the minimum and maximum fee arrangement in place during 2000 – 2009, and determined that the management fee expense recognized in the audited financial statements was consistent with L&M's expected amounts. Accordingly, no reallocation between the 1998 – 2009 years was necessary.

The Service Agreement with Cody during the period January 1, 2010 through June 30, 2011 specified that OHI was to be paid \$20,000 per month, with an inflationary increase in 2011. The expense recognized under this agreement during the run off period was reallocated to the years ended December 31, 1998 through 2009 in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.

F. Reallocation of Claims Expense

Claims expense, technically referred to as “incurred losses and loss adjustment expenses”, represent the indemnity and medical cost of all claims, the other direct costs of the claims such as legal and private investigation fees, and the unallocated costs to service the claims (ULAE).

A liability is established to estimate all future costs associated with a claim at the time an accident occurs. The liability is an estimate which includes a factor for future loss development.

Appendix B, Exhibit I on Page 36 of the August 31, 2011 actuary report prepared by Casualty Actuarial Consultants, Inc. contains a chart that identifies the cumulative estimated ultimate incurred losses by year / period (1998 – 2009) of \$11,162,363. This number excludes ULAE, and is net of any estimated recoveries under the specific and aggregate excess insurance policies. Estimated recoveries are amounts OHI believes it will receive from the insurance carriers who issued the aggregate and specific insurance policies to OHI. The amounts are estimated because they partially relate to estimated future amounts to be paid for claims and related expenses.

These costs are essentially a combination of amounts paid through August 31, 2011 plus an estimate of amounts to be paid in the future. This estimate includes a provision for the subsequent development of known claims and for claims incurred but not yet reported. However, until all the claims that occurred on or before December 31, 2009 are closed, this remains an estimate.

Accordingly, L&M used the above mentioned schedule on page 36 of the August 2011 actuary report to reallocate the pre-ULAE claims expense to the proper periods.

A \$907,625 liability for ULAE was established in 2011 to estimate the ULAE applicable to the claims incurred through December 31, 2009. The portion of the 2011 claims expense that was recognized related to the establishment of the \$907,625 liability for ULAE was allocated to the years ended December 31, 1998 through 2009 as a percentage of each year’s pre-ULAE reallocated claims expense to total pre-ULAE claims expense.

A reconciliation of the total claims expense that was reallocated on Schedule 2 to the schedule on page 36 of the August 31, 2011 actuary report is as follows:

Total ultimate incurred losses per page 36 of the August 31, 2011 actuary report	\$ 11,162,363
Add ULAE not reflected in actuary’s balance	907,625
Unreconciled difference – allocated to 1998 - 2009 as a percentage of each year’s claims expense to total claims expense per the actuary report	<u>55,070</u>
Total claims expense reallocated on Schedule 2	<u>\$ 12,125,058</u>

G. Reallocation of New York State Assessments

Self-insurance trust funds are required to remit assessments to the WCB based primarily on the indemnity portion of workers' compensation payments made. Accordingly, the assessment expense should have a direct correlation to the claims expense. Thus, L&M reallocated the cumulative New York State assessment expense to each year in relation to that year's reallocated claims expense as a percentage of total reallocated claims expense.

H. Reallocation of 2010 and 2011 Other Revenue and Administrative Expenses

The August 31, 2011 audited financial statements indicates contribution revenue from the WCB of \$344,244, which represents the amount the WCB sent to OHI (through NCAComp, Inc., the WCB's contracted administrator) from the proceeds the WCB collected on the letter of credit that fulfilled OHI's security deposit. This \$344,244 was allocated to the 1998 – 2009 years in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.

The December 31, 2010 and August 31, 2011 audited financial statements list investment and other income totaling \$22,799, which has been reallocated to the 1998 – 2009 years in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.

Finally, the December 31, 2010 and August 31, 2011 audited financial statements reflected administrative and other expenses and current income tax provisions totaling \$1,190,415. This total is primarily comprised of \$201,235 of professional fees and \$936,000 related to collateral lost and additional debt due the National Bank of Coxsackie in accordance with the WCB's claim against the letter of credit, which served as OHI's security deposit. The \$1,190,415 was reallocated to the 1998 – 2009 years in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.

I. Future Contribution Revenue from WCB

The WCB submitted a claim against the Bank of Coxsackie's letter of credit and received \$936,000 in May 2011 on behalf of OHI. The WCB remitted \$344,244 of this amount back to the Trust during the period January 1, 2011 through August 31, 2011. The additional \$591,756 will be remitted to OHI (through NCAComp, Inc., the WCB's contracted administrator) in periods after August 31, 2011. The \$591,756 of revenue that OHI will receive and record in subsequent periods has been reflected as revenue in calculating the Trust's modified members' surplus (deficit). The \$591,756, in conjunction with the \$344,244 recorded in the August 31, 2011 audited financial statements, was allocated to 1998 – 2009 in a manner consistent with the \$936,000 expense allocation described in Section H.

J. Allocation of Other Operating Expenses Subsequent to August 31, 2011

Other operating expenses subsequent to August 31, 2011 include both actual and estimated anticipated costs to be incurred for the August 31, 2011 financial statement audit, actuary report, the forensic accounting services relative to the deficit reconstruction and assessment, an operational and performance review, and a claims review, and interest that accrued through the end of May 2012 on the debt to the National Bank of Coxsackie. These were allocated to the 1998 – 2009 years in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.

K. Method used to Allocate (Deficits) Surpluses to Individual Members (Schedule 3)

Section 5.5 of the Trust document and By-laws states that the Trustees shall have all powers necessary to enable it to carry out its duties, and one specifically mentioned power was to determine the amount of assessments issued to members.

By signing the Participation & Indemnity Agreement, the member agreed to be bound by the terms of the Trust document and By-laws. Section 7 of the Participation & Indemnification Agreement also stated that "the Member understands that if the assets of the Trust are at any time insufficient to enable the Trust to discharge its legal liabilities...or to maintain reasonable and necessary reserves, the Trust may levy an assessment on the membership to make up the deficiency. The additional assessment to each Member shall be calculated on a pro-rata basis, in proportion to each member's contribution to the trust for the Fund Year in which the assessment is made."

Each year's modified members' deficit, as calculated on Schedule 2, was allocated to all members who were participants for that year based on the ratio of a member's contributions for that year to all member contributions for that same year (see Schedule 3 for each member's individual worksheet). This method of allocation based on contributions was prescribed by the WCB and is consistent with Section 7 of OHI's Participation & Indemnification Agreement noted above.

The surplus for the 1998 and 1999 years on Schedule 3 for participating members is shown as \$10,082 and \$13,119, respectively, while the surplus for the 2003 year is shown as \$0. It is the WCB's policy that a surplus year cannot be used to offset deficit years until all obligations for the surplus year have been paid. The August 2011 actuary report indicates that all 1998 and 1999 claims have been fully paid while certain claims for 2003 remain open. Accordingly, the \$8,273,275 gross modified deficit as calculated on Schedule 2 is net of the \$92,279 surplus calculated for the 2003 year. The 2003 year surplus will be credited or refunded to the members that participated in 2003 after all 2003 claim related obligations have been satisfied.

L&M obtained about 900 of the approximately 950 member payroll audits that should have been completed over the life of OHI. It appears Cody decided not to have certain payroll audits performed for cost benefit reasons on members deemed small in size or those who participated less than a full year.

Some of the 900 payroll audits obtained were unproductive, which means the payroll auditor was unsuccessful in its attempts to perform the payroll audit. A common reason is repeated unsuccessful attempts to contact management or obtain the required payroll information from management. Cody explained to L&M that a member who was uncooperative with the payroll audit

process were generally invoiced a percentage above the estimated payroll the member originally provided to the Trust. L&M obtained a document Cody sent to the payroll auditor where three members who were uncooperative with the 2001 payroll audit process were going to be final billed either 5% or 10% above the amount per their declaration statement, which confirmed Cody's oral explanation. Additionally, L&M located a board resolution adopted February 27, 2003 that stated a member who failed to timely cooperate with the payroll audit process would be final invoiced at 50% above the contribution calculated using the estimated payroll per the declaration statement. It appears the payroll auditor would prepare a payroll audit report for unproductive audits similar to productive ones, and calculate final payroll using a percentage of the amount that appeared on the member's declaration statement. Accordingly, it was not readily apparent to L&M how many payroll audits performed were actually unproductive.

L&M compared the data contained in the 900 payroll audits obtained to amounts used to generate the final invoices, and noted numerous differences between the two. The differences included transposition and "typo" errors on the final invoice relative to corresponding amounts on payroll audit, and using a different payroll class code on the final invoice compared to what was listed on the payroll audit. The differences were generally minor and resulted in both understatements and overstatements of amounts billed members. L&M used the actual amounts billed to each member to compute each member's share of OHI's cumulative deficit.

L&M used invoices based on the declaration statements to calculate member contributions in the instances where member payroll audits were not performed.

L. Total Due from Individual Members Before Reduction for Assessments Paid (Schedule 4)

Schedule 4 is a summary of the amount due from each member before reductions for payments made by members on the billings related to the \$3,600,000 member assessment. The amount due consists of the portion of the modified deficits for the 1998 – 2009 years that has been allocated to each specific member (Schedule 3), plus any unpaid contributions receivable balance as of August 31, 2011.

M. Allocated Portion of Modified Members' Deficit Due from Each Member and Amount Due Under Joint and Several Provision Before Reduction for Assessments Paid (Schedule 5)

Schedule 5 presents the gross pro-rata portion of the modified members' deficit allocated to each member, and the total due from each member after including the unpaid member contributions receivable balance as of August 31, 2011.

Also presented are the gross and total amount that each member is liable for under the joint and several provisions as specified in Section 1 of the Trust document and By-laws and Sections 4 and 7 of the Participation & Indemnification Agreement.

The gross joint and several liability amount is the sum of the modified members' deficits for all years, net of the 2003 surplus year if applicable, that the member participated in the Trust. The total joint and several liability amount is computed by starting with the gross amount, as computed above,

and adding the total contributions receivable balance outstanding as of August 31, 2011 attributable to **all members** for applicable periods.

For example, if a member had coverage for the entire active existence of OHI (January 1, 1998 through December 31, 2009), then this member's gross joint and several liability would equal \$8,273,275 (the entire amount of the modified members' deficit as per Schedule 2 of \$8,180,996, net of the \$92,279 surplus from the 2003 year). The member's total joint and several liability amount would equal \$8,304,594, computed by adding the grand total of all outstanding member contributions receivable for all years as of August 31, 2011 as per Schedule 4 of \$31,319 to \$8,273,275.

N. Sources of Information

The primary sources of information used by L&M to conduct this engagement were:

- Audited financial statements for the years 1998 through 2010 and the eight months ended August 31, 2011
- Actuarial report for August 31, 2011
- Member payroll audits performed by Anchor Insurance
- Billing invoices to members prepared by Cody
- Declaration statements to members prepared by Cody
- GSI-1.1 and GSI-3.1 forms obtained from the WCB
- Information from NCAComp, Inc. relative to the fees to be paid for the preparation of the August 31, 2011 actuary report, financial statement audit, corporate income tax returns, and schedules estimating ULAE liability at August 31, 2011
- Information from OHI's 2011 general ledger obtained from NCAComp, Inc.
- Listing of contributions receivable by member as of August 31, 2011 obtained from NCAComp, Inc.
- Trial balances, adjusting journal entries, and selected workpapers prepared by the financial statement auditors for the years 2006 through 2011
- Service (administration) agreement between OHI and Cody
- WCB provided listings of all members
- OHI's Trust document and By-laws and Participation & Indemnification Agreement

OHI Workers' Compensation Trust
Summary of Revenues, Expenses, and Other Deficit Changes for 1998 - 2011

<i>Per audited financial statements for the years ended December 31, 1998 - 2010 and the eight months ended August 31, 2011</i>															
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Cumulative 1998-2011
Revenues:															
Contributions	\$224,158	\$231,245	\$262,933	\$439,876	\$611,727	\$813,783	\$1,236,118	\$1,652,958	\$1,825,957	\$2,220,079	\$2,158,766	\$1,737,388	\$ -	\$ -	\$ 13,414,988
Member assessments	-	-	-	-	-	-	-	-	-	-	-	-	1,113,725	-	1,113,725
Contributions from WCB	-	-	-	-	-	-	-	-	-	-	-	-	-	344,244	344,244
Investment income and other	4,331	9,100	8,677	6,974	1,383	21,124	19,535	29,821	79,884	89,045	(107,706)	92,999	20,741	2,058	277,966
	<u>228,489</u>	<u>240,345</u>	<u>271,610</u>	<u>446,850</u>	<u>613,110</u>	<u>834,907</u>	<u>1,255,653</u>	<u>1,682,779</u>	<u>1,905,841</u>	<u>2,309,124</u>	<u>2,051,060</u>	<u>1,830,387</u>	<u>1,134,466</u>	<u>346,302</u>	<u>15,150,923</u>
Expenses:															
Claims	78,217	102,878	103,715	89,343	191,942	207,668	514,592	784,111	1,346,913	1,466,601	1,248,626	607,402	1,959,388	3,423,662	12,125,058
Management fees (1)	47,124	66,137	63,000	101,756	140,814	187,225	272,235	347,532	378,672	449,614	438,578	327,982	240,000	122,964	3,183,633
Excess insurance	28,556	7,059	28,532	39,301	150,314	151,066	177,979	224,782	265,157	312,914	380,227	324,889	4,099	-	2,094,875
New York State assessments	2,295	1,373	3,557	24,490	27,000	40,234	108,712	159,222	413,874	(203,935)	288,813	309,407	223,773	788,596	2,187,411
Broker commissions	6,529	6,608	18,686	30,969	42,856	56,982	86,425	115,707	127,817	155,405	151,114	104,243	-	-	903,341
Administrative and other (2)	45,350	38,003	39,770	45,531	41,544	60,004	63,038	63,665	70,016	82,087	111,938	94,947	134,373	1,054,814	1,945,080
Income taxes (benefit)	2,508	1,318	1,381	10,447	2,858	10,165	4,369	(1,427)	(107,531)	10,559	1,500	1,500	(276,090)	(1,566,130)	(1,904,573)
	<u>210,579</u>	<u>223,376</u>	<u>258,641</u>	<u>341,837</u>	<u>597,328</u>	<u>713,344</u>	<u>1,227,350</u>	<u>1,693,592</u>	<u>2,494,918</u>	<u>2,273,245</u>	<u>2,620,796</u>	<u>1,770,370</u>	<u>2,285,543</u>	<u>3,823,906</u>	<u>20,534,825</u>
Net Income (loss)	17,910	16,969	12,969	105,013	15,782	121,563	28,303	(10,813)	(589,077)	35,879	(569,736)	60,017	(1,151,077)	(3,477,604)	(5,383,902)
Other Deficit Changes:															
Prior period adjustment (3)	-	-	-	-	-	-	-	-	-	-	-	-	-	2,474,130	2,474,130
Members' Surplus (Deficit) for Year	<u>\$ 17,910</u>	<u>\$ 16,969</u>	<u>\$ 12,969</u>	<u>\$105,013</u>	<u>\$ 15,782</u>	<u>\$121,563</u>	<u>\$ 28,303</u>	<u>\$ (10,813)</u>	<u>\$ (589,077)</u>	<u>\$ 35,879</u>	<u>\$ (569,736)</u>	<u>\$ 60,017</u>	<u>\$ (1,151,077)</u>	<u>\$ (1,003,474)</u>	<u>\$ (2,909,772)</u>

Notes:

- (1) Management fees for 2011 were reflected in the "professional and administrative fees" line on the audited financial statements. L&M reclassified this amount to management fees for this presentation.
- (2) Administrative and other primarily consists of bad debt, professional fees, advertising, and \$936,000 of collateral surrendered and amounts due the bank under the letter of credit arrangement (2011)
- (3) Prior period adjustment relates to recognizing revenue from the \$3.6 million member assessment issued in 2010 that was not recorded in 2010.

OHI Workers' Compensation Trust
Calculation of Modified Members' Surplus (Deficit) by Period for 1998 - 2011

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Cumulative 1998-2011
Members' surplus (deficit) for year per Schedule 1	\$ 17,910	\$ 16,969	\$ 12,969	\$ 105,013	\$ 15,782	\$ 121,563	\$ 28,303	\$ (10,813)	\$ (589,077)	\$ 35,879	\$ (569,736)	\$ 60,017	\$ (1,151,077)	\$ (1,003,474)	\$ (2,909,772)
Add back (subtract) deferred income tax expense (benefit) (1)	-	-	-	-	-	-	-	(2,168)	(107,832)	10,659	3,664	-	(277,318)	(1,566,130)	(1,939,125)
	17,910	16,969	12,969	105,013	15,782	121,563	28,303	(12,981)	(696,909)	46,538	(566,072)	60,017	(1,428,395)	(2,569,604)	(4,848,897)
Elimination of assessment revenue (2)	-	-	-	-	-	-	-	-	-	-	-	-	(1,113,725)	(2,474,130)	(3,587,855)
Reallocation of certain operating expenses:															
Excess insurance (3)	-	-	-	-	-	-	(59,500)	(37,490)	15,285	-	60,486	17,120	4,099	-	-
Bad debt (4)	-	-	-	-	-	-	-	(2,885)	532	2,353	-	-	32,409	(32,409)	-
Management fees (5)	(2,104)	(2,574)	(8,270)	(15,209)	(5,610)	(6,600)	(34,646)	(63,260)	(35,951)	(52,092)	(55,331)	(81,317)	240,000	122,964	-
Reallocation of claims expense: (6)															
Previously reported	78,217	102,878	103,715	89,343	191,942	207,668	514,592	784,111	1,346,913	1,466,601	1,248,626	607,402	1,959,388	3,423,662	12,125,058
Reallocated	70,268	85,989	276,281	508,075	187,422	220,488	1,157,360	2,113,246	1,200,957	1,740,178	1,848,358	2,716,436	-	-	12,125,058
Net impact on individual years	7,949	16,889	(172,566)	(418,732)	4,520	(12,820)	(642,768)	(1,329,135)	145,956	(273,577)	(599,732)	(2,109,034)	1,959,388	3,423,662	-
Reallocation of New York State assessments: (7)															
Previously reported	2,295	1,373	3,557	24,490	27,000	40,234	108,712	159,222	413,874	(203,935)	288,813	309,407	223,773	788,596	2,187,411
Reallocated	12677	15513	49,842	91,659	33,812	39,777	208,793	381,238	216,658	313,935	333,452	490,055	-	-	2,187,411
Net impact on individual years	(10,382)	(14,140)	(46,285)	(67,169)	(6,812)	457	(100,081)	(222,016)	197,216	(517,870)	(44,639)	(180,648)	223,773	788,596	-
Reallocation of other 2010 and 2011 revenue and expenses: (8)															
Contributions from WCB	1,994	2,441	7,844	14,425	5,321	6,260	32,859	59,997	34,097	49,406	52,477	77,123	-	(344,244)	-
Investment and other income	132	162	519	955	352	415	2,176	3,974	2,258	3,272	3,476	5,108	(20,741)	(2,058)	-
Administrative and other expenses	(6,899)	(8,442)	(27,125)	(49,882)	(18,401)	(21,647)	(113,627)	(207,474)	(117,908)	(170,847)	(181,468)	(266,695)	103,192	1,087,223	-
Net impact on individual years	(4,773)	(5,839)	(18,762)	(34,502)	(12,728)	(14,972)	(78,592)	(143,503)	(81,553)	(118,169)	(125,515)	(184,464)	82,451	740,921	-
Future contribution revenue from WCB (9)	3,429	4,197	13,484	24,796	9,147	10,761	56,484	103,136	58,612	84,928	90,208	132,574	-	-	591,756
Other operating expenses post 8/31/11 (10)	(1,947)	(2,383)	(7,656)	(14,079)	(5,194)	(6,110)	(32,072)	(58,561)	(33,280)	(48,222)	(51,220)	(75,276)	-	-	(336,000)
Net modified members' surplus (deficit)	10,082	13,119	(227,086)	(419,882)	(895)	92,279	(862,872)	(1,766,695)	(430,092)	(876,111)	(1,291,815)	(2,421,028)	-	-	(8,180,996)
Add back surplus year with open claims (2003)	-	-	-	-	-	(92,279)	-	-	-	-	-	-	-	-	(92,279)
Gross modified members' surplus (deficit)	\$ 10,082	\$ 13,119	\$ (227,086)	\$ (419,882)	\$ (895)	\$ -	\$ (862,872)	\$ (1,766,695)	\$ (430,092)	\$ (876,111)	\$ (1,291,815)	\$ (2,421,028)	\$ -	\$ -	\$ (8,273,275)

OHI Workers' Compensation Trust
Calculation of Modified Members' Surplus (Deficit) by Period for 1998 - 2011

Notes :

- (1) The net deferred income tax benefit recognized in 2005 - 2011 was eliminated at the direction of the WCB since it does not result in any cash to satisfy the Trust's obligations; rather, it will result in a reduction of future years' income taxes that would otherwise be due.
- (2) L&M determined that the methodology used to allocate and bill the assessment to members was not fair and equitable. Accordingly, these revenues (\$2,474,130 of which was recorded via a prior period adjustment in 2011) have been eliminated. Payments made by members on the assessment, on an individual basis, will be reflected as a reduction against their allocated portion of the deficit that will be billed to them by the WCB as a result of this report.
- (3) This reclassification records the results of subsequent premium audit adjustments from the excess carriers' to the correct period.
- (4) Bad debt expense was recognized in 2006 and 2007 for uncollectible member contributions written off. L&M reclassified the bad debt associated with these write-offs to the year the related revenue was recognized. Additionally, in 2010 a bad debt expense of \$32,409 was recognized to reflect management's estimate of the assessment revenue that would not be collected. This bad debt allowance was eliminated in 2011. Accordingly, L&M offset the \$32,409 of expense in 2010 against the corresponding revenue in 2011.
- (5) Management fees to Cody during the January 1, 2010 through June 30, 2011 run off period were allocated to 1998 - 2009 in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.
- (6) Claims expense includes indemnity, medical, allocated loss adjustment expenses, and unallocated loss adjustment expenses (ULAE). All claims expense except the ULAE were reallocated using the information from the 2011 actuary report. The ULAE was allocated to each year in relation to that year's reallocated claims expense before ULAE to total reallocated claims expense before ULAE.
- (7) Cumulative New York State assessments were reallocated to each year in relation to that year's reallocated claims expense as a percentage of total reallocated claims expense.
- (8) 2011 contribution revenue from the WCB totaling \$344,244 was from funds the WCB collected on the letter of credit (that served as OHI's security deposit) and remitted back to OHI. This was reallocated to 1998 - 2009 in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense. Investment and other income totaling \$22,799 from 2010 and 2011 was reallocated to 1998 - 2009 in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense. Finally, administrative and other expenses totaling \$1,190,415 reflected in OHI's 2010 and 2011 audited financial statements is primarily consisted of \$201,235 of professional fees and \$936,000 from collateral lost and additional debt due to the National Bank of Coxsackie in accordance with the WCB's claim against the Bank of Coxsackie's letter of credit, which served as OHI's security deposit. The \$1,190,415 was allocated to 1998 - 2009 in relation to each year's reallocated claims expense as a percentage of total allocated claims expense.
- (9) The WCB, as beneficiary to the letter of credit, made a claim against it and received \$936,000 in May 2011 on behalf of OHI. The WCB remitted \$344,244 to the Trust in 2011 (see 8). The remaining \$591,756 that will be received and recorded as revenue by OHI in subsequent years has been reflected as revenue in calculating the modified members' deficit. The \$591,756, in conjunction with the \$344,244 recorded in 2011, was allocated to 1998 - 2009 in a manner consistent with the \$936,000 expense allocation described in (8).
- (10) Other operating expenses post 8/31/11 reflect both actual and estimated anticipated total costs to be incurred for the August 2011 financial statement audit, actuary report, the forensic accounting services relative to this deficit reconstruction and assessment, an operational and performance review, and a claims review, and interest that accrued through the end of May 2012 on the debt to the National Bank Of Coxsackie. These were allocated to 1998 - 2009 in relation to each year's reallocated claims expense as a percentage of total reallocated claims expense.