

**DEFICIT RECONSTRUCTION AND
2016 ASSESSMENT
for
LONG TERM CARE RISK MANAGEMENT GROUP
for
THE NEW YORK STATE WORKERS'
COMPENSATION BOARD
by
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**DEFICIT RECONSTRUCTION AND
2016 ASSESSMENT OF
LONG TERM CARE RISK MANAGEMENT GROUP
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EXECUTIVE SUMMARY

Long Term Care Risk Management Group (LTCG) ceased offering coverage to its members effective January 1, 2010, and on April 14, 2011 the New York State Workers' Compensation Board (WCB) assumed control of LTCG, primarily as a result of its deteriorating financial condition. The WCB sought assistance to determine the cumulative members' deficit allocated to the period October 1, 1992 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.

As detailed later in this Executive Summary, LTCG's total modified members' deficit amounts to \$21,011,959. The following three paragraphs explain adjustments that will be made to each member's proportionate share of the modified members' deficit/surplus to arrive at the net amount assessed and payable as a result of this report.

In 1996, a member dividend of \$970,083 was recorded. LTCG's members did not receive the dividend in the year it was expensed; rather, it was paid to members in 1997 by reducing the amount due for the 1997 policy year. For various reasons, L&M believes the allocation of the dividend may not have been fair and equitable to the members. Accordingly, this \$970,083 expense item has been eliminated in the calculation of the members' adjusted surplus (deficit) before reclassifications in Schedule 2. The amount each member received (through a credit on their 1997 invoices) will be added to their respective deficit invoices to be billed by the WCB as a result of this report.

In 2009, LTCG determined that \$2,196,763 of identified bad debts from six members would be allocated and billed to the remaining members in five equal annual installments beginning in 2009. For the reasons explained in Section D, L&M reversed the transactions that recorded the net \$882,996 assessment revenue (\$911,850 less \$28,854 of write-offs from bankrupt members) to calculate the modified members' deficit in Schedule 2. Amounts invoiced to each non-bankrupt member (totaling \$882,996) on the bad debt assessment will be reflected as a reduction of the balance due from each member (as calculated on Schedule 5) that will be subsequently invoiced to the members by the WCB as a result of this report.

In July 2011, the WCB issued an estimated deficiency billing to all members based on each member's proportionate share of a \$10,511,834 deficit as estimated by the WCB. These estimated billings will be superseded by future invoice(s) based on the calculations and schedules contained in this report. All payments made by the members on the July 2011 estimated deficiency billings will be reflected as a reduction of the balance due from each member (as calculated on Schedule 5) that will be subsequently invoiced to the members by the WCB as a result of this report.

The following table identifies the modified members' surplus (deficit) by year ended. Calculation of the modified members' surplus (deficit) by year is itemized in Schedule 3. The amounts shown below are before (1) any offsetting reduction for payments made by members on the July 2011 estimated deficiency billings, (2) any offsetting reduction for amounts billed on the bad debt

assessment issued by the Trust in 2009 and 2010, (3) the additional amounts owed by the members that received a credit on their 1997 contribution invoices related to the dividend that was declared in 1996, and (4) any unpaid contribution, retrospective adjustment, and bad debt assessment billing receivable balances.

Period Ended	Modified Members' Surplus (Deficit) (Schedule 3)
12/31/1992	\$ 34,783
12/31/1993	208,415
12/31/1994	(955,700)
12/31/1995	(76,951)
12/31/1996	(153,088)
12/31/1997	(1,107,688)
12/31/1998	(309,998)
12/31/1999	(1,051,277)
12/31/2000	(1,074,175)
12/31/2001	(1,606,499)
12/31/2002	(1,700,878)
12/31/2003	(3,113,747)
12/31/2004	(904,882)
12/31/2005	(2,681,467)
12/31/2006	(3,257,966)
12/31/2007	(489,822)
12/31/2008	(1,799,877)
12/31/2009	(971,142)
Total	<u>\$ (21,011,959)</u>

METHODOLOGY

A. Audited Members' Surplus (Deficit)

Schedule 1 presents a summary of LTTCG's revenues, expenses, and other deficit changes (excludes deferred income taxes – see Section B) as reported in the audited financial statements for the periods ended December 31, 1992 through 2015. The members' surplus (deficit) from these financial statements was used as the starting point to calculate the modified members' surplus (deficit) for each period. These balances include the revenue and expenses for the disability program which began in 1997.

Schedule 1A reflects the revenues, expenses, and other deficit changes (excludes deferred income taxes – see Section B) of LTTCG after eliminating the revenue and expenses for the disability program. L&M identified the revenue and expenses for the disability program from information contained in the audited financial statements and annual trial balances. Thus, Schedule 1A represents the activity solely relating to LTTCG's workers' compensation program.

The members' surplus (deficit) for the 1992 – 2015 periods as summarized on Schedule 1A is carried forward to the first line on Schedule 2.

B. Income Tax Expense/(Benefit)

The 1992 – 2015 audited financial statements generally presented an income tax expense (benefit) each year. The income tax expense (benefit) was comprised of two parts: a current provision (benefit) and a deferred provision (benefit). The current provision (benefit) represented the amount of income taxes paid/to be paid (refunded) while the deferred provision (benefit) reflected the tax effect of differences between the financial statements and income tax returns. The current provision (the amount of taxes paid/to be paid) is reflected as an expense on Schedules 1 and 1A while the deferred tax benefit, which primarily relates to the future estimated income tax benefit of LTTCG's net operating loss carry-forward, was not reflected on Schedules 1 and 1A since it does not result in any cash to satisfy LTTCG's obligations; rather, it will result in a reduction of future years' income taxes that would otherwise be due.

C. Elimination of Member Contribution Adjustment Recognized in 1992 – 2009 to Force Each Year's Net Income to Zero

Each of LTTCG's audited financial statements for 1992 – 2009 indicate that the Trust "broke-even" (had a zero net income) for each period. At each year-end, LTTCG recorded either additional contribution revenue (via an additional receivable from members) or a reduction in contribution revenue (via a payable to members) in order to achieve the break-even position. L&M believes the yearly amount necessary to "zero out" net income was included in the "retrospective rate charge" amount on the 1992 – 1995 audited financial statements, "member contribution adjustment" amount on the 1996 – 2008 audited financial statements, and in the "member contribution" amount for 2009.

L&M believes the theory behind the member contribution adjustment was to recognize the amount that would have been billed or refunded to members if the entire retrospective adjustment at each year-end had been calculated and billed/refunded to members at that time.

The cumulative amount of the net revenue (unbilled receivable from members) per the December 31, 2009 audited financial statements was \$5,793,682; this amount was eliminated in the 2010 audited financial statements. Note 1 of the 2010 audited financial statements disclosed the following: "...the purpose of the Group is to operate without profit or loss. Member contributions receivable-unbilled at December 31, 2009 were amounts expected to be assessed to members to satisfy estimated liabilities. Because of the change in control of the Group as discussed above, the Group changed its accounting policy such that income or loss is reported without the assumption of zero profit or loss in any given reporting period."

Accordingly, Schedule 2 reclassifies the \$5,793,682 contra-revenue (expense) recognized in 2010 against the individual amounts recognized during 1992 – 2009 that also totaled \$5,793,682. This reclassification effectively eliminates the unbilled member contributions/refunds recognized during 1992 – 2009 to arrive at a zero net income for each of those periods.

D. Elimination of 2009 and 2010 Net Revenue from the Bad Debt Assessment

In 2009, LTCCG determined that \$2,196,763 of identified bad debts from six members would be allocated and billed to the remaining members in five equal annual installments beginning in 2009. LTCCG recognized \$882,996 of net assessment revenue (\$911,850 less \$28,854 of write-offs from bankrupt members) in 2009 and 2010 relating to amounts billed to members under this assessment. L&M obtained a schedule prepared by First Niagara Risk Management, Inc. (FNRM) which allocated the assessment among the other (non-bad debt) members; however, L&M could not determine if the methodology used on the schedule was fair and equitable. As noted above, the bad debt assessment of \$2,196,763 was to have been billed in five equal annual installments beginning in 2009. However, two members agreed to be billed for and pay 100% of their allocated amounts while the other members were billed 40% of their respective balance under the first two installment billings in 2009 and 2010. The billing for the third annual installment in 2011 was not issued because the WCB assumed control of the Trust and instead issued an estimated deficiency billing. Thus, some members paid the entire balance that was to have been billed to them over five years while other members paid some, all, or none of the first two (of five) annual installments that were billed in 2009 and 2010. Accordingly, L&M reversed the transactions that recorded the \$882,996 of net assessment revenue to calculate the members' adjusted surplus (deficit) before reclassification in Schedule 2.

Amounts invoiced to each non-bankrupt member (totaling \$882,996) under the bad debt assessment will be reflected as a reduction of the balance due from each applicable member as invoiced by the WCB as a result of this report. This treatment ensures that only the members who made, or will make, payments on their assessments receive credit for this revenue.

E. Elimination of 1996 Dividend

A member dividend of \$970,083 was recorded in 1996. The dividend consisted of \$540,431 from 1995's surplus and \$429,652 from 1996's surplus. LTCG did not remit the dividend in the year it was expensed; rather, it was paid to members in 1997 by reducing the amount due for the 1997 policy year. L&M could not determine the methodology used to allocate the dividend among the members. However, L&M did determine that at least four members who participated in 1995 were not allocated any portion of the \$540,431 dividend applicable to that year's results. L&M would have expected all members who participated in 1995 to have shared in the dividend applicable to that year. Thus, L&M believes the allocation of the dividend may not have been fair and equitable to the members. Accordingly, this \$970,083 expense item has been eliminated in the calculation of the members' adjusted surplus (deficit) before reclassifications in Schedule 2. The amount each member received (through a credit on their 1997 invoices) will be added to their respective deficit invoices to be billed by the WCB.

F. Elimination of Contribution Revenue from WCB

The 2011 through 2015 audited financial statements presented \$4,865,209 of cumulative "Income from Workers' Compensation Board." This represents funds the WCB sent to LTCG from the proceeds the WCB collected from LTCG's security deposit and the July 2011 estimated deficiency billing to members. The WCB collected \$936,000 from the security deposit; the remaining amount of \$3,929,209 relates to member payments on the July 2011 estimated deficiency billing. Accordingly, the \$3,929,209 is excluded from the calculation of the members' adjusted surplus (deficit) before reclassifications in Schedule 2.

G. Other Operating Expenses Subsequent to December 31, 2015

Other operating expenses subsequent to December 31, 2015 include both actual and anticipated costs to be incurred for the 2015 financial statement audit and preparation of the related federal and state corporate income tax returns, accounting and tax services for years after 2015, the forensic accounting services relative to this deficit reconstruction and assessment, and \$1,004,000 of estimated corporate income taxes to be paid for periods after 2015.

H. Reallocation of Contribution Revenue

Schedule 3's reallocation of contribution revenue was performed primarily to reapportion the retrospective contribution adjustment billings to the years the billings actually pertained to. After the reallocation, each year properly reflects the initial billings as well as all of the retrospective contribution adjustment billings that were generated in subsequent years.

I. Reallocation of Certain Operating Expenses

Schedule 3 shows a reallocation for certain operating expenses. These expenses, consisting of excess insurance and bad debt, 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.

LTCCG 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 year. Accordingly, L&M reclassified these amounts to the correct policy year.

Bad debt expense for uncollectible member contributions, retrospective contribution adjustment billings, and the bad debt assessment was recorded on the audited financial statements for 2004 – 2012. L&M reclassified various bad debts associated with these write-offs to the same year the related revenue was recognized.

J. 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).

An assumption of workers' compensation liability policy (ALP) was executed effective October 31, 2015 with a commercial insurance carrier. The ALP policy transferred the tail of claims incurred by LTCCG to the commercial insurance carrier. Accordingly, effective October 31, 2015 LTCCG is no longer responsible for any claim payments on claims incurred by LTCCG's members.

Total claims expense on Schedule 1A consists of (1) claim payments made by LTCCG prior to the effective date of the ALP policy, net of amounts recovered or recoverable under the fund's specific and aggregate excess insurance policies and the WCB's special funds, (2) the amount paid for the ALP policy, (3) the cumulative expense recognized relative to ULAE, and (4) a minor unreconciled difference.

The detail of claims expense reported on Schedule 1A is as follows:

Net claim payments made by LTCCG per the October 31, 2015 loss run report prepared by NCAComp, Inc.	\$ 53,105,708
Payment for ALP policy	12,994,642
Expense for ULAE	774,887
Unreconciled difference	<u>475,141</u>

Total claims expense on Schedule 1A

\$ 67,350,378

Schedule 3 shows a reallocation of claims expense. The methodology L&M used to reallocate claims expense follows:

\$53,105,708 net claim payments per NCAComp's October 31, 2015 loss run report. These were allocated to the periods based on payments by period as contained on the loss run report.

\$12,994,642 payment for the ALP policy. This was segregated into four components: net reserves at October 31, 2015; IBNR; ULAE; and the estimated ALP carrier's pre-tax profit on the policy. The net reserves by year (gross case basis reserves less recoverable from 15-8 fund and excess insurance policies) were based on the net case basis reserves on open claims by period per NCAComp's October 31, 2015 loss run report. The ULAE was estimated at 7% of the gross (unlimited) claims reserves, which is consistent with what an actuary advised L&M that it uses for New York trusts in run-off. The ALP carrier's pre-tax profit on the policy was estimated at 8.5% of the gross policy price based on industry average data from The Risk Management Association (RMA) 2015-2016 Annual Statement Studies book. Both the ULAE and the ALP carrier's pre-tax profit were allocated among periods pro-rata based on each period's gross claims reserves to the total of such per NCAComp's October 31, 2015 loss run report. The remaining amount of the \$12,994,642 ALP policy price (\$5,035,470) was deemed IBNR and allocated based on each period's net-net claims reserves (net claim reserves less case basis reserves of excess claims that takes the specific claims up to the excess insurance retention amounts) to total net-net claims reserves. The IBNR was allocated based on net-net claim reserves since net reserves for excess claims do not have to be developed as any negative development will be recovered from the excess carrier. The IBNR allocation was limited to each claim (where applicable) such that the total incurred by claim did not exceed the applicable excess insurance retention; any excess IBNR above a specific claim's excess insurance retention was allocated to all remaining claims up to their specific excess insurance retention.

The \$774,887 ULAE incurred through October 31, 2015 was allocated to each period as a percentage of each period's net claim payments per NCAComp's October 31, 2015 loss run report. The unreconciled difference of \$475,141 was allocated pro-rata to each period as a percentage of each period's claims expense prior to the \$774,887 ULAE allocation (net claim payments and the payment for the ALP policy) to the \$66,100,350 total of these two items.

K. 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 period in relation to that period's reallocated claims expense as a percentage of the cumulative total of reallocated claims expense.

L. Reallocation of Current Income Taxes

The 1996 audited financial statements reflect a tax refund for prior years' income taxes paid based on a premium-based tax. L&M believes that during 1996 or early 1997, it was determined that the Trust was not subject to the tax, and accordingly, a claim for refund was filed with the appropriate

state taxing authorities. The tax refund was reallocated to the same years the premium-based tax was expensed on the audited financial statements.

M. Reallocation of Other 2010 - 2015 Revenue and Expenses

Schedule 3 shows a reallocation for other 2010 – 2015 revenue and operating expenses. These items consist of investment and other income, \$936,000 of contributions from the WCB derived from LTCG’s security deposit, certain general and administrative expenses, and estimated operating expenses to be incurred subsequent to December 31, 2015. Each of these items was reallocated to 1992 – 2009 in relation to each period’s reclassified adjusted contribution revenue to total reclassified adjusted contribution revenue.

N. Method used to Allocate Surpluses (Deficits) to Individual Members (Schedule 5)

In certain of LTCG’s Participation Agreements, the member acknowledged and agreed “that as a Member of the Group Self-Insured Trust, the Employer is *jointly and severally liable* for all obligations under the Workers’ Compensation Law of all Trust Members during the Employer’s period of membership.”

In addition, Section 7.1 of the Trust document states “Each Employer shall be jointly and severally liable with all other Employers for compensation liability accruing during its participation in the Fund.”

Each period’s modified members’ surplus (deficit), as disclosed on Schedule 4, was allocated to all non-bankrupt members who were participants for that period. The overall methodology we used to perform the allocation for Schedule 5 was agreed to by and between the WCB and a majority of LTCG’s members. A brief description of the specific methodologies used to allocate all significant income and expense item for each Schedule 5 and the related supporting schedules appears below.

Schedule 5 summarizes (1) each member’s share of LTCG’s surplus (deficit) by period, as calculated on its supporting schedules, (2) each member’s total net billing under the retrospective plan, and (3) each member’s allocated share of the surpluses (deficits) generated by bankrupt members. Each non-bankrupt member will receive one Schedule 5, a supporting schedule for each year it participated, and a single supporting schedule that allocates the deficits generated by LTCG’s bankrupt members to it.

Schedule 5 includes a supporting schedule entitled “Allocation of Surplus (Deficit) to Individual Members - Supporting Schedule” for each year the member participated. A brief description of each of the line items on this supporting schedule follows:

- Member’s adjusted contribution by period – this amount was obtained from the member’s final audited contribution invoice (whenever possible), or via a re-computation process using the member’s annual payroll audit. L&M obtained 316 of the 325 member payroll audits we expected based on the Trust’s various payroll audit policies. L&M compared the data contained in the 316 payroll audits obtained to amounts used to generate the final audited contribution invoices, and did not uncover any calculation errors. However, L&M did note 13 instances where payroll classifications used to calculate a member’s final invoice did not

agree with the classification the payroll auditor believed should have been used per notes in the payroll auditor's report. In these instances, we used the actual amounts LTCG billed to the member as its adjusted/final contribution.

- Contributions from WCB – This amount relates to the \$936,000 security deposit collected by the WCB that was later remitted back to the Trust by the WCB. The amount was allocated to each member that participated in a given period based on the member's adjusted contribution for the period as a percentage of the Trust's total adjusted contributions for the same period.
- Member's share of investment income – This amount was allocated to each member that participated in a given period based on the member's adjusted contribution for the period as a percentage of the Trust's total adjusted contributions for the same period.
- Claims expense adjusted for the large loss sharing mechanism and benefit of specific excess insurance. L&M used the October 31, 2015 loss run report obtained from NCAComp as a starting point to compile each member's claims expense. This report provided the net claim payments and net case basis reserves by claim by member by period end.

The amount paid for the ALP policy was segregated into four components and allocated as previously described in Section J (Reallocation of Claims Expense). The allocation of the IBNR component of the ALP price to each open claim was limited (if applicable) such that the total claim value did not exceed the specific excess insurance retention amount.

LTCG established a loss sharing formula (the large loss sharing mechanism) whereby a portion of each claim over \$25,000 was allocated to all members based on the loss sharing formula in effect at the time of the claim. L&M identified all claims, after the allocation of the IBNR component of the ALP price, exceeding the threshold, and assigned the portion of the claims subject to the large loss sharing mechanism into a yearly loss sharing pool. These yearly loss sharing pools were allocated to all members who participated in the year based on each member's adjusted contributions for the year as a percentage of the Trust's total adjusted contributions for the same year.

The components comprising the claims expense appearing on each period's member specific supporting schedule include:

- The value of the member's closed claims not subject to the large loss sharing mechanism. This came from NCAComp's claims system.
- The value of the member's open claims (from NCAComp's claims system), increased by the allocation of the IBNR component of the ALP price as explained above, not subject to the large loss sharing mechanism.
- The portion of the member's open (increased by the allocation of the IBNR component of the ALP price as explained above) and closed claims subject to the large loss sharing mechanism not shared amongst the other members through the loss sharing pool. In essence, this is the retained portion of the member's own claims that exceeded \$25,000.
- The allocated portion of *all members'* open (increased by the allocation of the IBNR component of the ALP price as explained above) and closed claims subject to the large loss sharing mechanism. This yearly loss sharing pool of claims expense was allocated to all members who participated in the year based on each member's adjusted contributions for the year as a percentage of LTCG's total adjusted contributions for the same year.
- ULAE expenses incurred prior to October 31, 2015 (pre-ALP) and unreconciled difference in claims expense, net of variance in contribution revenue – this amount was allocated pro-rata to each member that participated in a given period based on net claim

- payments applicable to each member for the period to the total net claim payments for the same period.
- ULAE and ALP carrier's pre-tax profit components of ALP price – These were allocated to each member based on its gross claims reserves (per NCAComp's October 31, 2015 loss run) by period to the total of such.
 - General & administrative expenses - These amounts, which exclude the \$2,998,472 bad debt expense from bankrupt members since those amounts were allocated to the ten bankrupt members as described below, were allocated to each member that participated in a given period based on the member's adjusted contribution for the period as a percentage of the Trust's total adjusted contributions for the same period.
 - New York State Assessments - These amounts were allocated to each member that participated in a given period based on the value of its claims for the period to the value of all claims for the same period. The claim amounts for each member were based on the claim expense calculation described above.

A brief description of the methodology used to prepare Schedule 5's second supporting schedule entitled "Allocation of Surpluses (Deficits) to Individual Members, Supporting Schedule – Member's Share of Bankrupt Members' Surpluses (Deficits)" follows:

- LTCG's ten bankrupt members, as identified by the WCB, are individually listed along with their corresponding surplus (deficit) for each period of participation. The surpluses (deficits) were calculated in the same manner described above, and provided each bankrupt member with a credit for all its net billings, by period, under the retrospective plan.
- The net total surplus (deficit) of all bankrupt members for each period was then adjusted by the bad debt (expense) credit attributable to all bankrupt members for each period. This adjustment acts to limit the contribution credits provided to the bankrupt members for amounts billed, to the amounts they actually paid.
- This adjusted net total surplus (deficit) was then allocated to non-bankrupt members, by period, in relation to each member's adjusted contribution for the period to the Trust's total adjusted contributions for the period (exclusive of the adjusted contributions of bankrupt members for each period).

O. Member's Share of Modified Deficit (Surplus) (Schedule 6)

Schedule 6 is a summary of the amount due from/to each member before (1) reductions for amounts invoiced to members on the \$882,996 net bad debt assessment billings in 2009 and 2010, (2) reductions for payments made on the \$10,511,834 WCB issued estimated deficiency billings in July 2011, (3) additions for any portion of the \$970,083 dividend remitted to members in 1997, and (4) additions for any unpaid contribution, retrospective contribution adjustment, and bad debt assessment billing receivable balances as of December 31, 2015.

P. Allocated Portion of Modified Members' Deficit (Surplus) Attributable to Each Member and Amount Due Under Joint and Several Provision (Schedule 7)

Schedule 7 presents the pro-rata portion of the modified members' deficit (surplus) allocated to each member, and the total amount that each member is liable for under the joint and several provisions as specified in certain of LTCCG's Participation Agreements and Section 7.1 of the Trust document.

The joint and several liability amount is the sum of the modified members' deficits for all years that the member participated in the Trust. Each member's joint and several liability amount was determined by summing all the Trust's modified member's deficits (surpluses) for all the periods the member participated.

For example, if a member had coverage for the entire active existence of LTCCG (October 1, 1992 through December 31, 2009), then this member's joint and several liability would equal \$21,011,959 (the entire amount of the modified members' deficit as per Schedule 3). If a member only participated for 2007 – 2009, then this member's joint and several liability would equal \$3,260,841.

Q. Sources of Information

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

- Audited financial statements for the periods ended December 31, 1992 through 2015
- Detailed claim loss run reports as of October 31, 2015 obtained from NCAComp, Inc.
- Member payroll audits performed by Robert Pullen and Vicki Blaszkiewicz
- Billing invoices to members prepared by FNRM
- Retrospective audit adjustment schedules prepared by FNRM and FCS Administrators, Inc.
- Declaration statements to members prepared by FNRM
- GSI-1.1 and GSI-3.1 forms obtained from the WCB
- Schedules of total bad debt assessment and portion billed in 2009 prepared by FNRM
- Copies of 2010 bad debt assessment invoices prepared by FCS Administrators, Inc.
- FNRM prepared schedule allocating the 1996 dividend between members
- Information from LTCCG's general ledger obtained from NCAComp, Inc.
- Invoices for excess insurance
- Information from NCAComp, Inc. relative to the fees to be paid for the December 31, 2015 financial statement audit and preparation of the related corporate tax returns
- Trial balances, adjusting journal entries, and selected workpapers prepared by the financial statement auditors for the years 2002 through 2015
- WCB prepared schedule of the funding it provided to LTCCG to date
- WCB provided listings of all members
- LTCCG's Trust document, By-laws, and Participation Agreements
- The Risk Management Association (RMA) 2015-2016 Annual Statement Studies book.

Long Term Care Risk Management Group
Summary of Revenues, Expenses, and Other Deficit Changes for 1992 - 2015 after Excluding the Balances for the Disability Program (1)

Per audited financial statements for the three months ended December 31, 1992 and the years ended December 31, 1993 - 2015

	12/31/92	12/31/93	12/31/94	12/31/95	12/31/96	12/31/97	12/31/98	12/31/99	12/31/00	12/31/01	12/31/02	12/31/03	12/31/04	12/31/05	12/31/06	12/31/07	12/31/08	12/31/09	12/31/10	12/31/11	12/31/12	12/31/13	12/31/14	12/31/15	Cumulative 1992 - 2015
Revenues:																									
Contributions and assessments	\$ 401,306	\$ 1,909,243	\$ 2,721,968	\$ 3,866,532	\$ 3,616,118	\$ 3,401,699	\$ 3,404,842	\$ 3,530,568	\$ 4,120,751	\$ 4,489,397	\$ 3,818,697	\$ 3,856,111	\$ 4,981,127	\$ 6,084,220	\$ 8,536,690	\$ 6,341,005	\$ 4,187,754	\$ 2,794,098	\$ 440,079	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 72,502,205
Member contribution adjustment	95,235	205,451	210,664	(426,071)	(31,739)	830,314	1,411,998	850,505	(2,419,489)	(2,359,287)	1,729,264	526,140	2,562,143	2,080,056	(2,944,916)	(2,988,111)	1,379,380	5,082,145	(5,793,682)	-	-	-	-	-	-
Contributions from WCB	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	936,046	1,342,689	2,250,864	270,832	64,778	4,865,209
Investment income (loss) and other	6,909	29,040	130,042	220,600	486,608	719,969	685,410	791,911	182,845	95,661	(296,483)	796,498	494,618	271,720	574,518	632,060	(265,924)	495,866	292,753	52,779	5,510	-	1,474	88	6,404,472
	503,450	2,143,734	3,062,674	3,661,061	4,070,987	4,951,982	5,502,250	5,172,984	1,884,107	2,225,771	5,251,478	5,178,749	8,037,888	8,435,996	6,166,292	3,984,954	5,301,210	8,372,109	(5,060,850)	988,825	1,348,199	2,250,864	272,306	64,866	83,771,886
Expenses:																									
Claims	380,415	1,506,445	2,157,130	2,596,641	1,987,241	3,492,319	3,923,398	3,192,953	684,819	918,066	4,000,445	3,181,260	4,824,494	5,550,214	3,858,938	3,492,653	3,159,989	4,192,361	10,255,407	11,790,193	(207,846)	(2,773,314)	(2,169,791)	(2,644,052)	67,350,378
Management fees	44,410	227,628	287,427	372,649	409,686	407,378	434,834	678,854	580,659	636,526	609,546	664,079	809,295	737,085	641,558	520,938	595,152	637,519	252,786	47,900	-	-	-	-	9,595,909
Bad Debts	-	-	-	-	-	-	-	-	-	-	-	-	844,083	163,102	320,037	813,243	472,321	34,975	699,378	614,294	81,388	-	-	-	4,042,821
Excess insurance	14,848	69,300	90,323	73,920	75,465	81,866	100,759	98,530	152,722	165,777	248,532	329,111	287,568	303,717	316,442	305,986	273,645	213,878	10,352	-	-	-	-	-	3,212,741
New York State assessments	50,631	260,744	405,332	364,547	497,502	764,057	784,346	960,762	123,404	64,625	13,172	413,676	765,318	1,205,185	561,699	(1,532,286)	458,189	2,990,363	2,794,975	(1,502,260)	(1,902,230)	(1,004,094)	(189,660)	184,291	7,532,288
Loss Control Expenses	2,056	5,311	50,334	188,403	156,414	154,023	201,068	180,526	266,396	335,075	238,507	455,096	355,700	306,337	259,964	141,487	94,872	61,796	-	-	-	-	-	-	3,453,365
Administrative and other	8,590	49,306	28,321	25,401	75,078	58,673	64,179	67,693	82,441	112,036	132,031	132,514	150,512	169,755	204,798	243,233	247,817	246,931	205,585	1,196,653	224,865	678,156	319,316	87,793	4,811,677
Dividends (return of contributions)	-	-	-	-	970,083	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	970,083
	500,950	2,118,734	3,018,867	3,621,561	4,171,469	4,958,316	5,508,584	5,179,318	1,890,441	2,232,105	5,242,233	5,175,736	8,036,970	8,435,395	6,163,436	3,985,254	5,301,985	8,377,823	14,218,483	12,146,780	(1,803,823)	(3,099,252)	(2,040,135)	(2,371,968)	100,969,262
Net Income (Loss) Before Current Income Tax (Expense) Benefit	2,500	25,000	43,807	39,500	(100,482)	(6,334)	(6,334)	(6,334)	(6,334)	(6,334)	9,245	3,013	918	601	2,856	(300)	(775)	(5,714)	(19,279,333)	(11,157,955)	3,152,022	5,350,116	2,312,441	2,436,834	(17,197,376)
Current Income Tax (Expense) Benefit	(2,500)	(25,000)	(43,807)	(39,500)	100,482	-	-	-	-	-	(10,225)	(1,330)	(100)	(100)	(100)	(100)	-	(5,900)	(250)	(250)	-	-	-	-	(28,680)
Other Deficit Changes:																									
Prior period adjustment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,163,219	-	-	-	-	1,163,219
Members' Surplus (Deficit) for Year	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (6,334)	\$ (6,334)	\$ (6,334)	\$ (6,334)	\$ (6,334)	\$ (980)	\$ 1,683	\$ 818	\$ 501	\$ 2,756	\$ (400)	\$ (775)	\$ (11,614)	\$ (19,279,583)	\$ (9,994,986)	\$ 3,152,022	\$ 5,350,116	\$ 2,312,441	\$ 2,436,834	\$ (16,062,837)

Notes:

- (1) In addition to offering workers' compensation coverage, the Trust also offered disability coverage at the member's option beginning in 1997. This schedule presents the revenues and expenses and other deficit changes from Schedule 1 after eliminating the revenue and expense activity applicable to the disability program, which arrives at the members' surplus (deficit) by year just applicable to the workers' compensation program for the periods ended December 31, 1992 - 2015. The revenues and expenses for the disability program were identified based on information in the audited financial statements and trial balances obtained. The disability program activity included on Schedule 1 that was eliminated from this schedule consisted of \$2,855,852 of contribution income, \$2,556,625 of claims expense, and \$263,910 of general and administrative expenses. The activity relative to the disability program was eliminated because not every member participated in the program and the WCB required that this deficit report only include the workers' compensation program.

Long Term Care Risk Management Group
Members' Adjusted Surplus (Deficit) Before Reclassifications for 1992 - 2015

	12/31/92	12/31/93	12/31/94	12/31/95	12/31/96	12/31/97	12/31/98	12/31/99	12/31/00	12/31/01	12/31/02	12/31/03	12/31/04	12/31/05	12/31/06	12/31/07	12/31/08	12/31/09	12/31/10	12/31/11	12/31/12	12/31/13	12/31/14	12/31/15	Cumulative 1992-2015
Members' surplus (deficit) from workers' compensation program for year per Schedule 1A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (6,334)	\$ (6,334)	\$ (6,334)	\$ (6,334)	\$ (6,334)	\$ (980)	\$ 1,683	\$ 818	\$ 501	\$ 2,756	\$ (400)	\$ (775)	\$ (11,614)	\$ (19,279,583)	\$ (9,994,986)	\$ 3,152,022	\$ 5,350,116	\$ 2,312,441	\$ 2,436,834	\$ (16,062,837)
Elimination of member contribution adjustment recognized to force net income to zero for each period during 1992-2009 (1)	(95,235)	(205,451)	(210,664)	426,071	31,739	(830,314)	(1,411,998)	(850,505)	2,419,489	2,359,287	(1,729,264)	(526,140)	(2,562,143)	(2,080,056)	2,944,916	2,988,111	(1,379,380)	(5,082,145)	5,793,682	-	-	-	-	-	-
Elimination of 2009 and 2010 net bad debt assessment revenue (2)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(424,920)	(458,076)	-	-	-	-	-	(882,996)
Elimination of 1996 dividend (3)	-	-	-	-	970,083	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	970,083
Contributions from the WCB (4)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(46)	(1,342,689)	(2,250,864)	(270,832)	(64,778)	(3,929,209)
Other operating expenses post 12/31/15 (5)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(1,107,000)	(1,107,000)
Members' adjusted surplus (deficit) before reclassifications	\$ (95,235)	\$ (205,451)	\$ (210,664)	\$ 426,071	\$ 1,001,822	\$ (836,648)	\$ (1,418,332)	\$ (856,839)	\$ 2,413,155	\$ 2,352,953	\$ (1,730,244)	\$ (524,457)	\$ (2,561,325)	\$ (2,079,555)	\$ 2,947,672	\$ 2,987,711	\$ (1,380,155)	\$ (5,518,679)	\$ (13,943,977)	\$ (9,995,032)	\$ 1,809,333	\$ 3,099,252	\$ 2,041,609	\$ 1,265,056	\$ (21,011,959)

Notes:

- (1) The Trust recognized a member contribution adjustment amount each period during 1992 - 2009 in the amount required to achieve a break-even position for each period. The cumulative amount of net revenue recognized as member contribution adjustment in 1992 - 2009 totaled \$5,793,682. The \$5,793,682 cumulative unbilled receivable related to this was eliminated/reversed in the 2010 audited financial statements. Accordingly, L&M reclassified the \$5,793,682 contra-revenue (expense) recorded in 2010 against the net revenue previously recognized during 1992 - 2009.
- (2) The Trust recognized \$911,850 of assessment revenue in 2009 and 2010 relating to amounts billed under a bad debt assessment. Some members paid the full balance that was to have been billed to them over five years (2009 - 2013) while other members paid some, all, or none of the first two (of five) annual installments that were billed in 2009 and 2010. The billings for the 3rd through 5th installment were not issued because the WCB assumed control of the Trust and instead issued an estimated deficiency billing. L&M could not determine the methodology used to allocate the assessment among the members. Accordingly, L&M reversed the transactions that recorded the \$882,996 of net assessment revenue (\$911,850 net of \$28,854 of write-offs) to calculate the members' adjusted surplus (deficit) before reclassifications. Amounts invoiced to each non-bankrupt member on the bad debt assessment billing (totaling \$882,996) will be reflected as a reduction of the balance due from each applicable member that will be subsequently invoiced by the WCB as a result of this report.
- (3) A member dividend of \$970,083 was recorded in 1996. The dividend consisted of \$540,431 from 1995's surplus and \$429,652 from 1996's surplus. L&M could not determine the methodology used to allocate the dividend between the members. L&M determined that at least 4 members who participated in 1995 were not allocated any portion of the \$540,431 dividend applicable to that year's results. Based upon a lack of information to the contrary, L&M would have expected all members who participated in 1995 to have shared in the dividend applicable to that year. Thus, L&M believes the allocation of the dividend may not have been fair and equitable to the members. Accordingly, the \$970,083 dividend expense was eliminated in the calculation of the modified members' deficit. The amount each member received (through a credit on their 1997 invoices) will be added to their respective deficit invoices to be billed by the WCB.
- (4) The 2011 - 2015 audited financial statements presented a total of \$4,865,209 of "Income from Workers Compensation Board." \$936,000 was from the proceeds collected from the Trust's security deposit, with the \$3,929,209 balance from member payments on the WCB estimated deficiency billing issued in 2011. Accordingly, this \$3,929,209 is excluded in the calculation of the members' adjusted surplus (deficit) before reclassifications.
- (5) Other operating expenses post 12/31/15 reflect both actual and estimated anticipated total costs to be incurred for the 2015 financial statement audit and preparation of the related corporate income tax returns, accounting and tax services for years after 2015, accounting services relative to this deficit reconstruction and assessment, and \$1,004,000 of estimated state income taxes to be paid after 2015.

Long Term Care Risk Management Group
Modified Members' Surplus (Deficit) by Period for 1992 - 2015

	12/31/92	12/31/93	12/31/94	12/31/95	12/31/96	12/31/97	12/31/98	12/31/99	12/31/00	12/31/01	12/31/02	12/31/03	12/31/04	12/31/05	12/31/06	12/31/07	12/31/08	12/31/09	12/31/10	12/31/11	12/31/12	12/31/13	12/31/14	12/31/15	Cumulative 1992-2015	
Members' adjusted surplus (deficit) before reclassifications per Schedule 2	\$ (95,235)	\$ (205,451)	\$ (210,664)	\$ 426,071	\$ 1,001,822	\$ (836,648)	\$ (1,418,332)	\$ (856,839)	\$ 2,413,155	\$ 2,352,953	\$ (1,730,244)	\$ (524,457)	\$ (2,561,325)	\$ (2,079,555)	\$ 2,947,672	\$ 2,987,711	\$ (1,380,155)	\$ (5,518,679)	\$ (13,943,977)	\$ (9,995,032)	\$ 1,809,333	\$ 3,099,252	\$ 2,041,609	\$ 1,265,056	\$ (21,011,959)	
Reallocation of contribution revenue to correct cutoff issues (1)	(66,171)	47,163	743,370	660,989	(55,747)	67,415	307,989	(731,039)	948,281	626,881	1,218,478	2,953,513	769,535	(1,142,575)	(4,042,863)	(2,474,043)	(46,056)	1,345,675	32,424	(1,163,219)	-	-	-	-	-	
Reallocation of certain operating expenses: (2)																										
Excess insurance	-	-	-	-	-	-	-	-	-	-	-	-	24,678	-	(225)	(11,259)	2,680	(26,226)	10,352	-	-	-	-	-	-	
Bad debt	(5,551)	237,048	(60,141)	27,380	(33,464)	(201,680)	(100,556)	(45,683)	(190,108)	142,960	(307,462)	(1,660,020)	107,805	130,705	(715,918)	825,979	451,093	16,980	684,951	614,294	81,388	-	-	-	-	
Reallocation of claims expense - prior to ALP: (3)																										
Previously reported Schedule 1A	380,415	1,506,445	2,157,130	2,596,641	1,987,241	3,492,319	3,923,398	3,192,953	684,819	918,066	4,000,445	3,181,260	4,824,494	5,550,214	3,858,938	3,492,653	3,159,989	4,192,361	10,255,407	11,790,193	(207,846)	(2,773,314)	(2,169,791)	(15,638,694)	54,355,736	
Reallocated	194,508	1,408,009	2,640,120	2,841,294	2,410,891	2,856,867	2,881,996	2,392,192	3,679,479	4,314,942	3,713,279	5,284,301	4,002,425	4,450,462	3,840,014	2,676,065	2,361,875	2,407,017	-	-	-	-	-	-	-	54,355,736
Net impact on individual years	185,907	98,436	(482,990)	(244,653)	(423,650)	635,452	1,041,402	800,761	(2,994,660)	(3,396,876)	287,166	(2,103,041)	822,069	1,099,752	18,924	816,588	798,114	1,785,344	10,255,407	11,790,193	(207,846)	(2,773,314)	(2,169,791)	(15,638,694)	-	
Reallocation of claims expense - post ALP: (4)																										
Previously reported Schedule 1A	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	12,994,642	12,994,642
Reallocated	-	17,592	865,149	768,694	565,597	972,932	411,939	721,986	688,438	643,366	513,233	1,202,846	145,251	1,083,698	1,279,751	587,051	1,491,566	1,035,553	-	-	-	-	-	-	-	12,994,642
Net impact on individual years	-	(17,592)	(865,149)	(768,694)	(565,597)	(972,932)	(411,939)	(721,986)	(688,438)	(643,366)	(513,233)	(1,202,846)	(145,251)	(1,083,698)	(1,279,751)	(587,051)	(1,491,566)	(1,035,553)	-	-	-	-	-	-	-	-
Reallocation of New York State assessments: (5)																										
Previously reported Schedule 1A	50,631	260,744	405,332	364,547	497,502	764,057	784,346	960,762	123,404	64,625	13,172	413,676	765,318	1,205,185	561,699	(1,532,286)	458,189	2,990,363	2,794,975	(1,502,260)	(1,902,230)	(1,004,094)	(189,660)	184,291	7,532,288	
Reallocated	21,753	159,435	392,020	403,732	332,883	428,315	368,385	348,281	488,496	554,524	472,682	725,505	463,865	618,926	572,581	364,938	430,959	385,008	-	-	-	-	-	-	-	7,532,288
Net impact on individual years	28,878	101,309	13,312	(39,185)	164,619	335,742	415,961	612,481	(365,092)	(489,899)	(459,510)	(311,829)	301,453	586,259	(10,882)	(1,897,224)	27,230	2,605,355	2,794,975	(1,502,260)	(1,902,230)	(1,004,094)	(189,660)	184,291	-	
Reallocation of current income taxes (6)	-	23,655	41,451	37,376	(102,482)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Reallocation of other 2010 - 2015 revenue and expenses: (7)																										
Contributions from WCB	4,312	25,170	44,583	58,248	45,805	44,631	47,767	36,017	65,215	65,823	64,805	87,608	73,984	63,576	57,815	49,750	53,284	47,607	-	(936,000)	-	-	-	-	-	
Investment and other income	1,624	9,482	16,795	21,943	17,256	16,813	17,994	13,568	24,567	24,796	24,413	33,003	27,871	23,950	21,780	18,741	20,073	17,935	(292,753)	(52,779)	(5,510)	(1,474)	(88)	-	-	
Administrative and other expenses	(13,882)	(81,037)	(143,539)	(187,536)	(147,476)	(143,696)	(153,791)	(115,960)	(209,966)	(211,923)	(208,647)	(282,064)	(238,200)	(204,690)	(186,141)	(160,175)	(171,555)	(153,276)	458,621	1,244,803	224,865	678,156	319,316	87,793	-	
Other operating expenses post 12/31/15	(5,099)	(29,768)	(52,728)	(68,890)	(54,174)	(52,785)	(56,493)	(42,597)	(77,129)	(77,848)	(76,644)	(103,614)	(87,501)	(75,191)	(68,377)	(58,839)	(63,019)	(56,304)	-	-	-	-	-	1,107,000	-	
Net impact on individual years	(13,045)	(76,153)	(134,889)	(176,235)	(138,589)	(135,037)	(144,523)	(108,972)	(197,313)	(199,152)	(196,073)	(265,067)	(223,846)	(192,355)	(174,923)	(150,523)	(161,217)	(144,038)	165,868	256,024	219,355	678,156	317,842	1,194,705	-	
Modified members' surplus (deficit)	\$ 34,783	\$ 208,415	\$ (955,700)	\$ (76,951)	\$ (153,088)	\$ (1,107,688)	\$ (309,998)	\$ (1,051,277)	\$ (1,074,175)	\$ (1,606,499)	\$ (1,700,878)	\$ (3,113,747)	\$ (904,882)	\$ (2,681,467)	\$ (3,257,966)	\$ (489,822)	\$ (1,799,877)	\$ (971,142)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (21,011,959)

Notes:

- (1) Contribution revenue recorded on the annual audited financial statements was reclassified between years primarily to allocate the retrospective contribution adjustment billings to members in subsequent years to the periods the retrospective billings pertained to.
- (2) Excess insurance was reclassified between years to adjust for an individual policy year's final premium audit amount billed/credited in a subsequent period. Bad debt expense recorded in the 2004 - 2012 audited financial statements was reclassified to the years the related revenue related to.
- (3) Claims expense prior to the assumption of loss policy (ALP) includes claim payments made through October 31, 2015 for indemnity, medical, allocated loss adjustment expenses, and unallocated loss adjustment expenses (ULAE). These were reallocated using information from the claims system maintained by NCAComp which provided data relative to the net payments made on claims through October 31, 2015.
- (4) LTCG executed an ALP with Safety National Casualty Corporation effective October 31, 2015. The price of the ALP (\$12,994,642) was segregated into four components: net case basis reserves, IBNR, ULAE, and the carrier's profit on the policy. The net case basis reserves by year as of October 31, 2015 per the claims system maintained by NCAComp was used to quantify the net case basis reserve component; the gross (unlimited) case basis reserves as of October 31, 2015 was used to allocate the estimated ULAE and the ALP carrier's profit on the policy; the net-net case basis reserves (net reserves less reserves on excess insurance claims included in retention amount) was used to allocate the IBNR component up to the excess policy retention amount for the claim (if applicable).
- (5) Cumulative New York State assessments were reallocated to each year in relation to that year's reallocated workers' compensation claims expense as a percentage of total reallocated workers' compensation claims expense.
- (6) 1996 reflected a tax refund for prior year taxes paid under a premium-based tax that the Trust later determined it was not subject to. This refund was reallocated against the years that expensed the related premium-based tax that was subsequently refunded.
- (7) Reallocated other 2010-2015 revenue and expenses include investment and other income, \$936,000 of contributions from the WCB relative to proceeds collected on the letter of credit that fulfilled LTCG's security deposit, general and administrative expenses, and estimated operating expenses and corporate income taxes that will be paid subsequent to 12/31/15. These were allocated to 1992 - 2009 in relation to each year's adjusted contribution revenue to total adjusted contribution revenue.

Long Term Care Risk Management Group
2016 Surplus (Deficit) by Period

	12/31/92	12/31/93	12/31/94	12/31/95	12/31/96	12/31/97	12/31/98	12/31/99	12/31/00	12/31/01	12/31/02	12/31/03	12/31/04	12/31/05	12/31/06	12/31/07	12/31/08	12/31/09	12/31/10	12/31/11	12/31/12	12/31/13	12/31/14	12/31/15	Cumulative 1992-2015	
2016 Surplus (Deficit Assessment) by Period (1)	\$ 34,783	\$ 208,415	\$ (955,700)	\$ (76,951)	\$ (153,088)	\$ (1,107,688)	\$ (309,998)	\$ (1,051,277)	\$ (1,074,175)	\$ (1,606,499)	\$ (1,700,878)	\$ (3,113,747)	\$ (904,882)	\$ (2,681,467)	\$ (3,257,966)	\$ (489,822)	\$ (1,799,877)	\$ (971,142)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (21,011,959)

(1) The 2016 surplus (deficit assessment) by period represents the members' modified surplus (deficit) amounts that have been carried forward from Schedule 3.