

**REPORT ON EXAMINATION**  
**OF**  
**ASI PREFERRED INSURANCE**  
**CORPORATION**  
**ST. PETERSBURG, FLORIDA**

**AS OF**  
**DECEMBER 31, 2009**

**BY THE**  
**OFFICE OF INSURANCE REGULATION**

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**TALLAHASSEE, FLORIDA**

February 4, 2011

Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation  
State of Florida  
Tallahassee, Florida 32399-0326

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes, Rule 69O-138.005, Florida Administrative Code, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2009, of the financial condition and corporate affairs of:

**ASI PREFERRED INSURANCE CORPORATION  
805 EXECUTIVE CENTER DRIVE WEST, SUITE 300  
ST. PETERSBURG, FLORIDA 33702**

Hereinafter referred to as, the "Company". Such report of examination is herewith respectfully submitted.

## **SCOPE OF EXAMINATION**

This examination covered the period of January 1, 2009, through December 31, 2009. This was the first examination by representatives of the Florida Office of Insurance Regulation (Office). This examination commenced with planning at the Office on October 18, 2010, to October 22, 2010. The fieldwork commenced on November 1, 2010, and concluded as of February 4, 2011.

This financial examination was a statutory financial examination conducted in accordance with the Financial Condition Examiners Handbook, Accounting Practices and Procedures Manual and annual statement instructions promulgated by the NAIC as adopted by Rules 69O-137.001(4) and 69O-138.001, Florida Administrative Code, with due regard to the statutory requirements of the insurance laws and rules of the State of Florida.

The Financial Condition Examiners Handbook requires that the examination be planned and performed to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process.

This report of examination is confined to significant adverse findings, a material change in the financial statements or other information of regulatory significance or requiring regulatory action. The report comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special explanation or description.

## **SUMMARY OF SIGNIFICANT FINDINGS**

### **Current Exam Findings**

There were no material findings or exceptions noted during the examination as of December 31, 2009.

## **HISTORY**

### **General**

The Company was incorporated in Florida on February 13, 2008, and commenced business on March 15, 2008, as ASI Preferred Insurance Corp.

The Company was party to Consent Order 93962-08-CO filed January 31, 2008, regarding application for the issuance of a Certificate of Authority. The Company was in compliance with the provisions of this consent order.

The Company was authorized to transact the following insurance coverage in Florida on December 31, 2009:

Homeowners multi peril  
Allied Lines  
Inland Marine

Fire  
Other liability

The Articles of Incorporation and the Bylaws were not amended during the period covered by this examination.

### **Dividends to Stockholders**

There were no dividends declared or paid to its stockholders during the examination period.

### **Capital Stock and Capital Contributions**

As of December 31, 2009, the Company's capitalization was as follows:

Number of authorized common capital shares	1,000,000
Number of shares issued and outstanding	1,000,000
Total common capital stock	\$1,000,000
Par value per share	\$1.00

The Company is owned by ARX Holding Corp (60%), a privately-owned company incorporated in Delaware and by American Strategic Insurance Corp (40%), a Florida property and casualty insurance company. The Parents have contributed \$14 million in cash to the Company as of December 31, 2009.

### **Surplus Debentures**

The Company had no surplus debentures during the examination period.

### **Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales Through Reinsurance**

The Company was not party to any acquisitions, mergers, disposals, dissolutions, nor any purchases or sales through reinsurance during the examination period.

## CORPORATE RECORDS

The recorded minutes of the shareholder, Board of Directors (Board), and certain internal committees were reviewed for the period under examination. The recorded minutes of the Board did not adequately document its meetings and approval of Company transactions and events in accordance with Section 607.1601, Florida Statutes, including the authorization of investments as required by Section 625.304, Florida Statutes.

**Subsequent Event:** Beginning with the November 2010 Board Meeting, the investment committee began ratifying the investments as of part of its annual compliance review in order to satisfy the requirements of Section 625.304, Florida Statutes.

### Conflict of Interest

The Company adopted a policy statement requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code.

## MANAGEMENT AND CONTROL

### Management

The annual shareholder meeting for the election of directors was held in accordance with Sections 607.1601 and 628.231, Florida Statutes. Directors serving as of December 31, 2009, were:

#### Directors

##### Name and Location

John Franklin Auer  
St. Petersburg, Florida

Marc Fasteau  
New York, New York

##### Principal Occupation

American Strategic Insurance Corp.  
President, Director and CEO

Fulcrum Partners, LLC  
Managing Director

Gregory Scott Hendrick  
Hamilton, Bermuda

XL Re, Ltd  
Senior Vice President

Kevin Robert Milkey  
St. Petersburg, Florida

American Strategic Insurance Corp.  
Executive Vice President

Susan L. Cross  
Hamilton, Bermuda

XL Re, Ltd  
Executive Vice President

The Board in accordance with the Company's bylaws appointed the following senior officers:

### Senior Officers

#### Name

#### Title

John Franklin Auer

President and Treasurer

Marc Fasteau

Secretary

Kevin Robert Milkey

Assistant Secretary

Mary Frances Fournet

Vice President

Antonio Scognamiglio

Vice President

The Company's Board appointed several internal committees in accordance with Section 607.0825, Florida Statutes. Following were the principal internal board committees and their members as of December 31, 2009:

#### Audit Committee

Marc Fasteau <sup>1</sup>

Gregory Scott Hendrick

Susan Lee Cross

#### Investment Committee

Marc Fasteau <sup>1</sup>

John Franklin Auer

Susan Lee Cross

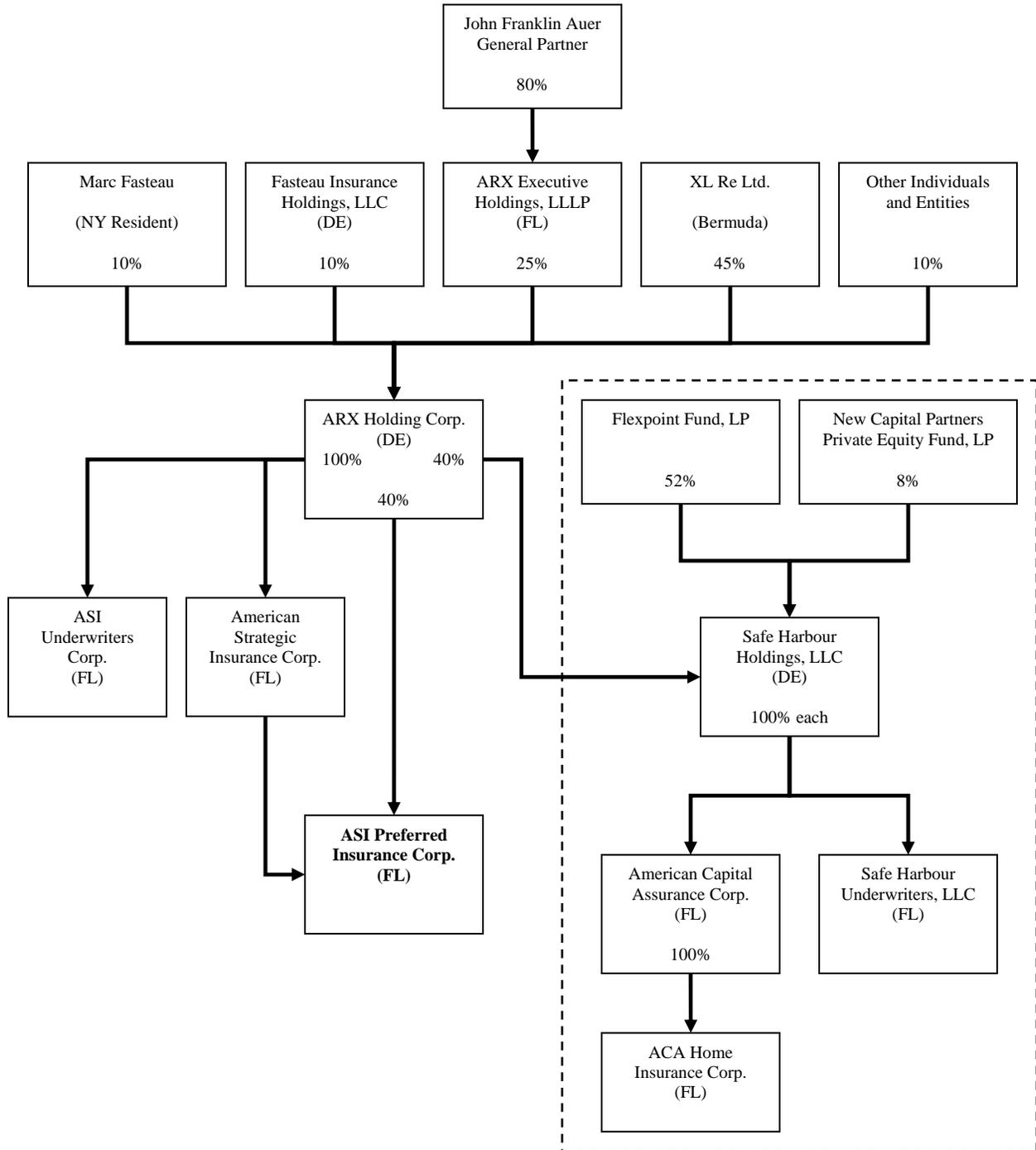
<sup>1</sup> Chairman

### Affiliated Companies

The Company was a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code. The latest holding company registration statement was filed with the State of Florida on March 1, 2010 as required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

A comprehensive organizational chart as of December 31, 2009, reflecting the holding company system, is shown below. Schedule Y of the Company's 2009 annual statement provided a list of all related companies of the holding company group.

**ASI PREFERRED INSURANCE CORPORATION  
ORGANIZATIONAL CHART  
DECEMBER 31, 2009**



The following agreements were in effect between the Company and its affiliates:

### **Tax Allocation Agreement**

The Company, a subsidiary of ARX Holding Corp. (ARX), filed a consolidated federal income tax return along with the other subsidiaries of the ARX holding structure. On December 31, 2009, the method of allocation for the liability of the federal income tax was in an amount not to exceed that which would have been due had the Company and its subsidiary filed a separate income tax return. Within ninety (90) days of the remittance by the Company of any income tax payment to the taxing authorities, all inter-company tax receivables/payables were settled.

### **Intercompany Settlement Agreement**

The Company entered into an agreement with related parties through common ownership with ARX Holding Corp. and Safe Harbour Holding, LLC, effective March 21, 2008, whereby the Companies mutually acknowledge that in the ordinary course of business, it may become feasible for one company to pay expenses on behalf of another company. In such cases, the companies shall submit a monthly bill for any expenses incurred on behalf of another and shall remit payment in full no later than ninety (90) days after receipt.

### **Managing General Agent Agreement**

The Company entered into a Managing General Agency Agreement with its affiliate, ASI Underwriters Corp. (ASIU) on February 1, 2008. The agreement was originally for a one-year term and automatically renews each successive year, unless otherwise terminated within the guidelines of the agreement. For underwriting and premium processing services, the Company pays 8% of written premium plus a \$25 policy fee. Claims administration services were included in the agreement. For claims processing, the Company paid a monthly commission based on 5% of non-

catastrophe paid losses and 1% for catastrophe paid losses. Costs incurred under this agreement during 2009 amounted to \$3,301,626 for MGA commissions, \$204,158 in Loss commissions and \$954,525 in MGA fees.

### **FIDELITY BOND AND OTHER INSURANCE**

The Company maintained fidelity bond coverage up to \$1,500,000 with a deductible of \$50,000, which reached the suggested minimum as recommended by the NAIC.

The Company also maintained Directors and Officers (D&O) liability, commercial package liability and property insurance coverage during the period of this examination.

### **PENSION, STOCK OWNERSHIP AND INSURANCE PLANS**

All employees of the Company were covered by a qualified, defined-contribution plan sponsored by the Company. The assets were commingled under one plan with its affiliates, American Strategic Insurance Corp., ASI Underwriters Corp., Sunshine Security Insurance Agency, Inc., American Capital Assurance Corp. and Safe Harbour Underwriters LLC. Contributions of up to six percent of each employee's compensation were made each pay period. The Company's contribution for 2009 was \$85,692.

### **TERRITORY AND PLAN OF OPERATIONS**

The Company was authorized to transact insurance only in the State of Florida.

## Treatment of Policyholders

The Company established procedures for handling written complaints in accordance with Section 626.9541(1) (j), Florida Statutes.

The Company maintained a claims procedure manual that included detailed procedures for handling each type of claim in accordance with Section 626.9541(1) (i) 3a, Florida Statutes.

## COMPANY GROWTH

Gross written premiums were \$42,224,854 and \$10,985,460 for 2009 and 2008 respectively. The Company has reported a small net operating loss for the first two years of operations.

## Profitability of Company

The following table shows the profitability trend (in dollars) of the Company for the period of operations, as reported in the filed annual statements.

	<b>2009</b>	<b>2008</b>
Premiums Earned	7,145,706	758,629
Net Underwriting Gain/(Loss)	(1,824,022)	(711,901)
Net Income	(716,072)	(833,033)
Total Assets	28,294,191	16,784,024
Total Liabilities	14,778,356	7,188,066
Surplus As Regards Policyholders	13,515,835	9,596,018

## **LOSS EXPERIENCE**

During the current examination period, the Company showed favorable loss development. The one-year net loss development at the end of the current examination period \$52,000.

## **REINSURANCE**

The reinsurance agreements reviewed complied with NAIC standards with respect to the standard insolvency clause, arbitration clause, transfer of risk, reporting and settlement information deadlines.

### **Assumed**

The Company assumed no reinsurance business.

### **Ceded**

The Company ceded risk on a quota share and an excess of loss basis to a variety of authorized and unauthorized affiliate and non-affiliate reinsurers. The Company's reinsurance program consisted of a mixture of quota share coverage in conjunction with multiple layers of excess catastrophe coverage, multiple layers of multi-line excess per risk coverage and ultimately, an excess catastrophe coverage (hurricane only – Florida Hurricane CAT Fund).

The reinsurance contracts were reviewed by the Company's appointed actuary and were utilized in determining the ultimate loss opinion.

## **ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in St. Petersburg, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements annually for the years 2008 and 2009 in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, Florida Administrative Code.

The Company's accounting records were maintained on a computerized system. The Company's balance sheet accounts were verified with the line items of the annual statement submitted to the Office.

The Company and non-affiliates had the following agreements:

### **Custodial Agreement**

The Company maintained a custodial agreement with JP Morgan Worldwide Securities Services entered into on April 2, 2008. The Company was in compliance with Rule 69O-143.042, Florida Administrative Code, which stipulates the requirements of a custodial agreement.

### **Independent Auditor Agreement**

The Company contracted with the external independent CPA firm of Gregory, Sharer & Stuart, P.A. to perform the annual audit of its financial statements as required by Rule 69O-137.002 (7) (c), Florida Administrative Code.

## Information Technology Report

Steven R. Sigler, CFE, AES performed an evaluation of the information technology and computer systems of the Company. Results of the evaluation were noted in the Information Technology Report provided to the Company.

### STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes, as required or permitted by law:

STATE	Description	Par Value	Market Value
FL	U.S. Treasury Note, 2.50%, 03/31/13	\$ 325,000	\$ 332,363
	TOTAL FLORIDA DEPOSITS	<u>\$ 325,000</u>	<u>\$ 332,363</u>
	TOTAL SPECIAL DEPOSITS	<u>\$ 325,000</u>	<u>\$ 332,363</u>

### FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2009, and the results of its operations for the year then ended as determined by this examination. Adjustments made as a result of the examination are noted in the section of this report captioned, "Comparative Analysis of Changes in Surplus."

**ASI PREFERRED INSURANCE CORPORATION**  
**Assets**

**DECEMBER 31, 2009**

	Per Company	Examination Adjustments	Per Examination
Bonds	\$13,504,934		\$13,504,934
Cash:	10,530,449		10,530,449
Investment income due and accrued	102,738		102,738
Premiums and Considerations:			
Uncollected premium	1,153,635		1,153,635
Deferred premium	1,956,161		1,956,161
Reinsurance:			
Recoverables from reinsurers	423,503		423,503
Current federal and foreign income tax recoverable and interest thereon	447,280		447,280
Net Deferred Tax Asset	73,761		73,761
Receivables from parent, subsidiaries and affiliates	13,846		13,846
Aggregate write-in for other than invested assets	87,884		87,884
Totals	\$28,294,191	\$0	\$28,294,191

**ASI PREFERRED INSURANCE CORPORATION**  
**Liabilities, Surplus and Other Funds**

**DECEMBER 31, 2009**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$1,067,290		\$1,067,290
Loss adjustment expenses	117,302		117,302
Commissions payable	668,381		668,381
Other expenses	758,513		758,513
Taxes, licenses and fees	422,032		422,032
Unearned premiums	6,064,542		6,064,542
Advance premiums	1,126,660		1,126,660
Ceded reinsurance premiums payable	4,465,393		4,465,393
Provision for reinsurance	3,000		3,000
Payable to parent, subsidiaries and affiliates	85,243		85,243
Total Liabilities	\$14,778,356	\$0	\$14,778,356
Common capital stock	\$1,000,000		\$1,000,000
Gross paid-in and contributed surplus	14,000,000		14,000,000
Unassigned funds (surplus)	(1,484,165)		(1,484,165)
Surplus as regards policyholders	\$13,515,835	\$0	\$13,515,835
Total liabilities, surplus and other funds	\$28,294,191	\$0	\$28,294,191

**ASI PREFERRED INSURANCE CORPORATION**  
**Statement of Income**

**DECEMBER 31, 2009**

**Underwriting Income**

Premiums earned		\$7,145,706
	<b>Deductions:</b>	
Losses incurred		2,219,251
Loss expenses incurred		205,440
Other underwriting expenses incurred		6,545,037
Aggregate write-ins for underwriting deductions		0
Total underwriting deductions		\$8,969,728
Net underwriting gain or (loss)		(\$1,824,022)

**Investment Income**

Net investment income earned		\$675,664
Net realized capital gains or (losses)		108,300
Net investment gain or (loss)		\$783,964

**Other Income**

Finance and service charges not included in premiums		\$91,617
Aggregate write-ins for miscellaneous income		0
Total other income		\$91,617

Net income before dividends to policyholders and before federal & foreign income taxes		(\$948,441)
Dividends to policyholders		0
Net Income, after dividends to policyholders, but before federal & foreign income taxes		(\$948,441)
Federal & foreign income taxes		(232,369)
Net Income		(\$716,072)

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year		\$9,596,018
Net Income		(\$716,072)
Net unrealized capital gains or losses		19,877
Change in net deferred income tax		135,221
Change in non-admitted assets		(516,209)
Change in provision for reinsurance		(3,000)
Surplus adjustments: Paid-In		5,000,000
Dividends to stockholders		0
Aggregate write-ins for gains and losses in surplus		0
Examination Adjustment		0
Change in surplus as regards policyholders for the year		\$3,919,817
Surplus as regards policyholders, December 31 current year		\$13,515,835

A comparative analysis of changes in surplus is shown below.

**ASI PREFERRED INSURANCE CORPORATION**  
**Comparative Analysis of Changes In Surplus**

**DECEMBER 31, 2009**

The following is a reconciliation of Surplus as regards policyholders between that reported by the Company and as determined by the examination.

Surplus as Regards Policyholders December 31, 2009, per Annual Statement	\$13,515,835
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	<u>PER COMPANY</u>	<u>PER EXAM</u>	<u>INCREASE (DECREASE) IN SURPLUS</u>
ASSETS:			
No Adjustments			\$0
LIABILITIES:			
No Adjustments			\$0
Net Change in Surplus:			<u>0</u>
Surplus as Regards Policyholders December 31, 2009, Per Examination			<u><u>\$13,515,835</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

#### Losses and Loss Adjustment Expenses \$1,184,592

An outside actuarial firm appointed by the Board of Directors, rendered an opinion that the amounts carried in the balance sheet as of December 31, 2009, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements.

The Office engaged an independent actuarial firm, The Actuarial Advantage, Inc., to review the Loss and Loss Adjustment Expense Reserves carried in the Company's balance sheet as of December 31, 2009 and they were in concurrence with this opinion.

### Capital and Surplus

The amount reported by the Company of \$13,515,835 exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **ASI Preferred Insurance Corporation** as of December 31, 2009, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's Surplus as regards policyholders was \$13,515,835, which exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

In addition to the undersigned, Steven R. Sigler, CFE, AES, Examiner-In-Charge, Sheri Kenney, CFE, Participating Examiner, Brad Hazelwood, Participating Examiner, and Tracy Gates, CPA, CISA, IT Manager, of Highland Clark, LLC; Dennis Henry, FCAS, MAAA, consulting actuary of Actuarial Resources; and Maurice Fuller, Financial Examiner/Analyst II and Frank Jones, Reinsurance Financial Specialist, of the Office, participated in the examination.

Respectfully submitted,

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Kethessa Carpenter, CPA  
Financial Examiner/Analyst Supervisor  
Florida Office of Insurance Regulation