

**REPORT ON EXAMINATION**  
**OF**  
**ASCENDANT COMMERCIAL**  
**INSURANCE, INC.**  
**MIAMI, FLORIDA**

**AS OF**  
**DECEMBER 31, 2011**

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

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February 19, 2013

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, 2011, of the financial condition and corporate affairs of:

**ASCENDANT COMMERCIAL INSURANCE, INC.  
5835 BLUE LAGOON DRIVE, SUITE 400  
MIAMI, FLORIDA 33126**

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, 2011, through December 31, 2011. This was a second year examination. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2010. This examination commenced with planning at the Office on October 8, 2012, to October 12, 2012. The fieldwork commenced on October 29, 2012, and concluded as of February 19, 2013.

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, of 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, 2011.

### **Prior Exam Findings**

Findings and exceptions for the examination as of December 31, 2010 were resolved subsequent to the December 31, 2010 examination.

## **HISTORY**

### **General**

The Company was incorporated in Florida on August 31, 2009, and commenced business on September 1, 2009, as Ascendant Commercial Insurance, Inc.

The Company was party to Consent Order 106078-09-CO filed August 31, 2009, regarding the application for the issuance of a Certificate of Authority.

The Company was authorized to transact the following insurance coverage in Florida on September 1, 2009 and continued to be authorized as of December 31, 2011:

Workers' compensation  
Other liability (including Product Liability)  
Commercial automobile liability  
Commercial auto physical damage

### **Dividends to Stockholders**

The Company did not declare or pay any dividends during the period of this examination.

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

As of December 31, 2011, the Company's capitalization was as follows:

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

Control of the Company was maintained by its parent, Ascendant Holdings, LLC, who owned 100% of the stock issued by the Company, who in turn was 100% owned by an individual, Pablo L. Cejas.

The parent contributed \$1,165,000 in cash to the Company's surplus as of December 31, 2011. In May 2011, the parent contributed \$550,000, and in February 2012, the parent made a cash contribution of \$615,000, which was approved by the Office to be recorded as a 2011 transaction.

### **Surplus Debentures**

The Company did not have any surplus debentures during the period of this examination.

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

The Company had no acquisitions, mergers, disposals, and purchase or sales through reinsurance during the period of this examination.

## **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 adequately documented its meetings and approval of Company transactions and events, in compliance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code, including the authorization of investments as required by Section 625.304, Florida Statutes.

### **Conflict of Interest**

The Company adopted a policy statement that required 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 Section 628.231, Florida Statutes. Directors serving as of December 31, 2011, were:

### Directors

Name and Location	Principal Occupation
Pablo L. Cejas Key Biscayne, Florida	CEO Ascendant Commercial Insurance, Inc.
Paul L. Cejas Miami Beach, Florida	CEO & Chairman, PLC Investments, Inc.
Helene C. Cejas Washington D.C.	Attorney, Capital One Bank
Daniel Echavarria Coconut Grove, Florida	Principal, El Paso Advisors

Effective September 12, 2011, Victoria M. Ortiz resigned from the Company's Board of Directors. With this resignation the Company was in violation of Section 628.231 (1), Florida Statutes that requires the affairs of every domestic insurer to be managed by not less than five directors.

**Subsequent Event:** The shareholder elected Hilary C. Candela, Director of Finance and Product Development, to the Board of Directors in April 2012.

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

### **Senior Officers**

<b>Name</b>	<b>Title</b>
Pablo L. Cejas	Chief Executive Officer
Jose L. Rodriguez (a)	President
Jorge E. Gonzalez	Chief Financial Officer

(a) Resigned on July 31, 2012. Pablo L. Cejas assumed the President title in addition to his CEO role on August 1, 2012.

The Company's Board appointed two internal committees. Following were the principal internal board committees and their members as of December 31, 2011:

<b>Audit Committee</b>	<b>Investment Committee</b>
Pablo L Cejas <sup>1</sup>	Pablo L Cejas <sup>1</sup>
Paul L Cejas	Paul L Cejas
Helene C Cejas	Daniel Echavarria
Daniel Echavarria	
<sup>1</sup> Chairman	

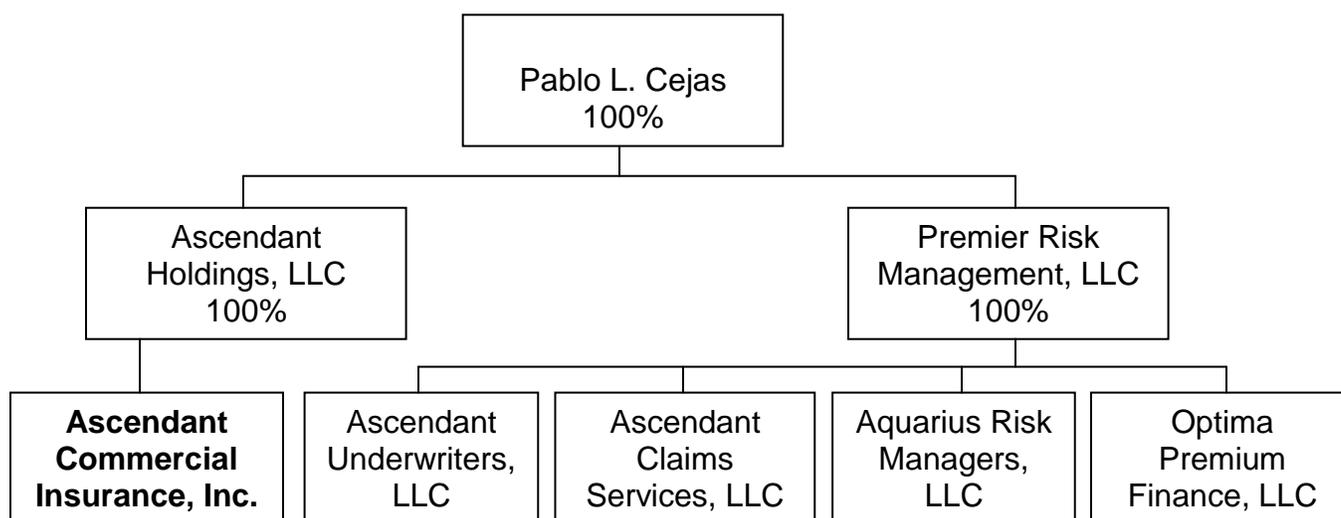
### **Affiliated Companies**

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 February 28, 2012, as required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

An organizational chart as of December 31, 2011, reflecting the holding company system, is shown below. Schedule Y of the Company's 2011 annual statement provided a list of all related companies of the holding company group.

**ASCENDANT COMMERCIAL INSURANCE, INC.  
ORGANIZATIONAL CHART**

**December 31, 2011**



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

**Cost Allocation Agreement**

The Company entered into an agreement with its parent and affiliates which commenced on September 1, 2009. Shared expenses were allocated among the affiliates based on the value of services utilized by each party. Expenses allocated were settled on a monthly basis, due within 60 days of the end of the month in which the expenses are incurred.

### **Managing General Agent Agreement**

On September 1, 2009, the Company appointed affiliate, Ascendant Underwriters, LLC as its managing general agent (MGA). Ascendant Underwriters, LLC was licensed on September 8, 2009. During 2011, all of the Company's business was written through the MGA. Pursuant to the terms of the agreement, Ascendant Underwriters, LLC was authorized to negotiate facultative reinsurance on behalf of the Company. MGA fees were based on 10% of total annual gross written premium plus acquisition expenses and a \$25 policy fee. In 2011, the Company made payments to the MGA totaling \$7,399,180, including \$3,157,884 for management fees and \$4,241,296 for pass-through agent commissions. In 2011, MGA waived \$385,000 in MGA fees.

### **Claims Administration Services Agreement**

On September 1, 2009, the Company entered into a claims administration services agreement with affiliate, Ascendant Claims Services, LLC. Pursuant to the terms of the agreement, Ascendant Claims Services, LLC is authorized to adjust and settle claims for fees ranging from \$350 to \$850 per claim, depending on the nature of the claim, plus 50% of subrogation proceeds and hourly rates for depute resolutions and investigations. Fees paid by the Company in 2011 for claims administration totaled \$2,020,200.

## **FIDELITY BOND AND OTHER INSURANCE**

The Company maintained fidelity bond coverage up to \$500,000 with a deductible of \$5,000, which reached the suggested minimum as recommended by the NAIC. The Company also maintained Directors and Officers liability insurance and Errors and Omissions coverage with limits of \$2 million and \$1 million, respectively and deductibles of \$25,000 and \$150,000, respectively.

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

There were no pension, stock ownership or insurance plans in place at the Company during the period of this examination.

## **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 Best Practices I that included detailed procedures for handling each type of claim in accordance with Section 626.9541(1) (i) 3a, Florida Statutes.

## **COMPANY GROWTH**

The Company's initial growth resulted from the rewriting of the First Commercial Insurance Company and First Commercial Transportation and Property Insurance Company policies that were to be cancelled pursuant to order of the receivership court. The Company continued to grow through the affiliated MGA, Ascendant Underwriters LLC. The Company's 2011 net underwriting loss was attributed to adverse development from workers' compensation class codes and large auto liability policies. In 2011, the Company took steps to mitigate its risk exposure by revising its underwriting eligibility, increasing premium rates, implementing additional loss control procedures and non-renewing certain policies. Surplus remained relatively consistent with its 2010 level.

## 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>2011</b>	<b>2010</b>	<b>2009</b>
Premiums Earned	20,423,708	20,791,361	4,715,675
Net Underwriting Gain/(Loss)	(1,582,409)	370,290	(1,966,801)
Net Income	(693,634)	(29,421)	(2,089,154)
Total Assets	35,274,168	31,360,480	21,741,912
Total Liabilities	28,855,212	24,794,833	16,508,213
Surplus As Regards Policyholders	6,418,956	6,565,647	5,233,699

## LOSS EXPERIENCE

During the current examination period, the Company showed unfavorable development overall. This was a result of larger claims being reported for prior accident years than management had anticipated. The one and two-year net loss developments at the end of the current examination period were both unfavorable at \$4.05 million and \$1.58 million, respectively. At the end of 2010, the Company reported \$1.04 million as one-year adverse reserve development.

## 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 did not assume any reinsurance during the period of this examination.

### **Ceded**

The Company ceded risk on a quota share and excess of loss basis. During 2011, the Company ceded \$19,371,000 in premiums, out of which \$19,252,000 was assumed by authorized US reinsurers and \$119,000 was assumed by authorized non-US reinsurers.

Effective June 30, 2011, the Company entered into a 50% quota share treaty that provided coverage on policies classified as commercial auto liability, auto physical damage, commercial general liability, workers' compensation and employer's liability. The Company received a ceding commission of 30%, adjustable from 24% to 36% based on the Company's loss experience. Effective December 31, 2011, the quota share percentage was amended to 65%.

The quota share agreement was inuring to the benefit of the following excess of loss treaties in place:

Effective September 1, 2010, the Company entered into various excess of loss reinsurance agreements that generally provide coverage of \$1.8 million excess of \$200,000 on policies classified by the Company as commercial auto liability, general liability, and garage-keepers

liability. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers. This coverage was renewed during 2011 and extended through June 2012.

Effective September 1, 2010, the Company entered into various excess of loss reinsurance agreements that generally provide coverage of \$9.5 million excess of \$500,000 on policies classified by the Company as workers' compensation and employers' liability. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers. This coverage was renewed during 2011 and extended through June 2012.

Effective March 1, 2011, the Company entered into various excess of loss reinsurance agreements that generally provide coverage of \$2.5 million excess of \$250,000 on policies classified by the Company as commercial auto physical damage. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers. At the examination date, the Company was not in compliance with Section 624.610 (11), Florida Statutes in that the Company did not file a reinsurance agreement summary statement with the Office related to this treaty. Statute requires a reinsurance agreement summary filing within six months after the effective date of the reinsurance treaty. **Subsequent Event:** The Company filed a reinsurance summary statement with the Office on January 10, 2013.

Effective July 15, 2010, the Company entered into an excess of loss, facultative reinsurance agreement with RLI Insurance Company that generally provides coverage of \$6.75 million in

excess of \$1 million on policies classified by the Company as commercial auto physical damage. The treaty was in run-off through July 2011.

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 Miami, Florida.

An independent Certified Public Accountant (CPA) audited the Company's statutory basis financial statements annually for the years 2009, 2010 and 2011, 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 Quick Books Enterprise. Journal entries were manually recorded to the accounting system based on reports from auxiliary systems or import files generated by the claims and policy management systems.

The Company and non-affiliates had the following agreements:

### **Custodial Agreement**

The Company maintained a custodial agreement with Merrill Lynch, Pierce, Fenner & Smith Incorporated executed on October 29, 2009. The agreement was in compliance with Rule 69O-143.042, Florida Administrative Code.

### **Independent Auditor Agreement**

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

### **Reinsurance Intermediary Agreement**

The Company contracted with reinsurance intermediary, Guy Carpenter, to perform various reinsurance brokerage services for quota share and excess of loss programs for workers' compensation, auto liability and general liability business.

## **INFORMATION TECHNOLOGY REPORT**

Scott Langstein, CISA, IT Manager, Cerebres, LLC 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:

STATE	Description	Par Value	Market Value
FL	Cash	\$ 316,831	\$ 316,831
TOTAL FLORIDA DEPOSITS		<u>\$ 316,831</u>	<u>\$ 316,831</u>
TOTAL SPECIAL DEPOSITS		<u>\$ 316,831</u>	<u>\$ 316,831</u>

## **FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Company's financial position as of December 31, 2011, 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."

**ASCENDANT COMMERCIAL INSURANCE, INC.**  
**Assets**

**DECEMBER 31, 2011**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Cash and Short-Term Investments	\$24,103,479		\$24,103,479
Agents' Balances:			
Uncollected premium	789,040		789,040
Deferred premium	7,741,187		7,741,187
Reinsurance recoverable	98,406		98,406
EDP Equipment	76,336		76,336
Interest and dividend income due & accrued	1,701		1,701
Receivable from parents, subsidiaries and affiliates	1,387,976		1,387,976
Current federal and foreign income tax recoverable and interest thereon	756,043		756,043
Net deferred tax asset	320,000		320,000
Aggregate write-in for other than invested assets	0		0
Totals	\$35,274,168	\$0	\$35,274,168

**ASCENDANT COMMERCIAL INSURANCE, INC.**  
**Liabilities, Surplus and Other Funds**

**DECEMBER 31, 2011**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$11,959,087		\$11,959,087
Loss adjustment expenses	2,719,843		2,719,843
Other expenses	669,918		669,918
Taxes, licenses and fees	14,885		14,885
Unearned premium	4,704,652		4,704,652
Advanced premiums	905,510		905,510
Ceded reinsurance premiums payable (net)	6,520,655		6,520,655
Payable to parent, subsidiaries and affiliates	886,422		886,422
Liability for amounts held under uninsured plans	474,240		474,240
<b>Total Liabilities</b>	<b>\$28,855,212</b>	<b>\$0</b>	<b>\$28,855,212</b>
Common capital stock	\$1,000		\$1,000
Gross paid in and contributed surplus	9,364,000		9,364,000
Unassigned funds (surplus)	(2,946,044)		(2,946,044)
<b>Surplus as regards policyholders</b>	<b>\$6,418,956</b>	<b>\$0</b>	<b>\$6,418,956</b>
<b>Total liabilities, surplus and other funds</b>	<b>\$35,274,168</b>	<b>\$0</b>	<b>\$35,274,168</b>

**ASCENDANT COMMERCIAL INSURANCE, INC.**  
**Statement of Income**

**DECEMBER 31, 2011**

**Underwriting Income**

Premiums earned		\$20,423,708
	<b>Deductions:</b>	
Losses incurred		\$12,989,317
Loss expenses incurred		3,991,995
Other underwriting expenses incurred		5,024,805
Total underwriting deductions		\$22,006,117
Net underwriting gain or (loss)		(\$1,582,409)

**Investment Income**

Net investment income earned		\$212,286
Net investment gain or (loss)		\$212,286

**Other Income**

Net gain or (loss) from agents' or premium balances charged off		(\$33,439)
Finance and service charges not included in premiums		121,258
Aggregate write-ins for miscellaneous income		21,557
Total other income		\$109,376
Net income before dividends to policyholders and before federal & foreign income taxes		(\$1,260,747)
Net Income, after dividends to policyholders, but before federal & foreign income taxes		(\$1,260,747)
Federal & foreign income taxes		(567,113)
Net Income		(\$693,634)

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year		\$6,565,647
Net Income		(\$693,634)
Change in non-admitted assets		(451,814)
Change in net deferred incomes taxes		(166,243)
Surplus adjustments: Paid in		1,165,000
Dividends to stockholders		0
Examination Adjustment		0
Change in surplus as regards policyholders for the year		(\$146,691)
Surplus as regards policyholders, December 31 current year		\$6,418,956

A comparative analysis of changes in surplus is shown below.

**ASCENDANT COMMERCIAL INSURANCE, INC.  
Comparative Analysis of Changes in Surplus**

**DECEMBER 31, 2011**

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, 2011, per Annual Statement \$6,418,956

	<u>PER COMPANY</u>	<u>PER EXAM</u>	<u>INCREASE (DECREASE) IN SURPLUS</u>
ASSETS:			
No adjustment			
LIABILITIES:			
No adjustment			
Net Change in Surplus:			<u>0</u>
Surplus as Regards Policyholders December 31, 2011, Per Examination			<u><u>\$6,418,956</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

**Losses and Loss Adjustment Expenses** \$14,678,930

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, 2011, 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 consulting actuary, Gregory Wilson, FCAS, MAAA of Lewis & Ellis, Inc, reviewed the loss and loss adjustment expense work papers provided by the Company. With the benefit of hindsight, he concluded that the reserves at December 31, 2011 were deficient by \$1,922,000 on a net basis. **Subsequent Event:** The Company increased its reserves as of June 30, 2012. The Office consulting actuary reviewed the June 30, 2012 reserves and determined the reserves to be adequate as of June 30, 2012.

### Capital and Surplus

**Surplus as Regards Policyholders** \$6,418,956

Surplus as Regards Policyholders in the amount of \$6,418,956 was the same as reported in the Company's 2011 filed Annual Statement.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Ascendant Commercial Insurance, Inc.** as of December 31, 2011, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's surplus as regards policyholders was \$6,418,956, which exceeded the minimum of \$5,000,000 required by Consent Order 106078-09-CO Provision 14.

In addition to the undersigned, Katerina Bolbas, CFE, Examiner-In-Charge, and Lindsey Pittman, CPA, Participating Examiner, of Lewis & Ellis, Inc. participated in the examination. In addition, Gregory Wilson, FCAS MAAA, consulting actuary of Lewis & Ellis, Inc., Scott Langstein, CISA, IT Manager of Cerebres, LLC, Kethessa Carpenter, CPA, Financial Examiner/Analyst Supervisor and Michael Tomes, CPA, Reinsurance/Financial Specialist of the Office also participated in the examination.

Respectfully submitted,

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Mary James, CFE, CPM  
Chief Examiner  
Florida Office of Insurance Regulation