

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

**MIAMI, FLORIDA**

**AS OF**  
**DECEMBER 31, 2012**

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

## TABLE OF CONTENTS

<b>LETTER OF TRANSMITTAL .....</b>	<b>-</b>
<b>SCOPE OF EXAMINATION.....</b>	<b>1</b>
<b>SUMMARY OF SIGNIFICANT FINDINGS .....</b>	<b>2</b>
CURRENT EXAM FINDINGS.....	2
PRIOR EXAM FINDINGS.....	2
<b>SUBSEQUENT EVENTS .....</b>	<b>2</b>
<b>HISTORY .....</b>	<b>2</b>
GENERAL .....	2
DIVIDENDS TO STOCKHOLDERS.....	3
CAPITAL STOCK AND CAPITAL CONTRIBUTIONS.....	3
SURPLUS NOTES .....	4
ACQUISITIONS, MERGERS, DISPOSALS, DISSOLUTIONS, AND PURCHASE OR SALES THROUGH REINSURANCE .....	4
<b>CORPORATE RECORDS .....</b>	<b>4</b>
CONFLICT OF INTEREST.....	4
<b>MANAGEMENT AND CONTROL.....</b>	<b>5</b>
MANAGEMENT .....	5
AFFILIATED COMPANIES .....	6
ORGANIZATIONAL CHART .....	7
COST ALLOCATION AGREEMENT .....	7
MANAGING GENERAL AGENT AGREEMENT.....	8
CLAIMS ADMINISTRATION SERVICES AGREEMENT .....	8
<b>FIDELITY BOND AND OTHER INSURANCE.....</b>	<b>8</b>
<b>PENSION, STOCK OWNERSHIP AND INSURANCE PLANS .....</b>	<b>9</b>
<b>TERRITORY AND PLAN OF OPERATIONS.....</b>	<b>9</b>
TREATMENT OF POLICYHOLDERS .....	9
<b>COMPANY GROWTH .....</b>	<b>9</b>
PROFITABILITY OF COMPANY .....	10
<b>LOSS EXPERIENCE .....</b>	<b>10</b>
<b>REINSURANCE.....</b>	<b>11</b>
ASSUMED.....	11
CEDED .....	11
<b>ACCOUNTS AND RECORDS .....</b>	<b>13</b>
CUSTODIAL AGREEMENT .....	14
INDEPENDENT AUDITOR AGREEMENT .....	14
REINSURANCE INTERMEDIARY AGREEMENT .....	14

<b>INFORMATION TECHNOLOGY REPORT .....</b>	<b>14</b>
<b>STATUTORY DEPOSITS .....</b>	<b>15</b>
<b>FINANCIAL STATEMENTS PER EXAMINATION.....</b>	<b>15</b>
ASSETS.....	16
LIABILITIES, SURPLUS AND OTHER FUNDS .....	17
STATEMENT OF INCOME .....	18
COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS.....	19
<b>COMMENTS ON FINANCIAL STATEMENTS.....</b>	<b>20</b>
LIABILITIES .....	20
CAPITAL AND SURPLUS .....	20
<b>CONCLUSION.....</b>	<b>21</b>

October 4, 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, 2012, 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, 2012, through December 31, 2012. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2011. This examination commenced with planning at the Office on April 29, 2013, to May 3, 2013. The fieldwork commenced on May 12, 2013, and concluded as of October 4, 2013.

This financial examination was a statutory 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, 2012.

### **Prior Exam Findings**

There were no findings, exceptions or corrective action to be taken by the Company for the examination as of December 31, 2011.

## **SUBSEQUENT EVENTS**

Daniel Echevarria, Principal, resigned from the Board of Directors in April 2013 and a search for his replacement is ongoing.

## **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, 2012:

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, 2012, 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 \$175,000 in cash to the Company's surplus as of December 31, 2012. The entire \$175,000 was approved by the Office of Insurance Regulation in June 2012 and deposited in August 2012.

## **Surplus Notes**

The Company did not have any surplus notes 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(s), 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 and including the authorization of investments as required by Section 625.304, Florida Statutes.

## **Conflict of Interest**

The Company adopted a policy statement requiring periodic 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, 2012, were:

#### Directors

<b>Name and Location</b>	<b>Principal Occupation</b>
Pablo Leandro Cejas Key Biscayne, Florida	CEO, Ascendant Commercial Insurance, Inc.
Paul Leandro Cejas Miami Beach, Florida	CEO & Chairman, PLC Investments, Inc.
Helene Christianne Cejas Washington D.C.	Assistant General Counsel, CapitalOne Bank
Hilary Charles Candela Miami, Florida	Director of Finance and Development, Ascendant Commercial Insurance, Inc.
Daniel Echevarria (*) Coconut Grove, Florida	Principal, El Paso Advisors

(\*) Daniel Echevarria resigned from the Board in April 2013 and a search for his replacement is ongoing.

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

#### Senior Officers

<b>Name</b>	<b>Title</b>
Pablo Leandro Cejas (a)	Chief Executive Officer and President
Jorge Enrique Gonzalez	Chief Financial Officer

(a) Jose Luis Rodriguez resigned as President 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, 2012:

**Audit Committee**

Pablo Leandro Cejas <sup>1</sup>  
Paul Leandro Cejas  
Helene Christianne Cejas  
David Echevarria<sup>2</sup>

<sup>1</sup> Chairman

<sup>2</sup> Resigned April 2013

**Investment Committee**

Pablo Leandro Cejas <sup>1</sup>  
Paul Leandro Cejas  
David Echevarria<sup>2</sup>

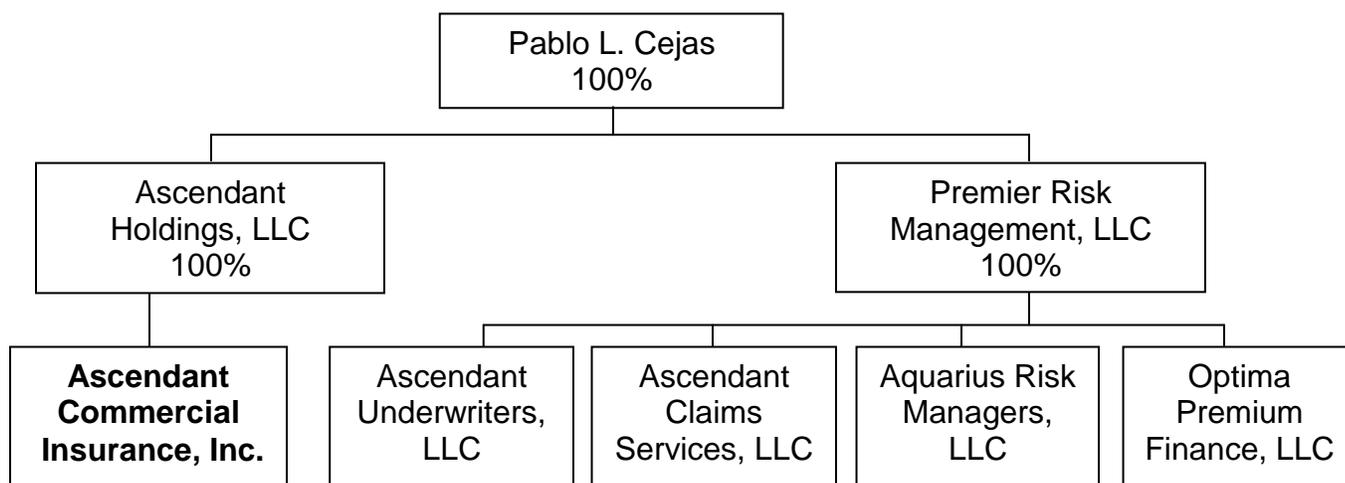
**Affiliated Companies**

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, 2013, as required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

An organizational chart as of December 31, 2012, reflecting the holding company system, is shown below. Schedule Y of the Company's 2012 annual statement provided a list of all related companies of the holding company group.

**ASCENDANT COMMERCIAL INSURANCE INC.  
ORGANIZATIONAL CHART**

**DECEMBER 31, 2012**



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 2012, 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 2012, the Company made payments to the MGA totaling \$7,399,180, including \$2,232,855 for management fees and \$4,443,164 for pass-through agent commissions. In 2012, MGA waived \$1,550,000 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 2012 for claims administration totaled \$2,432,800.

## **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**

The Company had employees, but there was not any 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 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**

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 2012 year-end direct written premium continued to increase from prior years and was approximately \$36.8 million with 8,856 policyholders. The Company reported a net income in 2012 for the first time since 2009. Surplus remained relatively consistent with its 2011 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.

	2012	2011	2010	2009
Premiums Earned	12,299,748	20,423,708	20,791,361	4,715,675
Net Underwriting Gain/(Loss)	35,584	(1,582,409)	370,290	(1,966,801)
Net Income	359,259	(693,634)	(29,421)	(2,089,154)
Total Assets	33,535,059	35,274,168	31,360,480	21,741,912
Total Liabilities	26,843,055	28,855,212	24,794,833	16,508,213
Surplus As Regards Policyholders	6,692,004	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 anticipated. The one and two-year net loss developments at the end of the current examination period were both unfavorable at \$2.4 million and \$5.4 million, respectively. At the end of the 2011, the Company reported one and two-year unfavorable development at \$4.05 million and \$1.58 million, respectively; as well as a \$1.04 million adverse development at the end of 2010.

## 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**

Effective June 30, 2012, the Company entered into a quota share agreement that generally provides coverage for 65% of all losses subject to limits of (per loss occurrence):

\$1,000,000 – for automobile physical damage dealer open lot;

\$500,000 - workers compensation;

\$500,000 – automobile and general liability;

The reinsurers' liability in respect of all losses occurring during the contract period shall not exceed 200% of ceded earned premiums for the contract period.

The reinsurers allow the Company a 31% provisional ceding commission that adjusts to 36.5% at a loss ratio of 57% or less and a minimum of 23% at a loss ratio of 70.5% or more. If the loss ratio is between 57% and 70.5%, the adjusted commission rate will be 23% plus 100% of the difference in percentage points between 70.5% and the actual ratio.

The agreement remains in force for an indefinite period but may be terminated on June 30, 2013, or any June 30, thereafter, by either party giving to the other party 90 days' prior written notice. The prior year's agreement was amended on December 31, 2011, to provide coverage for 65% of all losses occurring on or after January 1, 2012 until June 30, 2012. Analysis was performed and transfer of risk on this quota share agreement was confirmed.

The Company obtained reinsurance on an excess of loss basis as follows:

Effective December 1, 2011, 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 and general liability. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers.

Effective December 1, 2011, the Company entered into an excess of loss reinsurance agreement that generally provides coverage of \$5 million excess of \$5 million on policies classified by the Company as workers' compensation. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers.

Effective July 1, 2012, the Company entered into various excess of loss reinsurance agreements that generally provide coverage of \$1.5 million in excess of \$500,000 on policies classified by the Company as commercial auto liability and general liability. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers.

Effective July 1, 2012, the Company entered into various excess of loss reinsurance agreements that generally provide coverage of \$9.5 million in excess of \$500,000 on policies classified by the Company as workers' compensation. Should coverage under the corresponding layers be exhausted, the Company may incur additional premium to reinstate the exhausted layers.

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 for 2012, 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 are 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 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 a 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**

Leon Pressman, CISA, IT Manager, ParenteBeard, 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 and with various state officials as required or permitted by law:

STATE	Description	Par Value	Market Value
FL	Cash	\$ 323,698.46	\$ 323,698.46
TOTAL FLORIDA DEPOSITS		<u>\$ 323,698.46</u>	<u>\$ 323,698.46</u>
TOTAL SPECIAL DEPOSITS		<u>\$ 323,698.46</u>	<u>\$ 323,698.46</u>

## FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2012, 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, 2012**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Cash and Short-Term Investments	\$20,674,522		\$20,674,522
Investment Income due & accrued	1,678		1,678
<b>Agents' Balances:</b>			
Uncollected premium	657,906		657,906
Deferred premium	10,644,552		10,644,552
Reinsurance recoverable	41,999		41,999
Current federal and foreign income tax recoverable and interest thereon	377,486		377,486
Net deferred tax asset	320,000		320,000
EDP Equipment	58,073		58,073
Receivable from parents, subsidiaries and affiliates	758,843		758,843
<hr/>			
Totals	<u>\$33,535,059</u>	<u>\$0</u>	<u>\$33,535,059</u>

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

**DECEMBER 31, 2012**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$11,406,929		\$11,406,929
Loss adjustment expenses	1,996,636		1,996,636
Other expenses	724,920		724,920
Taxes, licenses and fees	42,834		42,834
Unearned premium	5,454,703		5,454,703
Advanced premiums	522,858		522,858
Ceded reinsurance premiums payable (net)	4,291,618		4,291,618
Payable to parent, subsidiaries and affiliates	1,874,355		1,874,355
Liability for amounts held under uninsured plan	528,202		528,202
<b>Total Liabilities</b>	<b>\$26,843,055</b>	<b>\$0</b>	<b>\$26,843,055</b>
Common capital stock	\$1,000		\$1,000
Gross paid in and contributed surplus	9,539,000		9,539,000
Unassigned funds (surplus)	(2,847,996)		(2,847,996)
Surplus as regards policyholders	\$6,692,004	\$0	\$6,692,004
<b>Total liabilities, surplus and other funds</b>	<b>\$33,535,059</b>	<b>\$0</b>	<b>\$33,535,059</b>

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

**DECEMBER 31, 2012**

**Underwriting Income**

Premiums earned		\$12,299,748
	<b>Deductions:</b>	
Losses incurred		\$7,732,573
Loss expenses incurred		1,160,313
Other underwriting expenses incurred		3,371,278
Aggregate write-ins for underwriting deductions		0
Total underwriting deductions		\$12,264,164
Net underwriting gain or (loss)		\$35,584

**Investment Income**

Net investment income earned		\$208,379
Net realized capital gains or (losses)		0
Net investment gain or (loss)		\$208,379

**Other Income**

Net gain or (loss) from agents' or premium balances charged off		(\$5,984)
Finance and service charges not included in premiums		101,590
Aggregate write-ins for miscellaneous income		0
Total other income		\$95,606
Net income before dividends to policyholders and before federal & foreign income taxes		\$339,569
Dividends to policyholders		0
Net Income, after dividends to policyholders, but before federal & foreign income taxes		\$339,569
Federal & foreign income taxes		(19,690)
Net Income		\$359,259

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year		\$6,418,956
Net Income		\$359,259
Net unrealized capital gains or losses		0
Change in net deferred income tax		101,592
Change in non-admitted assets		(362,803)
Change in provision for reinsurance		0
Change in excess statutory over statement reserves		0
Surplus adjustments: Paid in		175,000
Aggregate write-ins for gains and losses in surplus		0
Examination Adjustment		0
Change in surplus as regards policyholders for the year		\$273,048
Surplus as regards policyholders, December 31 current year		\$6,692,004

A comparative analysis of changes in surplus is shown below.

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

**DECEMBER 31, 2012**

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, 2012, per Annual Statement \$6,692,004

	<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, 2012, Per Examination			<u><u>\$6,692,004</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

**Losses and Loss Adjustment Expenses** \$13,403,565

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, 2012, 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, Rusty Kuehn FCAS, MAAA, CERA, CPCU, ARM, FCA of Huggins Actuarial Services Inc, reviewed the loss and loss adjustment expense work papers provided by the Company and he was in concurrence with this opinion.

### Capital and Surplus

The amount of Capital and surplus reported by the Company of \$6,692,004, exceeded the minimum of \$5,000,000 required by Consent Order 106078-09-CO.

## 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, 2012, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's surplus as regards policyholders was \$6,692,004, which exceeded the minimum of \$5,000,000 required by Consent Order 106078-09-CO.

In addition to the undersigned, Phil Schmoyer, CFE, Examiner-In-Charge and Taylor Tommasino, Participating Examiner, of ParenteBeard LLC, participated in the examination. Additionally, Ronald (Rusty) Kuehn, FCAS, MAAA, CERA, CPCU and Todd Dashoff, ACAS, MAAA, ARM, consulting actuaries of Huggins Actuarial Consultants, Leon Pressman, CISA, IT Manager of ParenteBeard LLC, Jonathan Frisard, Financial Examiner/Analyst Supervisor, and Joycelyn Galletta, Vetrechia Smith and Kyra Brown, Participating Examiners, of the Office participated in the examination.

Respectfully submitted,

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Robin Hill, CFE  
Deputy Chief Examiner  
Florida Office of Insurance Regulation