

**REPORT ON EXAMINATION**  
**OF**  
**AVATAR PROPERTY & CASUALTY INSURANCE COMPANY**  
**TAMPA, FLORIDA**

**AS OF**  
**DECEMBER 31, 2010**

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

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May 27, 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, 2010, of the financial condition and corporate affairs of:

**AVATAR PROPERTY & CASUALTY INSURANCE COMPANY  
1408 NORTH WESTSHORE BLVD, SUITE 805  
TAMPA, FLORIDA 33607**

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, 2010, to December 31, 2010. In addition, the examination includes review of subsequent events related to the first year, as of 12/31/2009, examination of the Company. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2009. This examination commenced with planning at the Office on March 28, 2011, to April 1, 2011. The fieldwork commenced on April 4, 2011, and concluded as of May 27, 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, 2010.

### **Prior Exam Findings**

The following is a summary of significant adverse findings contained in the Office's prior examination report as of December 31, 2009, along with resulting action taken by the Company in connection therewith.

### **General**

The Company had not written insurance coverage in certain lines of business for a period of two years and did not request those lines be removed from their Certificate of Authority in violation of Section 624.430, Florida Statutes. Resolution: Effective May 27, 2010, the Commercial Multi-Peril and Other Liability lines were removed from the Company's Certificate of Authority.

## **Management**

### **Consent Orders**

The Company failed to comply with the following provisions of Consent Order 93101-07.

1. To hire a company to handle their Special Investigation Unit (SIU) department, as stated in the anti-fraud plan. During the period under examination, the Company was not following the anti-fraud plan, submitted to the Office. Resolution: The Company provided evidence of their SIU description and agreement, effective December 1, 2010.
2. To hire, within 60 days, a Claims Manager with requisite education and experience in Florida residential property insurance market. Resolution: The Company hired a new Claims Manager in August 2010.

### **By-Laws**

The Company was not in compliance with Section 628.231, Florida Statutes, or their own by-laws. Directors were not elected at the annual meeting of stockholders and there was no indication of directors' term limits. Resolution: On June 8, 2010, the stockholder held a meeting and elected officers and directors with specified term limits.

## **Investments**

### **Custodial Agreements**

The custodial agreements with MF Global Inc, Interactive Brokers, LLC and Fidelity Investments did not contain all required provisions of Rule 69O-143.042 (2) (a), (d), (e), (g), (i), (j), (k), (l), (m) and (o), Florida Administrative Code. Resolution: As of December 31, 2010, the Company no longer utilizes the financial institutions listed above. All invested assets were transferred to the Bank of New York Mellon Trust Co. (New York Mellon) held under a custodial agreement that contains all required provisions of Rule 69O-143.042, Florida Administrative Code.

## **Fidelity Investments**

As a result of our examination, \$8,584,353 in bonds, common stocks, cash and investment income due and accrued was non-admitted as we were unable to confirm those assets. Fidelity Investments, as custodian for the Company, failed to adequately respond to our request for confirmation of the assets as required by Rule 69O-143.02 (h) and (i), Florida Administrative Code. Resolution: These investments were transferred to New York Mellon and confirmed on November 18, 2010.

## **MF Global**

As a result of our examination securities on deposit with MF Global were non-admitted as the confirmation indicated they were not held free and clear as required by Section 625.031 (3), Florida Statutes. The confirmation received from MF Global reported that securities on deposit totaling \$4,588,517, were pledged at December 31, 2009. The Company did not non-admit these assets as required by Section 625.031 (3), Florida Statutes. Resolution: These investments were transferred to New York Mellon and confirmed as free and clear on November 18, 2010.

## **HISTORY**

### **General**

The Company was incorporated in Florida on January 30, 2008 and commenced business on April 14, 2008, as Avatar Property & Casualty Insurance Company.

At year end 2010, the Company was in compliance with provisions of the Consent Order 93101-07-CO, filed with the Office, on January 10, 2008 regarding the application for the issuance of a Certificate of Authority.

The Company was authorized to transact Homeowner's insurance coverage, in Florida on December 31, 2010.

The Company participated in the Citizens Property Insurance Company (Citizens) takeout program in 2008. The various policies assumed from Citizens totaled 8,996, of which 2,776 or approximately 31% of the policies remain in force at December 31, 2010.

The Company planned to progress slowly at a controlled growth pace. The plan consisted of marketing its business through three regional marketing representatives servicing the agency force in areas not actively solicited. In addition, the Company's growth plan consists of adding new lines of business, specifically resubmitting its application to the Office authorizing commercial lines of business to its Certificate of Authority.

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 by the Company during the period under examination.

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

As of December 31, 2010, 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, Avatar Partners, LLC, a holding company domiciled in Delaware, who owned 100% of the stock issued by the Company.

The parent contributed \$10,000,000 in cash as of December 31, 2010.

## **Surplus Debentures**

The Company had no surplus debentures.

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

There were no Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales Through Reinsurance.

## **CORPORATE RECORDS**

The recorded minutes of the shareholder, Board of Directors (Board), and audit committee 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 accordance with Section 607.1601, Florida Statutes, including the authorization of investments as required by 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, 2010, were:

## Directors

<b>Name and Location</b>	<b>Principal Occupation</b>
Hitesh Prabhudas (John) Adhia Tampa, Florida	Chairman of the Board of Director Avatar Property & Casualty Insurance Co
Sandip Indravadan Patel, Esq. Clearwater, Florida	Attorney Universal Health Plans
Kiranbhai Chhotbhai Patel, MD Tampa, Florida	Owner of multiple business including Freedom Health Plans
Stuart Thomas Wheeler, FLMI Gainesville, Florida	Retired
Manubhai Chaganial Karia Dover, Delaware	Retired
Carol Kim McAllister Tampa, Florida	Chief Financial Officer Avatar Property & Casualty Insurance Co.
Mark Shealy Jacksonville, Florida	Chief Financial Officer Florida Doctors Insurance Company

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

## Senior Officers

<b>Name</b>	<b>Title</b>
Hitesh Prabhudas (John) Adhia Carol Kim McAllister	President and Chief Executive Officer CFO, Treasurer/ Secretary

The Company's Board appointed an audit committee in accordance with Section 624.424 (8) (c), Florida Statutes. Following were the audit committee members as of December 31, 2010:

**Audit Committee**

Sandip Patel

Manubhai Chaganial Karia

Mark Shealy<sup>1</sup>

Kiranbhai Chhotbhai Patel, MD

Stuart Thomas Wheeler

<sup>1</sup> Chairman

**Affiliated Companies**

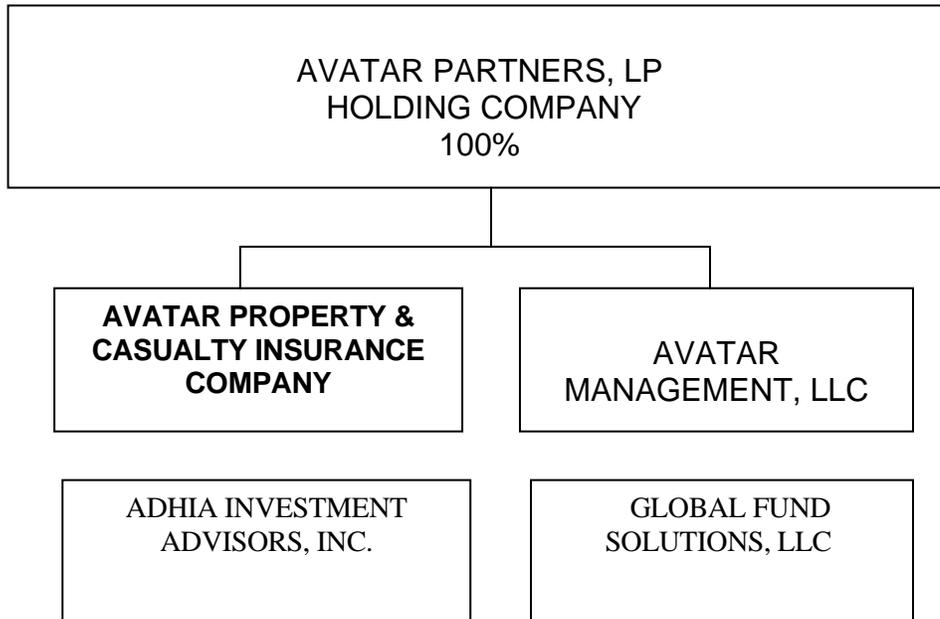
The Company was a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code. The latest holding company registration statement was filed with the State of Florida on March 3, 2011, as required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

A simplified organizational chart as of December 31, 2010, reflecting the holding company system, is shown below. Schedule Y of the Company's 2010 annual statement provided a list of all related companies of the holding company group.

# AVATAR PROPERTY & CASUALTY INSURANCE COMPANY

## ORGANIZATIONAL CHART

DECEMBER 31, 2010



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

### **Managing General Agent Agreement**

The Company entered into a MGA Agreement with Avatar Management, LLC, effective February 22, 2008. Pursuant to the agreement, services provided by the MGA included claims payment, underwriting, premium collection, customer service, data processing and accounting for a fee of 15% of earned premium. The fixed fee did not cover any other costs, fees or expenses including but not limited to marketing, legal costs, annual audit costs, director and officer liability coverage and other insurance coverage as well as any extraordinary items. During the period ended

December 31, 2010, fees paid to the MGA, by the Company, totaled \$1,791,900. The MGA also collected \$25 per policy fee from each policyholder.

### **Investment Advisory Agreement**

The Company entered into an agreement with Adhia Investment Advisors, owned and operated by Hitesh (John) Adhia, on June 15, 2010. Pursuant to the agreement, the Company employed Hitesh Adhia as the investment advisor to manage the investment and reinvestment of Company assets for the period and term of the agreement. The agreement was effective from the date of signing and automatically renews every two years.

### **FIDELITY BOND**

The Company maintained fidelity bond coverage up to \$250,000 with a deductible of \$5,000, which exceeds the suggested minimum amount of \$125,000 as recommended by the NAIC.

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

The Company had no employees. Therefore, the Company did not have any pension, stock ownership or insurance plans in place during the period under 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**

Although homeowner's insurance was the only line of business underwritten by the Company, management, including the directors, had minimal experience producing or underwriting this line of business.

During the period under examination, earned premiums was decreased by \$3,359,904 from \$7,986,847 to \$4,626,943, approximately 42%. The decreased in earned premium was primarily the result of increased reinsurance costs. Reinsurance expense increased from approximately \$4.1 million in 2009 to \$7.3 million in 2010. The Company was working to reduce reinsurance premiums by diversifying risks away from South Florida and coastal counties, which are higher risk markets.

Net underwriting gain decreased from a gain of \$710,403 to a net underwriting loss of \$1,121,192. As previously noted, the increased underwriting loss was primarily related to the increased cost of reinsurance.

## 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>2010</b>	<b>2009</b>	<b>2008</b>
Premiums Earned	4,626,943	7,986,847	3,304,213
Net Underwriting Gain/(Loss)	(1,121,192)	710,403	(10,359)
Net Income	646,209	2,462,830	(21,449)
Total Assets	16,994,983	21,808,643	17,777,431
Total Liabilities	3,869,842	10,125,193	8,021,556
Surplus As Regards Policyholders	13,125,141	11,683,450	9,755,875

## LOSS EXPERIENCE

There were no significant changes in the Company's loss experience.

## 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 risk from Citizens in 2008, taking out approximately 8,996 policies. No policies were assumed during the period under examination.

### Ceded

The Company ceded risk on an excess of loss basis to authorized and unauthorized reinsurers with the largest amounts ceded to the Florida Hurricane Catastrophe Fund (38%), Montpelier

Reinsurance Limited (21%) and Converium AG Zurich (18%). The treaties consisted of multi layer coverage with the Company retaining the first \$2,500,000 of coverage.

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 Tampa, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements annually for the years 2008, 2009 and 2010, 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 did not include all fees and assessments charged in consideration for an insurance contract as written premium in accordance with Section 627.403, Florida Statutes. As a result, the Company did not accurately report its premium income on its 2010 Premium Tax Return which resulted in an underpayment of premium taxes. **Subsequent Event:** The Company filed an amended Premium Tax return dated May 3, 2011, in compliance with Section 627.403, Florida Statutes.

There was an asset/liability mismatch between the Company's long-tailed investments and shorter-tailed liabilities. The Company's investment portfolio was primarily comprised of mortgage backed securities. Twenty-four percent of the mortgage backed securities mature between 10 and 20

years. The maturity dates for sixty-five percent of the mortgage backed securities range from 20 to 40 years.

The Company and non-affiliates had the following agreements:

### **Custodial Agreement**

The Company entered into a custodial agreement with New York Mellon on September 17, 2010. The Company was in compliance with Rule 69O-143.042, Florida Administrative Code.

### **Special Investigation Unit Agreement**

The Company entered into SIU agreement, with TSI Investigations (TSI) on May 21, 2010. Pursuant to this agreement, TSI will perform all services normally performed in its usual line of business, including but not limited to Vendor Management of SIU Service Providers, Administration and Surveillance and Claims Investigations, Development and Maintenance of Fraud Plans, Implement State required Fraud Detection Training.

### **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.

## **INFORMATION TECHNOLOGY REPORT**

The Office engaged Examination Resources, LLC to perform 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 security was deposited with the State of Florida as required by Section 624.411, Florida Statutes.

STATE	Description	Par Value	Market Value
FL	Certificate of Deposit	<u>\$300,000</u>	<u>\$321,895</u>
<b>TOTAL SPECIAL DEPOSITS</b>		<u>\$300,000</u>	<u>\$321,895</u>

## FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2010, 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."

**AVATAR PROPERTY & CASUALTY INSURANCE COMPANY**  
**Assets**

**DECEMBER 31, 2010**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Bonds	\$13,517,014		\$13,517,014
Stocks:			
Common	364,450		364,450
Cash and Short Term Investments	2,323,619		2,323,619
investment income due and accrued	53,051		53,051
Agents' Balances:			
Uncollected premium	432,883		432,883
Net deferred tax asset	153,368		153,368
Aggregate write-in for other than invested assets	150,598		150,598
Totals	\$16,994,983	\$0	\$16,994,983

**AVATAR PROPERTY & CASUALTY INSURANCE COMPANY**  
**Liabilities, Surplus and Other Funds**

**DECEMBER 31, 2010**

	Per Company	Examination Adjustments	Per Examination
Losses	\$1,146,200		\$1,146,200
Loss adjustment expenses	206,968		206,968
Commissions payable	37,627		37,627
Other expenses	43,370		43,370
Taxes, licenses and fees	71,859		71,859
Current federal and foreign income taxes	24,717		24,717
Unearned premium	1,856,063		1,856,063
Advanced premium	323,116		323,116
Payable to parent, subsidiaries and affiliates	131,127		131,127
Aggregate write-ins for liabilities	28,795		28,795
<b>Total Liabilities</b>	<b>\$3,869,842</b>	<b>\$0</b>	<b>\$3,869,842</b>
Common capital stock	\$1,000		\$1,000
Gross paid in and contributed surplus	9,999,000		9,999,000
Unassigned funds (surplus)	3,125,141		3,125,141
<b>Surplus as regards policyholders</b>	<b>\$13,125,141</b>	<b>\$0</b>	<b>\$13,125,141</b>
<b>Total liabilities, surplus and other funds</b>	<b>\$16,994,983</b>	<b>\$0</b>	<b>\$16,994,983</b>

**AVATAR PROPERTY & CASUALTY INSURANCE COMPANY**  
**Statement of Income**

**DECEMBER 31, 2010**

**Underwriting Income**

Premiums earned		\$4,626,943
	<b>Deductions:</b>	
Losses incurred		\$953,528
Loss expenses incurred		626,315
Other underwriting expenses incurred		4,091,570
Aggregate write-ins for underwriting deductions		76,722
Total underwriting deductions		\$5,748,135
Net underwriting gain or (loss)		(\$1,121,192)

**Investment Income**

Net investment income earned		\$1,207,839
Net realized capital gains or (losses)		51,279
Net investment gain or (loss)		\$1,259,118

**Other Income**

Net gain or (loss) from agents' or premium balances charged off		
Finance and service charges not included in premiums		\$827,786
Aggregate write-ins for miscellaneous income		
Total other income		\$827,786
Net income before dividends to policyholders and before federal & foreign income taxes		\$965,712
Dividends to policyholders		0
Net Income, after dividends to policyholders, but before federal & foreign income taxes		\$965,712
Federal & foreign income taxes		319,503
Net Income		\$646,209

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year		\$11,683,450
Net Income		\$646,209
Net unrealized capital gains or losses		420
Change in net deferred income tax		(22,506)
Change in non-admitted assets		(48,432)
Change in provision for reinsurance		866,000
Change in excess statutory over statement reserves		0
Surplus adjustments: Paid in		0
Aggregate write-ins for gains and losses in surplus		0
Examination Adjustment		0
Change in surplus as regards policyholders for the year		\$1,441,691
Surplus as regards policyholders, December 31 current year		\$13,125,141

A comparative analysis of changes in surplus is shown below.

**AVATAR PROPERTY & CASUALTY INSURANCE COMPANY**  
**Comparative Analysis of Changes in Surplus**

**DECEMBER 31, 2010**

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, 2010, per Annual Statement	\$13,125,141
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	<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, 2010, Per Examination			<u><u>\$13,125,141</u></u>
No Adjustment.			

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

<b>Losses and Loss Adjustment Expenses</b>	<b>\$1,353,168</b>
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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, 2010, made a reasonable provision for all unpaid loss and loss adjustment expense obligations of the Company under the terms of policies and agreements.

The Office consulting actuary, Brent Sallay, FCAS, MAAA of Taylor-Walker & Associates, reviewed the loss and loss adjustment expense work papers provided by the Company and was in concurrence with this opinion.

### Capital and Surplus

The amount reported by the Company of \$13,125,141 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 Avatar Property & Casualty Insurance Company, Inc. as of December 31, 2010, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's Surplus as regards policyholders was \$13,125,141, which exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

In addition to the undersigned, Beverly A. Dale, CFE, CIE, FLMI, CPA Examiner-In-Charge; Rachelle Gowins, CFE, Supervising Examiner; Stanley Kaplan, CFE, CPA, ACL Specialist; and Deanna Leyden, CISA, CFE, CICA, IT Specialist of Examination Resources, LLC; plus Randall Ross, ACAS, MAAA, and Brent Sallay, FCAS MAAA, consulting actuaries of Taylor-Walker & Associates participated in the examination. Maurice Fuller, Financial Examiner/Analyst II, of the Office also participated in the examination.

Respectfully submitted,

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