



OFFICE OF INSURANCE REGULATION

**FILED**

**OCT 10 2007**

Dictated by: DDM

KEVIN M. MCCARTY  
COMMISSIONER

IN THE MATTER OF:

**FIRST COMMERCIAL INSURANCE COMPANY**

CASE NO.: 88402-06-CO

2004 Market Conduct Examination

---

**CONSENT ORDER**

THIS CAUSE came on for consideration as the result of an agreement between **FIRST COMMERCIAL INSURANCE COMPANY** (hereinafter "**FIRST COMMERCIAL**") and the **OFFICE OF INSURANCE REGULATION** (hereinafter the "**OFFICE**"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the **OFFICE** hereby finds as follows:

1. The **OFFICE** has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **FIRST COMMERCIAL** is a domestic property and casualty insurer authorized to transact workers' compensation insurance business in Florida and is subject to the jurisdiction and regulation of the **OFFICE** pursuant to the Florida Insurance Code.
3. The **OFFICE** conducted a market conduct examination of **FIRST COMMERCIAL** in 2004 pursuant to Section 624.3161, Florida Statutes. As a result, it has been determined that **FIRST COMMERCIAL** has violated the following provisions of the Florida Statutes and the Florida Administrative Code, to wit:

- a. *Section 627.191, Florida Statutes* – Failure to Follow Filed Rate, Rating Rule or Underwriting Guideline: No Charge for Terrorism Coverage.
- b. *Rule 690-189.003, Florida Administrative Code* – Failure to Use Proper Application: Application was not Notarized.
- c. *Section 627.191, Florida Statutes* – Failure to Follow Filed Rate, Rating Rule or Underwriting Guideline: Incorrect Premium Discount.
- d. *Section 627.091, Florida Statutes* – Use of Unfiled Rate: Use of a Large Deductible Program Prior to Approval.
- e. *Section 627.191, Florida Statutes* – Failure to Follow Filed Rate; Rating Rule or Underwriting Guideline: Incorrect Class Codes.
- f. *Section 627.191, Florida Statutes* – Failure to Follow Filed Rate, Rating Rule or Underwriting Guideline: Incorrect Premium Calculations.
- g. *Section 627.091, Florida Statutes* – Use of Unfiled Rate: Use of Incorrect Base Rates at Audit.
- h. *Section 627.091, Florida Statutes* – Use of Unfiled Rate: Use of Outdated Increased Limits Factors.
- i. *Rule 690-137.008, Florida Administrative Code* – Failure to Report Individual Rated Risk Statistics.
- j. *Section 440.42, Florida Statutes* – Failure to Provide Proper Cancellation Notice.
- k. *Section 627.192, Florida Statutes* – Failure to Ensure Timely Notification by PEOs of Client Employer Terminations.

4. **FIRST COMMERCIAL** agrees that upon the execution of this Consent Order, it shall be subject to the following terms and conditions:

- a. **FIRST COMMERCIAL** shall pay an administrative penalty of Thirty Thousand Dollars (\$30,000.00) and administrative costs of Three Thousand Dollars (\$3,000.00) on or before the 30th day after this Consent Order is executed.

b. **FIRST COMMERCIAL** shall henceforth comply with all of the provisions of the Florida Insurance Code and the Florida Administrative Code.

c. **FIRST COMMERCIAL** must provide to the **OFFICE** certification by an officer of the Company that procedures have been implemented to correct the violations noted in the examination or that existing procedures have been readdressed with appropriate personnel to reinforce the need to follow procedures. The certification is to be received within thirty (30) days of the execution of the Consent Order. In addition, the Company shall conduct an audit of each PEO and administrator with which it has a business relationship relating to the transaction of workers' compensation business in Florida as of the date this order is executed, and shall review the audits they conduct on classifications and safety programs, produce a written report of findings, and provide a copy of the report to the **OFFICE** within ninety (90) days of execution of the Consent Order.

5. **FIRST COMMERCIAL** is hereby placed on notice of the requirements of the above-referenced sections of law and agrees that any future violations of these sections by **FIRST COMMERCIAL** may be deemed willful, subjecting **FIRST COMMERCIAL** to appropriate penalties.

6. **FIRST COMMERCIAL** affirms that all representations and requirements set forth herein are material to the issuance of this Consent Order. Violation of any part of this Consent Order shall constitute a violation of a lawful order of the **OFFICE** and may subject **FIRST COMMERCIAL** to one or more of the administrative remedies available under the Florida Insurance Code or other applicable law.

7. The **OFFICE** and **FIRST COMMERCIAL** expressly waive a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the **OFFICE**, and all further

and other proceedings herein to which the parties may be entitled by law or rules of the **OFFICE. FIRST COMMERCIAL** hereby knowingly and voluntarily waives all rights to challenge or to contest this Order, in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

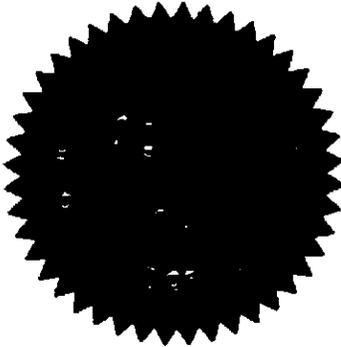
8. The parties agree that this Consent Order shall be deemed to be executed when the **OFFICE** has executed a copy of this Consent Order bearing the signature of **FIRST COMMERCIAL**'s authorized representative under the seal of a notary public, notwithstanding the fact that the copy may have been transmitted to the **OFFICE** electronically.

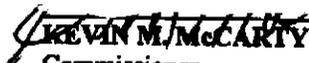
9. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

**THEREFORE**, the agreement between **FIRST COMMERCIAL** and the **OFFICE**, the terms and conditions of which are set forth above, is approved.

**FURTHER**, all terms and conditions above are hereby **ORDERED**.

**DONE AND ORDERED** this 10th day of JULY, 2007.



  
\_\_\_\_\_  
Commissioner  
Office of Insurance Regulation

By execution hereof, **FIRST COMMERCIAL INSURANCE COMPANY** consents to entry of this Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind **FIRST COMMERCIAL INSURANCE COMPANY** to the terms and conditions of this Consent Order.

**FIRST COMMERCIAL INSURANCE COMPANY**

Corporate Seal

By: \_\_\_\_\_  
Title: President  
Date: June 13, 2007

STATE OF Florida )  
COUNTY OF Dade )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of JUNE, 2007,  
by Reginald E. Benne as President for  
(Name of person) (Type of authority.... e.g. officer, trustee, attorney in fact)

First Commercial Insurance Company  
(Company name)

Personally Known  or Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

Notarial Seal

(Signature of the Notary)

Alba Diaz  
(Print, Type or Stamp Commissioned Name of Notary)

My Commission Expires:



**COPIES FURNISHED TO:**

**REGINALD E. BEANE, President**  
**First Commercial Insurance Company**  
**7900 NW 155<sup>th</sup> Street, 2nd Floor**  
**Miami Lakes, FL 33016**

**BETH A. VECCHIOLI**  
**Senior Government Consultant**  
**Carlton Fields, P.A.**  
**215 S. Monroe Street, Suite 500**  
**Tallahassee, FL 32301**

**SAM BINNUN, Director**  
**Market Investigations**  
**Office of Insurance Regulation**  
**200 East Gaines Street, 2nd Floor**  
**Tallahassee, FL 32399-4210**

**LORI RIDNER, Assistant General Counsel**  
**Legal Services Office**  
**Office of Insurance Regulation**  
**200 East Gaines Street, 6th Floor**  
**Tallahassee, FL 32399-4206**