

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

FIRST COMMERCIAL MUTUAL COMPANY

BY

THE FLORIDA DEPARTMENT OF INSURANCE

FILED DATE: 8/14/01

## TABLE OF CONTENTS

<u>PART NUMBER</u>	<u>SUBJECT</u>	<u>PAGE NUMBER</u>
I.	INTRODUCTION	1
II.	PRE-EXAM REVIEW OF COMPANY WRITINGS	2
III.	COMPANY OPERATIONS/MANAGEMENT	3
IV.	REVIEW OF POLICIES	5
	A. WORKERS' COMPENSATION	
V.	AGENTS/MGA REVIEW	10
VI.	CANCELLATIONS/NONRENEWALS REVIEW	11
VII.	COMPLAINTS REVIEW	12
VIII.	PENDING ISSUES	13
IX.	EXHIBITS	14

## I. INTRODUCTION

First Commercial Mutual Company is a domestic property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty market conduct examination, January 1998 through December 2000. The examination began January 28, 2001 and ended March 24, 2001. This is the first property and casualty market conduct examination of this insurer conducted by the Florida Department of Insurance.

The purpose of this target market conduct examination was to verify that the Company's practices and procedures are in compliance with Florida Statutes/Rules.

During this examination, records reviewed included policies, audits, cancellations/ nonrenewals, statistical information, agent/MGA licensing and consumer complaints for the period of January 1998 through December 2000, as reflected in this report.

This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances, the Company was directed to take corrective action as required, issue appropriate refunds, make all necessary filings with the Department and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings of this examination, \$26,868 was returned to Florida consumers due to overcharges of premium. In addition, an estimated \$300,000 will be returned to Florida consumers due to overcharges of premium.

## II. PRE-EXAM REVIEW OF COMPANY'S WRITINGS

### A. CERTIFICATE OF AUTHORITY - AUTHORIZED LINES

#### 1. General Comments

The Certificate of Authority and Renewal Invoices were reviewed for all years within the scope of the examination.

#### 2. Exam Findings

The review included verification of the lines of business the Company was authorized to write during the scope of examination versus those lines actually being written. It also included verification that notification requirements were met for any line of business that was discontinued.

No errors were found.

### III. COMPANY OPERATIONS/MANAGEMENT

#### A. PROFILE

First Commercial Mutual Company (FCMC) was organized on November 14, 1995, as an assessable mutual insurer incorporated in Florida. The Company writes assessable policies and its policyholders have a contingent liability for the discharge of the Company's liabilities, in the event the Company is unable to satisfy its obligations. The Company transacts business only in Florida.

There are two other entities with the same ownership and officers as FCMC. Southeastern Insurance Corporation (SIC) is a licensed, exclusive MGA for FCMC and handles all services for FCMC policyholders. SIC handles all underwriting, loss control and policy service for FCMC. The other entity is Comprehensive Employers Insurance Brokers (CEIB), which contracts with a network of independent agents to market Workers' Compensation insurance in almost all Florida counties. Independent agents have brokering agreements with CEIB. The agents have no production requirements and no binding authority. All claim functions are handled by an outside service, Gallagher-Bassett Services, Inc., located in Miramar, Florida.

#### B. MANAGEMENT

FCMC's Disaster Plan includes having each day's transactions backed up by the Management Information System (MIS). The backup data is then removed from the premises and kept in a secure location. In addition, the MIS staff and three officers of the Company have the FCMC's policy management system in their home computers.

FCCM utilizes an outside vendor's certified fraud examiners to coordinate its fraud efforts. A copy of the contract for this service was filed with the Department of Insurance in December 1998.

C. OPERATIONS

FCCM concentrates on small business owners and targets wholesale and retail trade, manufacturing, construction and service industries within Florida. FCCM offers a direct finance plan with 25% - 30% down and charges no interest or fees on the balance.

FCCM does not have a web site.

IV. REVIEW OF POLICIES

A. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

First Commercial Mutual Company is a subscriber to the National Council on Compensation Insurance (NCCI) and as such uses this organization's rules, rates and forms. The NCCI acts as statistical agent for this line of business.

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1998	\$7,881,010	1,987
1999	\$8,486,447	1,705
2000	\$9,586,030	1,663

b. Error Percentages

One hundred (100) policy files and audits were examined.

Fifty-five (55) errors were found.

Errors affecting premium resulted in thirty-five (35) overcharges totaling \$25,937 and two undercharges totaling \$730.

The errors are broken down as follows:

1. Seventeen (17) errors were due to failure to follow the filed rating plan. This constitutes a violation of Section 627.191, Statutes. These errors were due to incorrect charges for increased limits on Employers Liability. These errors resulted in overcharges totaling \$2,796, which have been refunded by the Company.
  
2. Twenty-four (24) errors were due to failure to follow the filed rating plan. This constitutes a violation of Section 627.191, Florida Statutes. The errors are described as follows:

a. Incorrect calculation of premium discounts	7
b. Incorrect classifications	4
c. Incorrect experience modification	1
d. Incorrect minimum premium	1
e. Incorrect charge for insured subcontractors	2
f. Incorrect charge for corporate officers	3
g. Incorrect charge for expense constant	1
h. Miscalculated charge on overtime and bonus payroll	1
i. Incorrect calculation of safety credits	3
j. Incorrectly charging for subcontractor	1

The above errors developed twenty-one (21) overcharges totaling \$23,141, which have been refunded to the policyholders. Three (3) errors resulted in undercharges totaling \$730.

3. Eight (8) errors were due to failure to perform an audit on the policy. This constitutes a violation of Section 627.191, Florida Statutes.
  
4. Six (6) errors were due to failure to comply with NCCI audit rules by using an audit period that was more than 30 days earlier than policy term. This constitutes a violation of Section 627.191, Florida Statutes.

Due to the error profile developed during this examination, the Company was directed to recalculate all audits completed during the scope of this examination and to perform audits on all policies that had effective dates during the scope of this examination. Exhibit I.

2. Unit Statistical Review

The review of statistical cards is for the purpose of verifying that premium and claim statistics are properly reported to the NCCI. Workers' Compensation statistics are utilized in the rate making process when rate filings are presented to the Department of Insurance for consideration, as well as, in the development of experience modification factors on individual risks.

a. Audit Comparison

Forty (40) premium statistical cards were examined.

One (1) error was found.

Errors affecting statistical reporting resulted in one (1) underreport of \$2,857.

The error is described as follows:

1. One (1) error due to failure to report the correct exposure. This constitutes a violation of Section 627.191, Florida Statutes.

b. Claim Comparison

Nineteen (19) claim statistical cards were examined.

Four (4) errors were found.

Errors affecting statistical reporting resulted in two (2) overreports totaling \$737.

The errors are described as follows:

1. Four (4) errors were due to incorrectly reporting statistical information. This constitutes a violation of Section 627.191, Florida Statutes. The above errors included an incorrect driver classification, an incorrect injury code and claim amounts incorrectly reported.

V. AGENTS/MGA REVIEW

Ten (10) applications/policies written during the scope of examination were examined.

No errors were found.

VI. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

Forty-five (45) errors were found.

Five (5) errors resulted in underreturns totaling \$931 and one (1) error resulting in an overreturn of \$829.

The errors are broken down as follows:

1. Thirty-seven (37) errors were due to failure to conduct an audit. This constitutes a violation of Section 627.191, Florida Statutes.
2. Eight (8) errors were due to failure to follow the filed rating plan. This constitutes a violation of Section 627.191, Florida Statutes. A breakdown of the eight errors follows:

	<u>Errors</u>
a. Charged for increased limits when no coverage was provided	3
b. Incorrect classification used on policy	2
c. Incorrect calculations of pro-rating factors	2
d. Premium discount was incorrectly calculated	1

The above errors developed five (5) underreturns totaling \$931 which have been returned to policyholders. One (1) error resulted in an overreturn of \$829.

Due to the error profile developed during this examination, the Company was directed to recalculate all audits conducted on cancelled/nonrenewed policies and to conduct audits on all policies that were cancelled or nonrenewed in which an audit was not conducted during the scope of this examination. Exhibit I.

## VII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company. Complaint handling procedures are described in Exhibit II. Consumer complaints received during the scope of examination were reviewed and findings are as follows:

### A. COMPANY RECEIVED COMPLAINTS

<u>Last Name</u>	<u>Alleged Violations</u>	<u>Violations</u>
1. Davis	Contractors Credit	None
2. Addys	Losses – Experience Mod	None

These are the only two complaints that were received directly by the Company during the scope of this examination.

VIII. PENDING ISSUES

The following issues were pending at the conclusion of the examination field work:

1. The review of eighty (80) policies with final audits revealed that forty-four (44) or 55% were in error. Some policies contained multiple errors for a total of fifty-five (55) errors.
2. A review of fifty (50) cancelled policies produced forty-three (43) with errors or an 86% error ratio. This was due to lack of audits being conducted or audit procedure problems.

Refer to the Policy Review and Cancellation Review sections of this report for a complete breakdown of these errors.

The rerate directive to the Company stated that all audits conducted during the scope of this examination were to be recalculated in compliance with NCCI rules and Florida Statutes. In addition, the Company was directed to conduct an audit on all policies that were not audited. This is to be completed within 90 days of the execution of the Consent Order of this examination. Exhibit I. The Company states they will comply with the directive. Exhibit III.

The rerate procedure is estimated to involve 800 policies/audits. It is estimated that \$300,00 will be returned to policyholders.

IX. EXHIBITS

SUBJECT \_\_\_\_\_ EXHIBIT NUMBER

CORRESPONDENCE TO COMPANY ON RERATE OF POLICIES AND AUDITS I

CONSUMER COMPLAINT PROCEDURES II

