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JAN 3 2003
TREASURER AND
INSURANCE COMMISSIONER
Docketed by: *SS*

THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 65101-02-CO

**FIRST FLORIDIAN
AUTO AND HOME INSURANCE COMPANY**
2002 Property and Casualty
Market Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **FIRST FLORIDIAN AUTO AND HOME INSURANCE COMPANY** (hereinafter referred to as "**FIRST FLORIDIAN**") and the **FLORIDA DEPARTMENT OF INSURANCE** (hereinafter referred to as the "**DEPARTMENT**"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the **DEPARTMENT** hereby finds as follows:

1. The **DEPARTMENT** has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **FIRST FLORIDIAN** is a domestic property and casualty insurer authorized to transact insurance business in Florida and is subject to the jurisdiction and regulation of the **DEPARTMENT** pursuant to the Florida Insurance Code.

3. The **DEPARTMENT** conducted a property and casualty market conduct examination of **FIRST FLORIDIAN** covering the period of January 1999 through May 2001, pursuant to Section 624.3161, Florida Statutes. As a result of such examination, the **DEPARTMENT** determined that **FIRST FLORIDIAN** committed the following violations of the Florida Insurance Code or Florida Administrative Code.

a. Private Passenger Automobile

1. Section 627.0651, F.S.-Failure to Follow Filed Rate, Rating Schedule, Rating Rule or Underwriting Guideline (PPA)- Failure to Apply Anti-Lock Brake Discount.
2. Section 627.0651, F.S.-Failure to Follow Filed Rate, Rating Schedule, Rating Rule or Underwriting Guideline (PPA)-Use of Incorrect Symbol.
3. Rule 4-125.004, Failure to Comply with Credit Report/Scoring Requirements.
4. Section 627.727, F.S.-Failure to Offer/Maintain Signed UM Acceptance/Rejection Form.

b. Homeowners

1. Rule 4-125.004, Failure to Comply with Credit Report/Scoring Requirements.
2. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect BCEGS Factor Code.
3. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Territory.
4. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Protective Device Credit.
5. Section 627.062, F.S.-Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Protection Class.

6. Section 627.062, F.S.- Failure to Follow Filed Rate, Rating Schedule or Rating Rule-Incorrect Premium Computation.

c. Claims

1. Section 626.9541, F.S.-Failure to Comply with Unfair Trade Practice Requirements-Failed to Advise of Depreciation Recovery.
2. Section 627.736, F.S.-Failure to Comply with PIP Benefit Requirements-Failed to Pay Interest.
3. Section 626.112, F.S.-Use of Unappointed Adjuster.
4. Section 626.877, F.S.-Failure to Properly Adjust Claim per Policy Requirements-Incorrect Sales Tax.
5. Section 626.877, F.S.-Failure to Properly Adjust Claim by Applying the Deductible Twice.
6. Section 626.877, F.S.-Failure to Properly Adjust Claim per Policy Requirements-Paid Claim to Incorrect Provider.

d. Agents/MGA

1. Section 626.112, F.S.-Use of Unappointed Agent.

4. The **DEPARTMENT** and **FIRST FLORIDIAN** expressly waive a hearing in this matter and the making of Findings of Fact and Conclusions of Law by the **DEPARTMENT** and other proceedings herein to which the parties may be entitled by law. **FIRST FLORIDIAN** hereby knowingly and voluntarily waives the rights to contest this Order in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

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

(a) **FIRST FLORIDIAN** shall pay an administrative penalty of \$8,000 and administrative costs of \$1,000 on or before the 30th day after this Consent Order is executed.

(b) **FIRST FLORIDIAN** shall henceforth comply with all of the provisions of the Florida Insurance Code, Florida Administrative Code and implement policies and procedures that will preclude the recurrence of violations contained in the Examination Report. These policies and procedures shall be made available to the **DEPARTMENT** for review upon request. Within 90 days after execution of this Consent Order, **FIRST FLORIDIAN** shall both implement recommendations contained in this Report of Examination, and identified below, and submit confirmation, in writing, to the **DEPARTMENT** that all directives contained in the report have been met, including all refunds.

(c) Revised Procedures

1. Private Passenger Automobile

- a. The Company will process outstanding refunds and provide written documentation certifying that the refunds have been made.
- b. The Company has revised procedures to ensure that all applicable new and renewal business will be provided with a notice of adverse underwriting decisions due to the use of credit reports and advise insureds of the means of obtaining a copy of their credit report.

2. Homeowners

- a. The Company will establish procedures to ensure that all eligible risks receive the BCEGS credit.
- b. The Company will process outstanding refunds and provide written documentation certifying that the refunds have been made.
- c. The Company has revised procedures to ensure that all applicable new and renewal business will be provided with a notice of adverse underwriting decisions due to the use of credit reports and advise insureds of the means of obtaining a copy of their credit report.

(d) **FIRST FLORIDIAN** 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 FLORIDIAN** may subject **FIRST FLORIDIAN** to appropriate penalties.

6. **FIRST FLORIDIAN** agrees that the failure to adhere to one or more of the above terms and conditions of this order shall constitute a violation of a lawful order of the **DEPARTMENT**, and shall subject **FIRST FLORIDIAN** to such administrative action as the Treasurer and Insurance Commissioner may deem appropriate.

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

8. **THEREFORE**, the agreement between **FIRST FLORIDIAN AUTO AND HOME INSURANCE COMPANY** and the **DEPARTMENT**, 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 3rd day of January, 2003.



KEVIN MCCARTY
DEPUTY INSURANCE COMMISSIONER

By execution hereof **FIRST FLORIDIAN AUTO AND HOME 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. I am authorized to execute this document.

FIRST FLORIDIAN AUTO AND HOME INSURANCE COMPANY

By: _____

NANCY L. BAILY
(Print or Type Name)

Title: President / CEO

Date: 1/2/03

Corporate Seal

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