

**REPORT ON EXAMINATION**

**OF**

**FLORIDA CITRUS, BUSINESS &  
INDUSTRIES FUND**

**TALLAHASSEE, FLORIDA**

**AS OF**

**MARCH 31, 2004**

**BY THE**

**OFFICE OF INSURANCE REGULATION**

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Tallahassee, Florida

May 23, 2005

Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation  
State of Florida  
Tallahassee, Florida 32399-0300

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes (FS), and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of March 31, 2004, of the financial condition and affairs of:

**FLORIDA CITRUS, BUSINESS & INDUSTRIES FUND  
116 SOUTH MONROE STREET  
TALLAHASSEE, FLORIDA 32301**

Hereinafter referred to as the "Fund". Such report of examination is herewith respectfully submitted.

## **SCOPE OF EXAMINATION**

This examination covered the period of April 1, 1999 through March 31, 2004. The Fund was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of March 31, 1999. This examination commenced with planning at the Office on January 19, 2005, to January 21, 2005. The fieldwork commenced on January 31, 2005, and was concluded as of May 7, 2005. The examination included any material transactions and/or events occurring subsequent to the examination date and noted during the course of the examination.

This financial examination was a statutory financial examination conducted in accordance with the Financial 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 (FAC), with due regard to the statutory requirements of the insurance laws and rules of the State of Florida.

In this examination, emphasis was directed to the quality, value and integrity of the statement assets and the determination of liabilities, as those balances affect the financial solvency of the Fund.

The examination included a review of the corporate records and other selected records deemed pertinent to the Fund's operations and practices. In addition, the A.M. Best Report, the Fund's independent audit reports and certain work papers prepared by the Fund's independent Certified Public Accountant (CPA) were reviewed and utilized where applicable within the scope of this examination.

We valued and/or verified the amounts of the Fund's assets and liabilities as reported by the Fund in its annual statement as of March 31, 2004. Transactions subsequent to the March 31, 2004 year end were reviewed where relevant and deemed significant to the Fund's financial condition.

This report of examination is confined to financial statements and comments on matters that involve departures from laws, regulations or rules, or which are deemed to require special explanation or description.

#### **Status of Adverse Findings from Prior Examination**

The Fund had no significant adverse findings in the Office's prior examination report as of March 31, 1999.

### **HISTORY**

#### **General**

The Fund was established in accordance with Section 440.57, FS, to operate as a self-insurance fund under the name of Florida Citrus Self-Insurers Fund, and commenced business on April 1, 1977. In accordance with Section 624.401(1), FS, the Fund was authorized to transact Workers' Compensation coverage in the State of Florida.

The Fund trust agreement and the bylaws were amended and restated on November 4, 1998 when the Fund changed its name to Florida Citrus, Business & Industries Fund.

On May 30, 2000, the Board of Trustees (Board) replaced its service company, Roy, Reid & Associates with United Self Insured Services, Inc.

On February 27, 2001, the Board approved restructuring the Fund. They closed the Lakeland, Florida office, opened a small Orlando, Florida office, and transferred administrative work to Tallahassee, Florida.

On February 26, 2002, the Board adopted a five year business plan and changed the managed care contract provider from Intracorp to Amerisys Corporation.

On February 28, 2003, the Board modified the trust agreement to establish two new officer positions. The new officer position of President, and a non-board member position of Secretary/Treasurer were created. Jim Emerson was elected President for the fund year April 2003 through March 2004, and Sam Oswald was elected Secretary/Treasurer for the fund year April 2003 through March 2004.

Effective April 1, 2001, the Fund expanded its contractual relationship with United Association Services, Inc. (UAS) to include policy services, premium billing, collection and accounting and bookkeeping. Prior to this date, the Fund's managing general agent (MGA) contract with UAS was limited to underwriting and marketing services only. UAS is located in Tallahassee, Florida and is affiliated with the Fund's sponsoring association, the Florida United Business Association (FUBA), through common management and ownership.

As of March 31, 1999, the Fund had approximately 69 members with annualized premiums of approximately \$2,930,000. One of the members participated in a preferred pay plan.

As of March 31, 2004, the Fund had approximately 3,530 members, with annualized premiums of approximately \$21,613,916. No members participated in a preferred pay plan.

**Capitalization**

The Fund had Surplus as regards policyholders of \$8,901,476 on March 31, 2004.

The control of the Fund was maintained by trustees, who were elected by policyholders.

**Profitability of Fund**

The Fund increased surplus for the five year period of the examination and dividends totaling \$672,539 were approved in accordance with Rule 69O-190.065, FAC. Dividends were paid to policyholders as shown below.

	4/03-3/04	4/02-3/03	4/01-3/02	4/00-3/01	4/99-3/00
Dividends to policyholders	\$ 222,539	\$ 250,000	\$ 200,000	\$ -0-	\$ -0-
Net Income after dividends	\$ (1,900,169)	\$ 3,287,205	\$ 1,507,833	\$ 1,246,558	\$1,442,583
Policyholders surplus	\$ 8,901,476	\$ 9,541,014	\$ 7,778,516	\$ 6,272,165	\$6,317,506

**Dividends to Policyholders**

In accordance with Rule 69O-190.065, FAC, the Trustees declared and paid dividends to policyholders for the periods 4/01-3/02, 4/02-3/03 and 4/03-3/04 in the amounts of \$200,000, \$250,000 and \$222,539, respectively.

## **Management**

Quarterly Board meetings were held for management of the trust and the election of trustees.

### **Trustees**

#### **Name and Location**

#### **Principal Association**

John L. Minton, Sr., Chairman  
Vero Beach, Florida

Minton-Sun, Inc.

Bert E. Roper, Vice Chairman  
Windermere, Florida

Roper Growers Co-Op

Richard J. Kinney  
Dade City, Florida

FL Citrus Packers Assn.

Bobby R. Smith (retired)  
Orlando, Florida

AEIC/ERC, Inc.

Gasper Kovach, Jr.  
Lakeland, Florida

HESCO Service Co-Op

Frank M. Durrance  
Lake Mary, Florida

Frank M. Durrance, CPA

### **Senior Officers**

#### **Name**

#### **Title**

James E. Emerson

President and Administrator

Samuel D. Oswald

Secretary and Treasurer

The Fund's board appointed several internal committees in accordance with Rule 69O-190,065, FAC. Following are the principal internal board committees and their members as of March 31, 2004:

**Audit Committee**

Bert Roper, Chairman  
Frank Durrance  
John Minton

**Investment Committee**

Gap Kovach, Chairman  
Frank Durrance  
Richard Kinney

**Administrative & Budget Committee**

John Minton, Chairman  
Gap Kovach  
Bobby Smith

**Marketing, Membership & Agent Relations Committee**

Bob Smith, Chairman  
Richard Kinney  
Edwin Albritton(Retired 3/19/04)

**Conflict of Interest Procedure**

In accordance with the specified trustee duties in Rule 69O-190.064, FAC, the Board adopted a conflict of interest statement, and formed an Audit Committee to monitor conflicts of interest.

**Fund Records**

The recorded minutes of Trustees, Trustee Executive Sessions, Audit Committee, and other committee meetings were reviewed for the period under examination. The recorded minutes adequately documented meetings and approval of Fund transactions in accordance with Rule 69O-190.064, FAC, including the oversight of investments as required by Rule 69O-190.071, FAC.

In the final fiscal year of this examination period, the Fund did not perform the annual reviews required by Rule 69O-190.064(19), FAC, the hiring of the accountant required by Section 624.424(8), FS, and the retaining of an Actuary required by the NAIC annual statement instructions.

**Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales through Reinsurance**

There were no acquisitions, mergers, disposals, dissolutions, or significantly different purchases or sales through reinsurance in the period examined.

**Surplus Debentures**

There were no changes to surplus in the period examined, except those due to net income and dividends paid.

**Management Agreement**

The Board had a verbal, at their pleasure, management agreement with James E. Emerson, President and Administrator. The Board adopted an employment contract with Samuel D. Oswald, CPA, as Secretary/Treasurer.

**MGA Agreement**

The Fund contracted with UAS, to act as MGA.

**FIDELITY BOND AND OTHER INSURANCE**

The Fund maintained a fidelity bond coverage up to \$500,000 with a deductible of \$500. This amount adequately covered the suggested minimum amount recommended by the NAIC.

## PENSION, STOCK OWNERSHIP, AND INSURANCE PLANS

The Fund provided group health benefits and group dental benefits for the two employees of the Fund and their families. The Fund had a SEP-IRA retirement plan for its two employees with immediate 100% vesting. Contributions to the plan were made quarterly.

## STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, FS.

State	Description	Rate		Market Value	Par Value
FL	Ford Mtr Credit,-Bk	6.375%,	02/01/06	\$539,155	\$500,000
FL	G.M.A.C. -Bk	6.125%,	09/15/06	433,463	500,000
FL	Bear Sterns Co.-Bk	6.500%,	05/01/06	540,213	400,000
TOTAL FLORIDA DEPOSITS				<u>\$ 1,512,831</u>	<u>\$1,400,000</u>

## INSURANCE PRODUCTS AND RELATED PRACTICES

### Territory

The Fund was authorized to transact workers' compensation insurance in Florida only, in accordance with Section 624.401(2), FS.

### Treatment of Policyholders

The Fund's customer complaint log was not current. The Fund was not able to locate one complaint file from our sample selection request.

## **REINSURANCE**

The Fund had an excess casualty insurance agreement with Clarendon National Insurance Company instead of reinsurance agreements.

### **Assumed**

The Fund assumed no risk from another insurer.

### **Ceded**

The Fund ceded no risk to another insurer.

The excess casualty contracts were reviewed by the Fund's appointed actuary and were utilized in determining the ultimate loss opinion.

## **ACCOUNTS AND RECORDS**

An independent CPA audited the Fund's statutory basis financial statements annually for fund years 4/99-3/00, 4/00-3/01, 4/01-3/02, 4/02-3/03 and 4/03-3/04, in accordance with Section 624.424(8), FS. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, FAC.

The Fund's accounting records were maintained on a computerized system. The Fund's balance sheet accounts were verified with the line items of the annual statement submitted to the Office.

The Fund reported bond acquisitions and disposals as of the settlement dates instead of the trade dates as required by SSAP 26, paragraph 4.

The Fund amortized bonds using the straight-line method instead of by the scientific method as required by SSAP, paragraph 4.

The Fund reported \$304,564 of Accounts receivable on its annual statement. The amount reported should have been \$0.

The Fund misclassified the state corporate tax payable by reporting it as Other expenses rather than properly reporting it as Taxes, licenses and fees.

The Fund maintained its principal operational offices in Tallahassee, Florida and its accounting office in Orlando, Florida. This examination was conducted at both locations of the Fund.

The Fund and non-affiliates had the following agreements:

#### **Custodial Agreement**

The Fund had a custodial agreement with Salem Trust Company. The agreement did not meet all of the requirements of Rule 69O-143.042, FAC.

#### **MGA Agreement**

The Fund had a contract with UAS to act as MGA, and handle the underwriting and marketing function for the Fund.

#### **Independent Auditor Agreement**

In accordance with Section 624.424(8)(a), FS, the Fund had an agreement with Shores, Tagman & Company, P.A., CPA, for the production of certified financial statements.

### **Actuarial Agreement**

The Fund had an agreement with Casualty Actuarial Consultants to provide actuarial services.

### **Investment Advisory Agreement**

The Fund had an agreement with BPS Associates, Inc. for professional expertise with investment transactions.

### **FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Fund's financial position as of March 31, 2004, 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."

**FLORIDA CITRUS, BUSINESS & INDUSTRIES FUND**  
**Assets**

**MARCH 31, 2004**

Classification	Per Company	Examination Adjustments	Per Examination
Bonds	\$23,916,660	\$0	\$23,916,660
Cash:			
On deposit	4,581,571		4,581,571
Short-term investments	577,730		577,730
Agents' Balances:			
Uncollected premium	1,564,752		1,564,752
Deferred premium	2,705,574		2,705,574
Reinsurance recoverable	32,678		32,678
Net deferred tax asset	914,062		914,062
Interest and dividend income due & accrued	195,873		195,873
Aggregate write-in for other than invested assets	229,835		229,835
Totals	<u>\$34,718,735</u>	<u>\$0</u>	<u>\$34,718,735</u>

**FLORIDA CITRUS, BUSINESS & INDUSTRIES FUND**  
**Liabilities, Surplus and Other Funds**

**MARCH 31, 2004**

Liabilities	Per Company	Examination Adjustments	Per Examination
Losses	\$14,967,451	\$0	\$14,967,451
Loss adjustment expenses	2,452,065		2,452,065
Other expenses	1,525,961		1,525,961
Taxes, licenses and fees	404,181		404,181
Current federal income tax payable	437,470		437,470
Net deferred tax liability	168,273		168,273
Advanced premiums	2,994,789		2,994,789
Ceded reinsurance premiums payable(net of commission)	1,537,173		1,537,173
Aggregate write-ins for liabilities	1,329,896		1,329,896
Total Liabilities	\$25,817,259	\$0	\$25,817,259
Aggregate write-ins for other than special surplus funds	1,735,835		1,735,835
Unassigned funds (surplus)	7,165,641		7,165,641
Surplus as regards policyholders	\$8,901,476	\$0	\$8,901,476
Total liabilities, capital and surplus	\$34,718,735	\$0	\$34,718,735

**FLORIDA CITRUS, BUSINESS & INDUSTRIES FUND**  
**Statement of Income**

**MARCH 31, 2004**

**Underwriting Income**

Premiums earned	\$21,613,916
DEDUCTIONS:	
Losses incurred	13,204,781
Loss expenses incurred	3,214,450
Other underwriting expenses incurred	6,290,487
Total underwriting deductions	\$22,709,718
Net underwriting gain or (loss)	(\$1,095,802)

**Investment Income**

Net investment income earned	\$858,314
Net realized capital gains or (losses)	1,427
Net investment gain or (loss)	\$859,741

**Other Income**

Net gain or (loss) from agents' or premium balances charged off	(\$1,676,240)
Finance and service charges not included in premiums	0
Aggregate write-ins for miscellaneous income	831,464
Total other income	(\$844,776)
Net income before dividends to policyholders and before federal & foreign income taxes	(\$1,080,837)
Dividends to policyholders	222,539
Net Income, after dividends to policyholders, but before federal & foreign income taxes	(\$1,303,376)
Federal & foreign income taxes	596,793
Net Income	(\$1,900,169)

**Capital and Surplus Account**

Surplus as regards policyholders, March 31 prior year	\$9,541,014
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**Gains and (Losses) in Surplus**

Net Income	(\$1,900,169)
Change in net deferred income tax	(1,900,169)
Change in nonadmitted assets	(367,004)
Aggregate write-ins for gains and losses in surplus	612,065
Change in surplus as regards policyholders for the year	(\$639,538)
Surplus as regards policyholders, March 31 current year	\$8,901,476

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

**Losses and Loss Adjustment Expenses** \$ 17,439,516

An outside actuarial firm appointed by the Board rendered an opinion that the amounts carried in the balance sheet as of March 31, 2004, make a reasonable provision for all unpaid loss and loss expense obligations of the Fund under the terms of its policies and agreements.

The Office actuary reviewed work papers provided by the Fund and was in concurrence with this opinion.

**FLORIDA CITRUS, BUSINESS & INDUSTRIES FUND**  
**Comparative Analysis of Changes in Surplus**

**MARCH 31, 2004**

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 per March 31, 2004, Annual Statement	\$8,901,476
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	<u>PER</u> <u>COMPANY</u>	<u>PER</u> <u>EXAM</u>	INCREASE (DECREASE) <u>IN SURPLUS</u>
ASSETS:			
No adjustment needed			
LIABILITIES:			
No adjustment needed			
Net Change in Surplus:			0
Surplus as Regards Policyholders per March 31, 2004, examination			\$8,901,476

## SUMMARY OF FINDINGS

### **Compliance with previous directives**

The Fund has taken the necessary actions to comply with the comments made in the 1999 examination report issued by the Office.

### **Current examination comments and corrective action**

The following is a brief summary of items of interest and corrective action to be taken by the Fund regarding findings in the examination as of March 31, 2004.

### **Management Agreement**

The management agreement with the President and Administrator was not in writing. **It is recommended that the Fund enter into a written agreement replacing the verbal management agreement.**

### **Treatment of Policyholders**

The Fund did not keep an up-to-date complaint log. Section 626.954(1)(j), FS, requires the Fund to maintain a complete record of all complaints since the date of the last examination. During the course of the examination, the Fund established a complaint log. **It is recommended that the Fund continue to maintain a current complaint log.**

The Fund could not locate one complaint file from our sample selection. **It is recommended that the Fund maintain better custody of complaint files.**

## **Fund Records**

For the fund year 4/03-3/04, the Fund did not retain its CPA and Actuary before the end of the fiscal year as required by Section 624.424(8), FS, and NAIC annual statement instructions. **It is recommended that the Fund retain its CPA and Actuary before the end of all future fiscal years.**

For the fund year 4/03-3/04, the Fund did not perform annual reviews as required by Rule 69O-190.064, FAC. **It is recommended that the Fund perform and document the required annual reviews in all future years.**

Subsequent event: As part of the Board of Trustees meeting on March 18, 2005, the Board designated its CPA and Actuary as well as documenting the annual reviews pursuant to Rule 69O-190.064, FAC.

## **Bonds**

The Fund reported purchases and disposals of bonds as of the settlement dates. **It is recommended that the Fund report purchases and disposals of bonds as of the trade dates as required by SSAP 26, paragraph 4, in all future years.**

The Fund amortized bonds using the straight-line method instead of by the scientific method. **It is recommended that the Fund amortize bonds using the scientific method as required by SSAP 26, paragraph 6, in all future years.**

### **Accounts Receivable**

The Fund reported \$304,564 of Accounts receivable on its annual statement. The actual amount was \$0. **It is recommended that the Fund only include the actual amount of Accounts receivable on its annual statement, in all future filings.**

Subsequent event: It was concluded during the course of the examination that the Fund had made a number of improvements in their procedures and computer programming to address this issue.

### **State Corporate Tax Payable**

The Fund misclassified the State corporate tax payable as Other expenses instead of reporting it as Taxes, licenses and fees. **It is recommended that the Fund report the State corporate tax payable as Taxes, licenses and fees, in all future filings.**

Subsequent event: The Fund correctly classified the State corporate tax payable in the annual statement as of March 31, 2005.

### **Custody Agreement**

The Fund's custody agreement with Salem Trust Company did not meet many of the requirements of Rule 690-143.042(2). **It is recommended that the Fund modify the custody agreement to meet the requirements of Rule 690-143.042(2), FAC, and provide a copy of the amended agreement to the Office within 90 days of the issuance of this report.**

Subsequent event: On August 23, 2005, the Fund provided a copy of a custodial agreement that was in compliance with Rule 690-143.042(2), FAC.

## CONCLUSION

The customary insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Florida Citrus, Business & Industries Fund**, as of March 31, 2004, consistent with the insurance laws of the State of Florida.

Per examination findings, the Fund's Surplus as regards policyholders was \$8,901,476 which was in compliance with Section 624.408, FS.

In addition to the undersigned, Michael Hampton, CPA, CFE, DABFA, CFE, CPM, Financial Examiner/Analyst Supervisor, Samita Lamsal, Financial Examiner/Analyst II, Owen Anderson, Financial Examiner/Analyst II, Fred Tarnell, Financial Examiner/Analyst I and Joseph Boor, FCAS, Actuary, participated in the examination.

Respectfully submitted,

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Roger P. Kelley  
Financial Examiner/Analyst II  
Florida Office of Insurance Regulation