

**REPORT ON EXAMINATION**

**OF**

**FLORIDA RETAIL FEDERATION SELF**

**INSURERS FUND**

**LAKELAND, FLORIDA**

**AS OF**

**DECEMBER 31, 2004**

**BY THE**

**OFFICE OF INSURANCE REGULATION**

## TABLE OF CONTENTS

LETTER OF TRANSMITTAL .....	-
SCOPE OF EXAMINATION.....	1
Status of Adverse Findings from Prior Examination.....	2
HISTORY .....	2
General .....	2
Capital Stock.....	3
Profitability.....	3
Dividends to Stockholders.....	3
Management .....	3
Conflict of Interest Procedure.....	5
Corporate Records.....	5
Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales through Reinsurance .....	5
Surplus Debentures .....	5
AFFILIATED COMPANIES .....	6
Tax Allocation Agreement .....	6
ORGANIZATIONAL CHART .....	7
FIDELITY BOND AND OTHER INSURANCE .....	8
PENSION, STOCK OWNERSHIP, AND INSURANCE PLANS.....	8
STATUTORY DEPOSITS .....	8
INSURANCE RELATED PRACTICES.....	
Territory .....	9
Treatment of Policyholders .....	9
REINSURANCE .....	9
Assumed .....	9
Ceded .....	9
ACCOUNTS AND RECORDS .....	10
Administrator Agreement.....	10

Custodial Agreement.....	11
Independent Auditor Agreement .....	11
Risk-Based Capital.....	11
FINANCIAL STATEMENTS PER EXAMINATION.....	11
Assets .....	12
Liabilities, Surplus and Other Funds .....	13
Statement of Income .....	14
COMMENTS ON FINANCIAL STATEMENTS.....	15
Assets.....	15
Liabilities .....	15
COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS.....	17
SUMMARY OF FINDINGS .....	18
CONCLUSION .....	20

Tallahassee, Florida

September 22, 2005

Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation  
State of Florida  
Tallahassee, Florida 32399-0326

Dear Sir:

Pursuant to your instructions, in compliance with Rule 69O-190-063, Florida Administrative Code (FAC), 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, 2004, of the financial condition and corporate affairs of:

**FLORIDA RETAIL FEDERATION SELF INSURERS FUND  
2310 A-Z PARK ROAD  
LAKELAND, FLORIDA 33801**

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

## **SCOPE OF EXAMINATION**

This examination covered the period of January 1, 2002 through December 31, 2004. This examination commenced, with planning at the Office of Insurance Regulation (Office), June 20, 2005 through June 24, 2005. The fieldwork commenced on June 27, 2005, and was concluded as of September 22, 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. 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 December 31, 2004. Transactions subsequent to year-end 2004 were reviewed where relevant and deemed significant to the Fund's financial condition.

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

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

The Fund's custodial agreement was not in compliance with Rule 69O-143.042 (2)(K) and (L), FAC.

**Resolution:** The Fund's custodial agreement was amended to comply with Rule 69O-143.042 (2)(K) and (L), FAC.

## **HISTORY**

### **General**

The Fund commenced business January 1, 1979, as Florida Retail Federation Self Insurers Fund.

In accordance with Rule 69O-190.058, FAC, the Fund was authorized to transact Workers' Compensation insurance coverage, in Florida only, on December 31, 2004:

The By-laws were not amended during the period covered by this examination.

## Capital Stock

The Fund maintained no capital stock.

## Profitability of Fund

The following table shows the profitability trend (in dollars) of the Fund for the period of examination.

	<b>2004</b>	<b>2003</b>	<b>2002</b>
Premiums Earned	137,910,269	114,138,029	67,692,171
Net Underwriting Gain/(Loss)	9,336,837	24,636,765	3,319,931
Net Income	(162,787)	15,051,672	2,205,712
Total Assets	232,300,819	193,500,432	183,586,972
Total Liabilities	179,855,061	146,825,042	155,228,602
Surplus As Regards Policyholders	52,445,758	46,675,390	28,358,370

## Dividends to Policyholders

In accordance with Rule 69O-190.063(18) and 69O-190.065, FAC, the Fund declared a dividend to its members of \$13,358,986 in 2004.

## Management

The annual trustees meeting for the election of trustees and officers was held in accordance with Rule 69O-190.064, FAC. Trustees serving as of December 31, 2004, were:

### Trustees

#### Name and Location

William Kundrat, Jr.  
Sun City Center, Florida

#### Principal Occupation

Chairman  
Retired

George Hall Sandefer Palatka, Florida	Trustee Retired
Nis Hansen Nissen, III Lakeland, Florida	Trustee Nissen Advertising, Inc./CEO
Charles Richard Wintz Jacksonville, Florida	Trustee Certified Public Accountant
Thomas Samuel Petcoff Lakeland, Florida	Trustee Petcoff Companies
John Douglas Hanselman Gainesville, Georgia	Trustee Regional VP, Liberty Mutual

In accordance with the Fund's bylaws, the Board of Trustees appointed the following officers:

#### **Senior Officers**

<b>Name</b>	<b>Title</b>
Ricky Tarver Hodges	President
David John Conway	Vice President

The Fund's board appointed an audit committee in accordance with Rule 69O-190.064(6), FAC.

#### **Audit Committee**

Charles Wintz  
William Kundrat  
Nis Nissen  
Thomas Petcoff  
George Sandefer

The Fund provided minutes of the Board of Trustees authorizing investments in accordance with Rule 69O-190.064(14) and 69O-190.071, FAC.

### **Conflict of Interest Procedure**

The Fund adopted a formal policy statement for conflict of interests, in compliance with Rule 69O-138.001(1), FAC. The Fund maintained individually executed conflict of interest statements, which were presented to the Board in compliance with Rule 69O-190.064(6), FAC.

### **Corporate Records**

The recorded minutes of the Board of Trustees meetings were reviewed for the period under examination. The recorded minutes of the Board adequately documented its meetings and approval of Fund transactions in accordance with Rule 69O-190.064(19) and (21), FAC.

The Trustees reviewed the previous examination report completed by the Office and noted the review in their minutes.

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

There were no acquisitions, mergers, disposals, dissolutions, purchases or sales through reinsurance.

### **Surplus Debentures**

The Fund had no surplus debentures.

## **AFFILIATED COMPANIES**

The Fund provided workers' compensation insurance to members of the Florida Retail Federation (FRF). The Fund had an agreement with FRF for the use of their name, logo, service marks and trademarks.

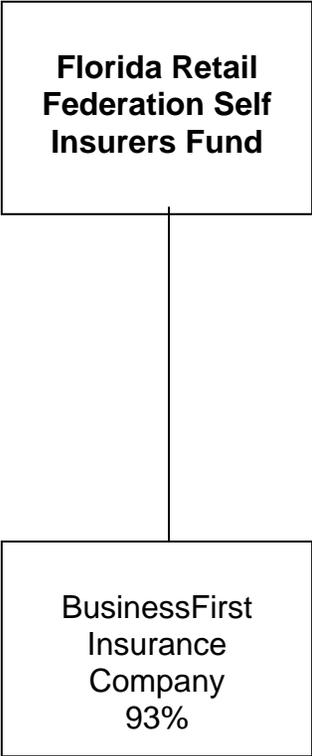
### **Tax Allocation Agreement**

The Fund filed a consolidated tax return with BusinessFirst. The Fund did not maintain a tax allocation agreement with BusinessFirst as required by SSAP No. 10, paragraph 12(b) and Rule 69O-143.047, FAC. The Fund inaccurately reported that they did not file a consolidated tax return in the Notes to the Financial Statement of the annual statement.

An organizational chart as of December 31, 2004, is shown below.

**FLORIDA RETAIL FEDERATION SELF INSURERS FUND  
ORGANIZATIONAL CHART**

**DECEMBER 31, 2004**



## FIDELITY BOND AND OTHER INSURANCE

The Fund maintained fidelity bond coverage for individuals with the authority to disburse funds in the amount of \$800,000, which exceeded the requirement of \$500,000 as stated in Rule 69O-190.064(5), FAC. The Fund provided a service bond for Summit Consulting, Inc., which met the minimum dollar requirement of Rule 69O-190.064(7)(a), FAC.

## PENSION, STOCK OWNERSHIP, AND INSURANCE PLANS

The Fund had no employees and therefore no pension, stock ownership or insurance plans.

## STATUTORY DEPOSITS

The Fund maintained securities on deposit with the State of Florida, in compliance with Rule 69O-190.060, FAC.

State	Description	Par Value	Market Value
FL	US T Note, 4.375%, 5/15/07	\$2,700,000	\$2,807,676
FL	US T Note, 3.25%, 8/15/07	1,800,000	1,819,890
FL	US T Note, 4.00%, 2/15/14	4,060,000	4,004,175
FL	MS ST BD, 5.00%, 11/1/06	1,955,000	2,053,630
FL	MS ST BD, 5.00%, 11/6/06	<u>145,000</u>	<u>152,048</u>
TOTAL DEPOSITS		<u>\$10,660,000</u>	<u>\$10,837,419</u>

**Subsequent event: The Office requested the year end deposit reported as of December 31, 2004, be increased to \$14,794,478. The Fund provided correspondence from Wachovia Bank, which stated the collateral deposit had been increased by \$3,670,000 on August 22, 2005. The Fund had also increased the deposit by an additional \$500,000 earlier in 2005.**

**Territory**

The Fund was authorized to transact insurance in Florida, in accordance with Rule 69O-190.058, FAC.

**Treatment of Policyholders**

The fund established procedures for handling written complaints in accordance with Section 626.9541(i)(j), FS.

**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 Fund assumed no risk.

**Ceded**

The Fund ceded \$10,035,000 in premiums to various reinsurers as listed on Schedule F of the annual statement. The Fund participated in a 75% quota share reinsurance agreement pertaining to the 1997 fund year. The Fund maintained specific excess of loss reinsurance in 2004 and 2003.

The reinsurance 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 the years 2002, 2003 and 2004, in accordance with Rule 69O-190.064(10), FAC. The Fund's independent CPA workpapers were reviewed during this examination. The supporting workpapers were prepared 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 maintained its office in Lakeland, Florida, at the office of its administrator, where this examination was conducted.

The Fund and non-affiliates had the following agreements:

### **Administrator Agreement**

The Fund maintained a third-party administrator contract with Summit Consulting, Inc. (SCI). Pursuant to a written agreement, SCI provided administrative services including policy servicing, agency relations, underwriting, claims administration, loss control and financial management. These services were provided for a fee based on the Fund's premiums.

### **Workers' Compensation Managed Care Arrangement**

The Fund had an agreement with Heritage Summit Healthcare, Inc. to provide a network of physicians available for the treatment of workers' compensation injuries.

**Custodial Agreement**

The Fund maintained a custodial agreement with Wachovia Bank, NA. The agreement was not in compliance with Rule 69O-143.042,(a),(b),(c) and (o), FAC, regarding how the securities are being held and the ability to terminate the agreement by the Fund.

**Independent Auditor Agreement**

The Fund maintained a contract with Brinton & Associates, P.A., the external CPA to perform the annual audit, in compliance with Rule 69O-190.064(10), FAC.

**Risk-Based Capital**

The Fund was exempt from risk-based capital requirements.

**FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Fund's financial position as of December 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 RETAIL FEDERATION SELF INSURERS FUND**  
**Analysis of Assets**

**DECEMBER 31, 2004**

Classification	Per Company	Examination Adjustments	Per Examination
Bonds	\$164,384,469		\$164,384,469
Common stock	16,684,357		16,684,357
Real estate	1,491,457		1,491,457
Cash:			
On deposit	10,397,344		10,397,344
Short term investments	3,085,105		3,085,105
Receivable for securities	155,707		155,707
Interest income due & accrued	1,859,022		1,859,022
Agents' balances:			
Uncollected premiums and agent's balances due in the course of collection	2,775,169		2,775,169
Deferred premiums, agent's balance and installments booked but deferred and not yet due	558,018		558,018
Accrued retrospective premiums	9,123,728		9,123,728
Reinsurance recoverable	216,224		216,224
FIT recoverable	1,820,501		1,820,501
Net deferred tax asset	2,239,655		2,239,655
EDP equipment	168,036		168,036
Aggregate write-ins for other than invested assets	17,342,027		17,342,027
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Totals	\$232,300,819	\$0	\$232,300,819
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**FLORIDA RETAIL FEDERATION SELF INSURERS FUND**  
**Liabilities, Surplus and Other Funds**

DECEMBER 31, 2004

Liabilities	Per Company	Examination Adjustments	Per Examination
Losses	\$113,726,136		\$113,726,136
Loss adjustment expenses	16,967,583		16,967,583
Commissions payable	4,344,714		4,344,714
Other expenses	2,299,672		2,299,672
Taxes, licenses and fees	10,299,036		10,299,036
Advance premiums	1,931,409		1,931,409
Dividends declared and unpaid	19,914,638		19,914,638
Ceded reinsurance premiums payable	1,270,934		1,270,934
Amounts retained by company for others	466,386		466,386
Payable for securities	123,639		123,639
Aggregate write-ins for liabilities	8,510,914		8,510,914
 Total Liabilities	 \$179,855,061		 \$179,855,061
 Aggregate write-ins for special surplus funds	 \$17,342,027		 \$17,342,027
Unassigned funds (surplus)	35,103,731		35,103,731
Surplus as regards policyholders	\$52,445,758		\$52,445,758
Total liabilities, capital and surplus	\$232,300,819	\$0	\$232,300,819

**FLORIDA RETAIL FEDERATION SELF INSURERS FUND**  
**Statement of Income**

**DECEMBER 31, 2004**

**Underwriting Income**

Premiums earned	\$137,910,269
<b>DEDUCTIONS:</b>	
Losses incurred	\$66,196,456
Loss expenses incurred	14,337,210
Other underwriting expenses incurred	48,039,665
Aggregate write-ins for underwriting deductions	101
Total underwriting deductions	<u>\$128,573,432</u>
Net underwriting gain or (loss)	\$9,336,837

**Investment Income**

Net investment income earned	\$6,387,530
Net realized capital gains or (losses)	2,010,983
Net investment gain or (loss)	<u>\$8,398,513</u>

**Other Income**

Net gain or (loss) from agents' or premium balances charged off	<u>(\$750,610)</u>
Total other income	(\$750,610)
Net income before dividends to policyholders and before federal & foreign income taxes	\$16,984,740
Dividends to policyholders	<u>13,358,986</u>
Net Income, after dividends to policyholders, but before federal & foreign income taxes	\$3,625,754
Federal & foreign income taxes	<u>3,788,541</u>
Net Income	(\$162,787)

**Capital and Surplus Account**

Surplus as regards policyholders, December 31, 2003	\$46,675,390
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**Gains and (Losses) in Surplus**

Net Income	(\$162,787)
Change in net unrealized capital gains or losses	12,584
Change in net deferred income tax	3,136,382
Change in non-admitted assets	(3,757,643)
Aggregate write-ins for gains and losses in surplus	<u>6,541,832</u>
Change in surplus as regards policyholders for the year	5,770,368
Surplus as regards policyholders, December 31, 2004	<u><u>\$ 52,445,758</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Assets

**Stocks** \$16,684,357

The Fund did not use the proper market indicators for its stock investment in BusinessFirst Insurance Company as required by the NAIC Securities Valuation Office.

**Real Estate** \$ 1,491,457

The Fund did not obtain an appraisal for their real estate, as stated in SSAP No. 40, paragraph 12, which requires that for all properties held for the production of income, the reporting entity must maintain an appraisal that is no more than five years old as of the reporting date.

### Liabilities

**Aggregate Write-ins for Liabilities** \$8,510,914

The Fund reported amounts for managed care expenses, legal fees, affiliate payable, bank and broker fees, accounts payable and audit fees incorrectly on the Aggregate write-ins for liabilities line item rather than on other specific lines as instructed by the NAIC Annual Statement Instructions, in violation of Rule 69O-137.001(4)(1), FAC.

**Losses and Loss Adjustment Expenses****\$130,693,719**

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, 2004, made 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 determined that reserves were deficient \$980,000. The Fund prepaid managed care expenses. Reserve credit cannot be taken for the prepaid managed care expense associated with the runoff of the loss reserve.

In the section of Schedule P that posted paid Adjusting and other expenses, all the expenses of a calendar year were recorded to the current accident year rather than properly spread among the accident years.

**Surplus****\$52,445,758**

No adjustments were made to Surplus as reported on the annual statement due to the immateriality of the total dollar amount of the aforementioned findings.

**FLORIDA RETAIL FEDERATION SELF INSURERS FUND  
Comparative Analysis of Changes in Surplus**

**DECEMBER 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 December 31, 2004, Annual Statement	\$52,445,758
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	<u>PER COMPANY</u>	<u>PER EXAM</u>	<u>INCREASE (DECREASE) IN SURPLUS</u>
ASSETS:			
	No adjustments necessary.		
LIABILITIES:			
	No adjustments necessary.		
Net Change in Surplus:			0
Surplus as Regards Policyholders December 31, 2004, Per Examination			\$52,445,758

## SUMMARY OF FINDINGS

### **Compliance with previous directives**

The Company took the necessary actions to comply with the custodial agreement finding from the prior examination report.

### **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 December 31, 2004.

#### **General**

The Fund did not maintain a custodial agreement with Wachovia Bank, NA that complied with Rule 69O-143.042 (2)(a), (b), (c) and (o), FAC. **We recommend the Fund modify the custodial agreement and provide documentation of compliance to the Office within 90 days after the report is issued.**

The Fund inaccurately reported in the annual statement that they did not file a consolidated federal income tax return. **We recommend that the Fund accurately report such disclosures in all future filings with the Office.**

The Fund did not maintain a federal income tax allocation agreement with its affiliate, BusinessFirst Insurance Company. **We recommend the Fund enter into a tax allocation agreement and provide a copy to the Office within 90 days after the report is issued.**

The Fund did not use the accurate market indicator, required by the NAIC Securities Valuation Office, for its BusinessFirst Insurance Company stock. **We recommend that the Fund use the proper indicator in all future filings with the Office.**

The Fund did not maintain an appraisal on its real estate. **We recommend the Fund get an appraisal and provide a copy to the Office within 90 days after the report is issued.**

The Fund's Reserves were deficient \$980,000 related to the prepayment of managed care expenses. **We recommend the Fund establish and report in all future filings with the Office, a reserve for prepaid managed care expense.**

The Fund reported Adjusting and other expenses (AOE) on Schedule P in the current accident year rather than properly spreading the expenses among the accident years. **We recommend the Fund correct in all future filings with the Office, the AOE paid section of Schedule P by properly allocating paid AOE in each calendar year to its appropriate accident years.**

The Fund reported amounts on the line item for Aggregate write-ins for liabilities which should have been reported on various other specific lines in the annual statement. **We recommend the Fund correctly report these items in all future filings with the Office.**

## CONCLUSION

The customary insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Florida Retail Federation Self Insurers Fund** as of December 31, 2004, consistent with the insurance laws of the State of Florida.

Per examination findings, the Fund's Surplus as regards policyholders was \$52,445,758, which was in compliance with Section 624.408, FS.

In addition to the undersigned, Richard Shaffer, Financial Examiner/Analyst II, Mary James, CFE, Financial Examiner/Analyst Supervisor, Joe Boor, FCAS, Actuary and Tim Butler, Senior Actuarial Analyst participated in the examination.

Respectfully submitted,

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Miriam Bleakley  
Financial Examiner/Analyst II  
Florida Office of Insurance Regulation