

# FINANCIAL SERVICES COMMISSION

FLORIDA OFFICE OF INSURANCE REGULATION  
MARKET INVESTIGATIONS

## TARGET MARKET CONDUCT EXAMINATION FINAL REPORT

OF

FIDELITY AND GUARANTY LIFE INSURANCE  
COMPANY

AS OF

May 25, 2005

NAIC COMPANY CODE: 63274  
NAIC GROUP CODE: 2598

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EXAMINERS:

SCOTT WOODS, INSURANCE ANALYST II  
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## PURPOSE AND SCOPE OF EXAMINATION

Under authorization of the Financial Services Commission, Florida Office of Insurance Regulation, Market Investigations, pursuant to Section 624.3161, Florida Statutes, a target market conduct examination of Fidelity and Guaranty Life Insurance Company (Company) was performed by Richard Brinkley, Examiner-In-Charge, and Scott Woods, Insurance Analyst II. The scope of this examination was January 1, 2002 through April 30, 2005. The examination began May 24, 2005 and ended May 25, 2005.

The purpose of this examination was due to the Company's failure to respond to an April 15, 2005 Letter of Guidance. This letter was written to conclude Investigation File #3647 and requested corrective actions for marketing and advertising violations. The following materials were reviewed during the scope of the examination: the Company's policies and procedures for approving and maintaining advertisements; the Company's complete advertising file; the Company's Florida grievance log; the Company's handling of Greg Mortensen, a former employee who approved an advertisement without the Company's consent; and a corrective action plan developed by the Company as required in the Office of Insurance Regulation's April 15, 2005 Letter of Guidance.

Procedures and conduct of the examination were in accordance with the Market Conduct Examiner's Handbook produced by the National Association of Insurance Commissioners.

## ADVERTISING POLICIES AND APPROVAL PROCEDURES

### Policies and Procedures Reviewed

Following the opening of Investigation File #3647, the Company revised its Advertising Policies and Approval Procedures to prevent future violations of these procedures. The following revisions were implemented during the first quarter of 2004:

1. Implementation of an advertisement review checklist, requiring four (4) units of the Company to review and approve all advertisements. These units include Marketing and Communications; Legal; Product Compliance; and Regulatory Compliance.
2. Institution of an approval/expiration process that limits advertisement approvals to one year. Advertisements developed in the field and the Home Office are evaluated annually.
3. Assignment of a control number to all approved advertisements. This number is the advertisement file number. This enables anyone reviewing a printed advertisement to determine if the advertisement has been approved in the Home Office.
4. Communication of the Company's advertising process to its employees and agents via company produced mailings and training sessions.

## ADVERTISING FILES

### Total Population Reviewed

A total of 980 advertising files were reviewed covering a time period from January 1, 2002 to May 1, 2005.

### Review Findings

Six (6) files did not contain a final action advising if the advertisement had been approved or disapproved. The Company provided documentation of the final action on these files during the on-site examination.

The 2004-2005 advertising files do not consistently reflect that all units approved each advertisement. Product and Regulatory Compliance staff often made the sole approval. During the course of the examination, it was determined that many of these files involved previously approved advertisements that were up for annual review. These advertisements were not required to be reviewed by all units involved in the normal approval process.

A complete advertising file has been maintained by the Company as required in Rule 690-150.119, Florida Administrative Code.

## GRIEVANCE AND COMPLAINT LOG

### Total Population Reviewed

There were a total of 137 Florida grievance and complaint records provided from 2002 through May 2005.

### Review Findings

Upon review of these records, it was determined that five (5) complaint files from 2002 did not have a closure date. The Company later provided documentation that the 5 complaints in question had been resolved and the absence of closing dates was an administrative issue. No other significant findings were noted.

A complete record of all complaints received by the Company has been maintained as required in Section 626.9541(1)(j), Florida Statutes.

## REPORT SUMMARY

The corrective action plan requested in the April 15, 2005 Letter of Guidance was received from the Company on May 25, 2005; during the on-site examination.

The corrective action plan was reviewed and accepted. The Company implemented procedures to prevent future advertising and marketing violations as well as procedures to respond timely to future requests by the Office.

## EXAMINATION FINAL REPORT

The Office hereby issues this report as the Final Report, which is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.