



# **THE STATE OF FLORIDA**

## **OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS**

**TARGET MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**LIBERTY BANKERS LIFE INSURANCE COMPANY**

**AS OF**

**November 21, 2011**

**NAIC COMPANY CODE: 68543**

**NAIC GROUP CODE: 3436**

---

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>PURPOSE AND SCOPE OF EXAMINATION .....</b>	<b>2</b>
<b>COMPANY OPERATIONS.....</b>	<b>2</b>
<b>CONSENT ORDER REVIEW.....</b>	<b>3</b>
<b>EXAMINATION FINAL REPORT SUBMISSION .....</b>	<b>6</b>

## EXECUTIVE SUMMARY

A target market conduct examination of Liberty Bankers Life Insurance Company (Company or LBLIC) was performed to determine the extent of the Company's compliance with the Consent Order 90956-07-CO issued by the Office of Insurance Regulation (Office) on September 26, 2007.

The following represent general findings, however, specific details are found in each section of the report.

<b><u>TABLE OF TOTAL VIOLATIONS</u></b>			
Paragraph of Consent Order	Description	Files Reviewed	Number of Violations
Paragraph 4(e)	Company violated Paragraph 4(e) of the Consent Order by failing to provide the Office with a detailed explanation of the underlying nature, purpose, collateral and repayment source of a new investment recorded on Schedule BA.	5	1
Paragraph 5	Company violated Paragraph 5 of the Consent Order by extending three (3) guaranty agreements and entering into one (1) additional guaranty agreement similar to the transactions discussed in Note 14 of the Company's 2006 Annual Financial Statement.	4	4

## PURPOSE AND SCOPE OF EXAMINATION

Market Investigations conducted a target market conduct examination of Liberty Bankers Life Insurance Company pursuant to Section 624.3161, Florida Statutes. The examination was performed by Examination Resources, LLC. The scope period of this examination was as of and for the period ended December 31, 2010 and subsequent events including the financial statements through June 30, 2011 and other matters. The onsite examination began September 13, 2011 and ended September 15, 2011. The examination continued offsite and ended November 21, 2011.

The purpose of this examination was to determine the extent of the Company's compliance with Consent Order 90956-07-CO issued by the Office on September 26, 2007.

The examination included the following procedures:

- **Consent Order** – Determine compliance with Paragraphs 4, 5, 6 and 7.
- **Events Subsequent to December 31, 2010** – Review subsequent matters including the financial statements through June 30, 2011 and other matters, as appropriate relating to compliance with Paragraphs 4, 5, 6 and 7 of the Consent Order.

In reviewing materials for this report, the examiners relied on records provided by the Company.

Sample sizes were determined judgmentally due to the examination targeting specific areas of the company operations and investments.

## COMPANY OPERATIONS

Liberty Bankers Life Insurance Company is a foreign Life and Health insurer, legally domiciled in the State of Oklahoma and licensed to conduct business in the State of Florida on December 29, 1988. The Company provides life insurance and annuities in the State of Florida.

Total Direct Premiums Written in Florida for life insurance and annuities were as follows:

Year	Total Written Premiums and Annuity Considerations In Florida (Per Schedule T of the Annual Statement)
2010	20,605,299

## CONSENT ORDER REVIEW

### **I. PARAGRAPH 4**

Paragraph 4 of the Consent Order included sub-paragraphs (a) – (h). The following outlines the requirements of each sub-paragraph.

- a) Infuse \$10.75 million into capital and surplus within 5 days of execution of the Consent Order with assets permitted by Part II of Chapter 625, Florida Statutes;
- b) Infuse an additional \$2.5 million into surplus by December 31, 2007;
- c) Comply with Florida's investment laws as specified in Chapter 625, Florida Statutes, in regard to future investments;
- d) Decrease aggregate investment in Schedule BA assets to a level of 8% (or less) of admitted assets on or before December 31, 2007. Decrease and maintain the aggregate total of Schedule BA assets to 6% (or less) of admitted assets on or before December 31, 2008. Future investment in a single Schedule BA asset shall not exceed 2% of admitted assets at any time;
- e) Provide the Office with a detailed explanation of each individual investment reported on Schedule BA. On a monthly basis, as new investments are recorded on Schedule BA, provide the Office with a detailed explanation of the underlying nature, purpose, collateral and repayment source of the investment. Existing Schedule BA assets will not be subject to the individual limitation as defined in paragraph 4(d) as long as the aggregate total of Schedule BA assets is reduced as specified in paragraph 4(d) of the Consent Order. Liberty Bankers agrees that no new investments will be made that result in individual limitations or aggregate limitations being exceeded when added to existing Schedule BA investments;
- f) On new construction loans entered into after the effective date of this Consent Order, Liberty Bankers shall adhere to the National Association of Insurance Commissioners guidelines on construction loans, which will limit Liberty Bankers to .25% of admitted assets secured in any one construction loan and 2% of admitted assets in the aggregate. Each construction loan existing as of the effective date of this consent order that is renewed at loan maturity will be considered a new loan and will be subject to inclusion in the aggregate limitation of 2% of admitted assets;
- g) Deposit an additional \$5 million with the Bureau of Collateral Management. On a quarterly basis, deposit securities with the Bureau of Collateral Management that are equal to the aggregate reserves on a one-to-one basis for any new business sold in Florida during the quarterly reporting period;
- h) Provide the Office with actuarial certifications on a semi-annual basis relative to reserve amounts for Florida policies. The actuarial certifications will be due on March 1 for the preceding year and on August 15<sup>th</sup> with the second quarter financial statement filing covering the two preceding quarters.

Documents obtained during the course of the examination were reviewed to determine the Company's compliance with each of the above sub-paragraphs of the Consent Order. One (1) violation was found.

### **Paragraph 4(e):**

Schedule BA investments owned at December 31, 2010 and Schedule BA investments acquired during the first 2 quarters of 2011, but were purchased after September 26, 2007 (date of the Consent Order) were reviewed with the following noted:

1. **In one (1) instance the Company failed to provide the Office with a detailed explanation of the underlying nature, purpose, collateral and repayment source of a new investment when the new investment was recorded on Schedule BA.** The investment in question, Today Realty Advisors investment, has no loan agreement and was made on June 9, 2009 and appeared on Schedule BA in the December 31, 2009 and December 31, 2010 Annual Statements. The investment was disposed of in February of 2011 and had a duration of approximately 21 months. This is a violation of Paragraph 4(e) of the Consent Order.

**CORRECTIVE ACTION:** No further action is necessary since the investment was disposed of in February 2011.

**COMPANY RESPONSE:** The Company does not agree with this violation. The company maintains that the investment was improperly classified as a Schedule BA asset since the investment had an original maturity of less than one (1) year and should have been classified as a Schedule DA investment; therefore, would not require notification to the Office.

## **II. PARAGRAPH 5**

Paragraph 5 requires that the Company shall not enter into any additional guaranty agreements as a means to facilitate letters of credit and/or extensions of credit facilities from lenders similar to the transactions discussed in Note 14 of the Company's 2006 Annual Financial Statement.

Four (4) violations were found.

Note 14 of the Company's 2006 Annual Financial Statement listed three (3) transactions:

Net Magan II, LLC guaranty, \$15,979,000 expiration date: August 4, 2011

Lakeline Austin, Ltd. guaranty, \$12,404,000 expiration date: October 24, 2010

989 Market Street, LLC guaranty, \$8,410,000 expiration date: March 9, 2011

Each of the three (3) transactions was extended and currently has expiration dates of August 20, 2012, February 28, 2013 and July 9, 2012 respectively.

A fourth guaranty was issued in January 2008 in the amount of \$1,107,280. The Southern Aggregates, LLC guaranty is currently in effect and has an expiration date of December 28, 2011.

1. **The extensions of the three (3) transactions listed in Note 14 of the Company's 2006 Annual Financial Statement and the issuance of the fourth guaranty in January 2008 are in violation of Paragraph 5 of the Consent Order.**

**CORRECTIVE ACTION:** The Company should not extend or enter into additional guaranty agreements similar to the transactions discussed in Note 14 of the Company's 2006 Annual Financial Statement so that the provisions of the Consent Order can be met.

**COMPANY'S RESPONSE:** The Company does not agree that entering into the Southern Aggregates LLC guaranty is a violation of Paragraph 5 of the Consent Order. The company maintains that the guaranty is not similar to the 3 transactions listed in Note 14 of the Company's 2006 Annual Financial Statement; therefore, entering into the guaranty is not a violation.

### **III. PARAGRAPH 6**

Paragraph 6 requires that the Company shall at all times maintain compliance with Florida's minimum capital and surplus requirements as defined by Section 624.408, Florida Statutes and the provisions of the Consent Order.

Documentation supporting the Company's compliance with the requirements of this Paragraph were obtained and reviewed during the course of the examination.

No violations were found.

### **IV. PARAGRAPH 7**

Once the Company has achieved total compliance with the provisions of this Consent Order for four successive quarters, and its two most current quarterly financial statements each show that the Company's capital and surplus, after any adjustments of assets exceeding investment limitations, is \$10 million greater than the amount of capital and surplus required under Florida law, one of which must be supported by audited financial statements, and upon written approval from the Office, the Company will not be required to comply with Paragraphs 4(e), 4(g), and 4(h) of the Consent Order. Further, the amount of the Company's ongoing statutory deposit shall be capped at \$15 million as long as it continues to maintain surplus that is \$10 million greater than the amount of capital and surplus required under Florida Law as previously defined.

1. **The Company has not achieved total compliance with the provisions of the Consent Order due to the violations of Paragraph 4(e) and Paragraph 5 described above.**

**CORRECTIVE ACTION:** The Company should correct the deficiencies noted in Paragraph 5 in order to achieve total compliance with the Consent Order.

## **EXAMINATION FINAL REPORT SUBMISSION**

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