

2002 PROPERTY AND CASUALTY MARKET CONDUCT EXAMINATION

OF

LIBERTY AMERICAN INSURANCE COMPANY
(LIBERTY AMERICAN INSURANCE GROUP, INC.)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

DATE FILED: 03/18/03

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BUILDING CODE EFFECTIVENESS GRADE	ERROR! BOOKMARK NOT DEFINED.

EXECUTIVE SUMMARY

The purpose of the current examination was due to the need to confirm compliance with Florida Statutes as the Company is new to Florida and has not been examined previously. From a review of the consumer complaints filed, the Department focused its examination on the timely processing of claims, the Company's cancellation procedures, as well as the Company's premium calculation procedures.

There were two hundred seventy-three (273) files examined with seventy-eight (78) errors. There were \$451.02 in overcharges in which refunds were made during the examination and \$463.00 in undercharges. A pending refund is estimated at \$103,400.

Thirteen (13) complaint files were examined with six (6) errors. The Company failed to provide a specific reason for cancellation due to systems limitations and failed to deliver a policy timely.

Fifty (50) homeowners files were examined with forty (40) errors. The Company did not give the building code credit unless requested by the agent. It is estimated that 4,700 insureds were eligible for this credit. Incorrect base rates were programmed into the computer system and incorrect protection classes were used.

Fifty (50) mobile homeowners files were examined with eleven (11) errors. Only the base rates were programmed into the computer and when the computer defaulted to split out the hurricane and non-hurricane premium, it developed a rate that was not filed. The Company also failed to show correct deductibles or specific dollar amount of money on the declaration page.

Forty-eight (48) cancellations and twelve (12) nonrenewal files were examined with eleven (11) errors and two (2) errors respectively. Due to the systems limited space, the Company failed to provide a specific reason for the cancellations, and therefore engaged in a business practice of equity dating and overreturned premium.

One hundred (100) claim files were examined with eight (8) errors. The Company failed to document files as to follow-up, settlement, denial or closing without payment, failed to deny claims in writing, failed to acknowledge and act promptly in payment of claim, failed to properly adjust claim and failed to give a reasonable explanation in denial of claims.

The Company completed a rerate of the homeowners policies that would be eligible to receive a building code credit. A total of 6,942 insureds received a credit totaling refunds of \$199,030. The Company has also been requested to discontinue equity dating, address the concerns listed in the Disaster Recovery Plan Review and address the issue of attaching the Privacy Notice as an endorsement to the policy. Corrective action is to be reported to the Florida Department of Insurance thirty (30) days after receipt of the report.

INTRODUCTION

Liberty American Insurance Company (Company) is a domestic property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty market conduct examination. The scope of this examination was January 2001 through December 2001. The examination began December 2, 2001 and ended February 16, 2002. This is the first property and casualty market conduct examination of this insurer by the Florida Department of Insurance.

The purpose of the current examination was due to the need for verification of compliance with Florida Statutes and Administrative Rules..

During this examination, records reviewed included homeowners and mobile homeowners policies, cancellations/nonrenewals, claims and consumer complaints as reflected in the report. This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances the Company was requested to take corrective action as required, issue appropriate refunds, make all necessary filings with the Department and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings of this examination, \$341.00 was returned to Florida consumers due to overcharges of premium. An estimated \$103,400 will be refunded to four thousand seven hundred (4,700) Florida consumers due to failure to give credits for the Building Code Efficiency Grade.

CERTIFICATE OF AUTHORITY – AUTHORIZED LINES

GENERAL COMMENTS

The Certificate of Authority and Renewal Invoices were reviewed for all years within the scope of the examination.

EXAM FINDINGS

The review included verification of the lines of business the Company was authorized to write during the scope of the examination versus those lines actually being written. It also included verification that notification requirements were met for any lines of business that were discontinued.

No errors were found.

COMPANY OPERATIONS/MANAGEMENT

HISTORY/MANAGEMENT

Liberty American Insurance Company was originally organized on October 28, 1997 under the name Mobile United Property and Casualty Insurance Company and commenced writing business December 30, 1998. The name was changed to Liberty American Insurance Company on February 18, 2000. The Company's home office is located at 7785 66th Street North, Pinellas Park, FL 33780.

The Company was formed as a part of the Jerger Companies and was included in the sale of the Jerger Companies to Philadelphia Consolidated Holdings, Inc., in July 1999. The Company is a member of the Liberty American Insurance Group, Inc., which is a subsidiary of Philadelphia Consolidated Holdings, Inc. The Liberty American Insurance Group, Inc., is comprised of Liberty American Insurance Company, Mobile USA Insurance Company and Philadelphia Indemnity Insurance Company.

The Liberty American Insurance Group operates under the leadership of P. Daniel Eldridge, President & CEO; T. Bruce Meyer, Sr. Vice President & CFO; Charles B. Sadler, Vice President of Underwriting & Compliance; Ward Westbrook, Assistant Vice President of Underwriting; Ken Meyer, Assistant Vice President and Director of Marketing. There have been no substantive changes in the officers of the Company over the past year.

COMPANY PROCESSES/STATISTICAL AFFILIATIONS

Computer System

Liberty American Insurance Company has a LAN (local area network) setup with a CheckPoint firewall between Liberty and the Internet. There are two Gigatrend tape drives scheduled to backup data every night with full backups on weekends.

The Company has a contract with Iron Mountain Corporation for offsite storage of backup tapes. The Company also has a contract with SunGard Corporation for disaster recovery to supply the Company with off-site server and workstation hardware. With 24-hour notice, Liberty American personnel can go to SunGard's sites (Orlando or Atlanta) and restore the Liberty American LAN with SunGard's servers. Eighteen servers are Microsoft Operating Systems and one is Novell Operating System. All servers are on UPS (uninterruptible power source) systems to protect against short periods of power outages. The Company owns a portable generator large enough to run the entire building for extended power outages.

Anti-Fraud Plan

The Company has filed their Anti-Fraud Plan with the Florida Department of Insurance as required by Section 626.9891, Florida Statutes.

Mobile Homeowners Insurance Agencies, Inc. (MHIA) a managing general agency, is under contract with Liberty American Insurance Company to identify specific circumstances, events, patterns and other issues relating to possible fraud and to refer suspect claims to the Special Investigation Unit (SIU) for complete investigation and referral to the Department of Insurance, Division of Insurance Fraud. The Special Investigation Unit is made up of the Vice President of Claims and the Claims Supervisor.

Disaster Recovery Plan

The Company has developed a Disaster Recovery Plan to investigate, evaluate, negotiate and settle personal lines property claims in Florida.

Upon verification of an emergency situation, a Business Continuity team member is to begin implementing the Plan will contact the Plan Manager or Alternate Manager.

The Plan does contain two concerns: “1) Recovery of claims system and policy history will determine time frame required for full production. 2) All claim files are stored on site. If these are destroyed, it will be almost impossible to reconstruct them. Thus, provisions for imaging should be considered.” These are valid concerns and should be, if not already, addressed by management. The Company is requested to address these issues and advise the Florida Department of Insurance by letter or email within 30 days of receipt of the examination report.

The Plan indicates that within 24-72 hours, Standard Operating Procedures would be in place to handle Tropical Storms or Hurricanes having claims impact in Florida.

Internal Audit Procedures

The Philadelphia Insurance Companies, the holding corporation, has developed Internal Audit Procedures for use in reviewing Florida business.

The Plan consists of Internal Audit Programs designed to audit GAPP/Residual Value, Salvage/Subrogation, Reinsurance, Operational/Financial Audit, Claims Administration, Claims Disbursement and Processing/Reserving.

The audits are scheduled annually but can be requested in the interim if needed.

Privacy Plan

The Company has developed a Plan to meet the requirements of Emergency Rule 4ER-01. They currently show the Privacy Notice as an endorsement to each policy. The Company has been requested to reconsider this procedure otherwise the Notice would have to be filed and approved for attachment to the policy. The Company is requested to advise the Florida Department of Insurance in writing of their corrective action within 30 days of receipt of the examination report.

Statistical Affiliations

Liberty American Insurance Company is a subscriber to Insurance Services Office (ISO) for homeowners rules and forms and as such ISO does file rules and forms on behalf of the Company. The Company also independently files rates, rules and forms.

The National Independent Statistical Service (NISS) acts as the Company's official statistical agent.

Credit Reports

The Company does not use Credit Reports as an underwriting tool, but rather depends on the physical inspections of each risk.

OPERATIONS/MARKETING

Marketing

The Company primarily wrote mobile home risks until the fall of 1999 when a homeowners program was introduced. In 2001, homeowners became the primary line written. Homeowners and mobile homeowners are written in all areas of the State with the exception of coastal areas. The Company received approval to start writing condominiums May 15, 2001. None were written during the scope of this examination.

Business is marketed by a managing general agency utilizing independent licensed and appointed agents.

Agents/Agencies/MGA/Exchange of Business/Direct Reponse/Internet /Adjusters and Claims Handling

Liberty American Insurance Company uses Mobile Homeowners Insurance Agencies, Inc. (MHIA), a licensed and appointed managing general agency owned and operated by the Company to produce business through independent licensed and appointed agents located throughout Florida. Claims are also handled by the managing general agency. The Company maintains a web site (www.libertyamerican.com) that provides the consumer with information about the Company's history, financial status and its senior staff. Consumers can find the closest agent, report a claim or send an email to one of the

senior staff members from this web site. The Company maintains a staff of licensed and appointed in-house adjusters and utilizes the services of licensed and appointed independent adjusters when needed.

Lines of Business

During the scope of this examination, the Company wrote homeowners, mobile homeowners, and inland marine.

REVIEW OF POLICIES

HOMEOWNERS

Description of Product/Lines of Business

The Company has independently filed its homeowners program in the State of Florida. The HO3 4/91 Policy is utilized for owner-occupied and seasonal homes offering limits from \$65,000 to \$500,000 until December 1, 2001 when the maximum limits were reduced to \$275,000. Optional coverages and discounts are available to allow applicants to pick and choose coverage for their particular need. Each risk, with the exception of newly constructed homes, is inspected and photographed to insure that underwriting rules are met. They do not use credit ratings as an underwriting tool.

Premium and Policy Counts

Direct Premiums written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$ 524,224	749
2001	\$17,576,855	29,314

The premium and policy count for 2001 reflects a new homeowner's program introduced in November 2000 and continuing in 2001.

Examination Findings

Fifty (50) policy files were examined.

Forty (40) errors were found.

Errors affecting premium resulted in twenty-four (24) overcharges totaling \$341.00, five (5) undercharges totaling \$420.00 and seven (7) errors where the overcharges and undercharges offset each other.

The errors are broken down as follows:

1. Eighteen (18) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. These errors were due to incorrect base rates being programmed into the computer system. These errors resulted in nine (9) overcharges totaling \$12.00, which were under the \$5.00 waiver rule.

2. Fifteen (15) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. These errors were due to the failure to apply the building code enforcement grading schedule credits to eligible risks. The Company treated these credits as optional and applied them only when requested by the agent. These errors resulted in fifteen (15) overcharges totaling \$329.00 of which \$326.00 has been refunded by the Company. One (1) overcharge was under the \$5.00 waiver rule. The Company has been requested to rerate this line of business. Exhibit I. See Pending Issues Section.
3. Seven (7) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. These errors were due to the failure to apply the correct protection class. None of the errors affected premium.

MOBILE HOMEOWNERS

Description of Product/Lines of Business

Liberty American Insurance Company writes a Mobile Homeowners Policy on a HO3 4/84 Form. The Company offers six programs: 1) Premier - Manufactured or Modular Homeowners Program, 2) Imperial - Adult Park Homeowners Program, 3) Standard - Family Park Homeowners Programs, 4) Approved Sub-Division Programs, 5) Private Property Programs and 6) Rentals Held for Sale & Weekend Retreat Program.

Limits for Coverage A in the Premier Program start at \$25,000 up to an amount stated on the application, while the other programs have limits from \$10,000 to \$100,000. Replacement Cost is part of the basic coverage for the Premier, Imperial and Standard Programs and an option in the other programs for an additional charge.

Premium and Policy Counts

Direct Premiums written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
2000	\$1,024,041	2,203
2001	\$3,223,968	5,797

The Company received approval in August 2000 to write a new Manufactured Homeowners Program. The program was designed to attract the new double and triplewide manufactured and /or modular homes. The DPW for calendar year 2001 is largely the results of this new program.

Examination Findings

Fifty (50) policy files were examined.

Eleven (11) errors were found.

The errors are broken down as follows:

1. Five (5) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. These errors were due to only the base rate being programmed into the computer. As a result, the premiums for hurricane and non-hurricane did not add up to the correct premium total.

There were no overcharges in these instances because the total premium is correct.

2. Six (6) errors were due to failure to show correct deductibles or the specific dollar amount of the limits on the declaration page. This constitutes a violation of Section 627.701, Florida Statutes. These errors were due to programming errors and were corrected before the exam. These errors did not result in any overcharges or undercharges.

CANCELLATIONS/NONRENEWALS REVIEW

DESCRIPTION OF CANCELLATION/NONRENEWAL PROCEDURES

The Company cancels and nonrenews policies giving the insured the number of days notice required by statutes and in most instances nine days mailing time. The insured and agent receive a copy of the notice. In addition, the agent received a written explanation of the specific reason for the cancellation or nonrenewal. If the cancellation or nonrenewal was due to an underwriting rule and the insured can bring the risk into compliance, the Company will issue a Coverage Continuation Notice and the policy is kept in-force without any lapse in coverage. If the reason for cancellation is non-pay, payment of the premium results in the issuance of a Coverage Continuation Notice. As long as the Company has premium on hand, they continue coverage until all premium is used up and then will cancel for non-pay. Notices are mailed to the insured in the interim in an attempt to receive the required premium to keep the policy in-force.

CANCELLATION REVIEW

Forty (48) cancelled policies were examined.

Eleven (11) errors were found.

Two (2) errors resulted in overreturns totaling \$43.00.

The errors are broken down as follows

1. Seven (7) errors were due to failure to provide a specific reason for cancellation. This constitutes a violation of Section 627.4091, Florida Statutes. These errors were due to system limitations for fully explaining the reason for cancellation. As of August 27, 2001, the Company made changes in the system to allow sufficient room to enter a specific reason for cancellation. Lack of a specific reason was one of the reasons for some of the consumer complaints.
2. Two (2) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. These errors were due to overreturns on unearned premium. These errors resulted in overreturns of \$43.00.
3. Two (2) errors were due to failure to follow the cancellation statutes. This constitutes a violation of Section 627.4133, Florida Statutes. These errors were due to equity dating. The insured did not pay the full premium. The Company stayed on the risk until all premium received was earned and then issued a cancellation for nonpayment. The Company has been requested to cease this practice. Exhibit III. See Pending Issues Section.

NONRENEWAL REVIEW

Twelve (12) nonrenewed policies were examined.

Two (2) errors were found.

The errors are broken down as follows:

1. Two (2) errors were due to failure to provide specific reasons for nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. These errors were due to system limitations for fully explaining the reason for nonrenewal. As of August 27, 2001, the Company made changes in the system to allow sufficient room to enter a specific reason for nonrenewal. Lack of a specific reason was one of the causes for some of the consumer complaints. The Company corrected this problem prior to the examination.

COMPLAINTS/INVESTIGATION REVIEW

A complete record of all the complaints received by the Company since they starting writing business has been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company. There were no violations found that were indicative of improper business practices.

Consumer complaints received during the scope of examination were reviewed and findings are as follows:

DOI RECEIVED COMPLAINTS/INVESTIGATIONS REFERRAL

Consumer Services Ref. Number	Consumer's Last Name	Alleged Violation	Violation Found	Comments
S-0001-005-6851	Belitti	Coverage Question	Failure to deliver policy timely. Section. 627.421 FS	None
S-0102-002-3350	Franklin	Incorrect Cancellation	None	None
S-0102-001-9234	David	Claim Daniel	None	None
S-0102-001-2192	Roberts	Cancellation/nonrenewal, Underwriting	None	None.
S-0001-006-3532	Christian	Cancellation/nonrenewal, Underwriting	Failure to give specific reason for cancellation Section 627.4091, FS	None
S-0001-004-5083	Shultz	Claim Problems	Section 627.4091, FS	None
S-0001-005-5300	Storr	Premium Refund	None	None
S-0102-001-4324	Scott	Premium Issue	None	None
S-0102-000-7119	McKinney	Claim Denial	None	None
S-0001-006-6860	Callaway	Incorrect Cancellation	Section 627.4091, FS	None
S-0001-006-1467	Salisbury	Premium Refund	Section 627.4091, FS	None

EXAMINATION FINDINGS:

ELEVEN (11) DOI REFERRAL COMPLAINTS WERE EXAMINED.

Five (5) errors were found.

The errors are broken down as follows:

1. Four (4) errors were due to failure to provide a specific reason for cancellation. This constitutes a violation of Section 627.4091, Florida Statutes. These errors were due to failure to give a specific reason or explanation for the cancellation.
2. One (1) error was due to failure to deliver the policy timely. This constitutes a violation of Section 627.421, Florida Statutes. This error was due to the agent failing to promptly forward the application and money to the Company.

COMPANY RECEIVED COMPLAINTS

Company Received*	Consumer's Last Name	Alleged Violation	Violation Found	Comments
04/04/01	Walloch	Cancellation	None	None
01/03/01	Owens	Cancellation	Section 627.4091, FS	None

Two (2) complaints received by the Company were examined.

One (1) error was found.

1. One (1) error was due to failure to provide a specific reason for cancellation. This constitutes a violation of Section 627.4091, Florida Statutes. This error was due to the insufficient explanation of the reason for cancellation by the Company.

CLAIMS REVIEW

DESCRIPTION OF CLAIMS REVIEWED

One hundred (100) claims were examined. Seventy-five (75) homeowners claims and twenty-five (25) mobile homeowners claims were examined. The claims included the following types of coverage: wind, lightning, theft, and water damages.

Examination Findings

Eight (8) errors were found.

One (1) error resulted in an underpayment totaling \$110.02.

The errors are broken down as follows:

1. Two (2) errors were due to failure to document the file as to follow-up, settlement, denial or closing without payment. This constitutes a violation of Rule 4-166.024, Florida Administrative Code. These errors were due to failure to document the file to show what action was taken to resolve the claim.
2. Two (2) errors were due to failure to maintain records. This constitutes a violation of Section 627.318, Florida Statutes. One file was void of paperwork as to the current status of claim. One file contained a letter of acknowledgment with no date.
3. Two (2) errors were due to failure to deny a claim in writing. This constitutes a violation of Section 626.9541, (1) (i) (3) (f) Florida Statutes.
4. One (1) error was due to failure to acknowledge and act promptly in the payment of a claim. This constitutes a violation of Section 626.9541, (1) (i) (3) (c) Florida Statutes. The lightning claim was received with all receipts and estimates on July 19, 2001, but the check was not mailed until August 15, 2001. The file indicated that the insured used equipment in his business and needed the claim settlement quickly. This error did not result in any under or over payment.
5. One (1) error was due to failure to properly adjust the claim. This constitutes a violation of Section 626.877, Florida Statutes. The claim payment did not include sales tax. This error resulted in \$110.02 underpayment, which has been paid by the Company.

PENDING ISSUES

The following issues were pending at the conclusion of the examination field work:

CORRECTIVE ACTIONS

The Company has been requested to discontinue equity dating and confirm in writing that this practice has ceased. Confirmation should be provided within 30 days of receipt of the examination report.

EXHIBITS

SUBJECT

EXHIBIT NUMBER

REQUEST MEMO TO RE-RATE HOMEOWNERS

I

PRELIMINARY ADVISORY - EQUITY DATING

II

