

**REPORT ON EXAMINATION**  
**OF**  
**PENINSULAR SURETY COMPANY**

**MIAMI FLORIDA**

**AS OF**

**DECEMBER 31, 2009**

**BY THE**  
**OFFICE OF INSURANCE REGULATION**

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**TALLAHASSEE, FLORIDA**

November 5, 2010

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

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, and Chapter 627, Part XII of the Florida Statutes, 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, 2009, of the financial condition and corporate affairs of:

**PENINSULAR SURETY COMPANY  
7005 NW 41<sup>ST</sup> STREET  
MIAMI, FLORIDA 33166**

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

## **SCOPE OF EXAMINATION**

This examination covered the period of January 1, 2009, through December 31, 2009. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2008. This examination commenced with planning at the Office on July 12, 2010, to July 15, 2010. The fieldwork commenced on August 9, 2010, and concluded as of November 5, 2010.

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

The Financial Condition Examiners Handbook requires that the examination be planned and performed to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process.

This report of examination is confined to significant adverse findings, a material change in the financial statements or other information of regulatory significance or requiring regulatory action. The report comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special explanation or description.

## **SUMMARY OF SIGNIFICANT FINDINGS**

### **Current Exam Findings**

The following is a summary of material adverse findings, significant non-compliance findings, or material changes in the financial statements noted during this examination.

#### **General**

The Company did not have a disaster recovery plan in place as required by Consent Order 89163-07-CO, filed February 28, 2007. Subsequent event: The Company submitted a revised disaster recovery plan for approval on September 28, 2010.

The Company failed to submit to the Office for approval the Consulting Contracts with both shareholders as required by Consent Order 91247-07-CO, filed August 16, 2007. Subsequent event: On September 28, 2010, the Company submitted consulting contracts for both shareholders.

The Company's MGA Bail Bond Agreements did not meet all requirements of Section 626.7451 (2), Florida Statutes. Subsequent event: The Company submitted revised MGA agreements for approval in September 2010.

As a result of this examination, exam adjustments were noted due to reclassification and failure to record deferred taxes. The Company's filed annual statement was not in compliance with the NAIC annual statement instructions. Subsequent event: On September 28, 2010, the Company filed an Amended 2009 Annual Report which properly addressed these items.

The Company failed to properly report the losses and loss adjustment expenses on their Schedule P of the filed annual statement with the Office in accordance with the NAIC Annual Statement Guidelines and SSAP 55 and reported all Losses and Loss Adjustment Expenses on the LAE expense line. Subsequent event: The Amended 2009 Annual Report, filed September 28, 2010, properly recorded the losses on Schedule P.

### **Prior Exam Findings**

The following is a summary of significant adverse findings contained in the Office's prior examination report as of December 31, 2008, along with the resulting action taken by the Company.

#### **Claims Handling Procedures Manual**

The Company failed to establish procedures for handling written complaints in accordance with Section 626.9541(1) (j), Florida Statutes. Resolution: The Company developed and maintained a claims handling manual that included complaint handling procedures as required by the statute.

#### **Corporate Records**

The Company failed to maintain recorded minutes of the Board of Directors (Board) meetings and approval of Company transactions and events in accordance with Section 607.1601, Florida

Statutes. **Resolution:** The Company maintained recorded minutes of the Board and approval of Company transactions and events during the examination period.

The Company failed to maintain recorded minutes of the Board approval and authorization of investments in accordance with Section 625.304, Florida Statutes. **Resolution:** The Company maintained recorded minutes of the Board and authorization of investments during the current exam period.

## HISTORY

### General

The Company was incorporated in Florida on March 7, 2007, and commenced business on August 17, 2007, as Peninsular Surety Company.

The Company was party to two Consent Orders regarding the application for the issuance of a Certificate of Authority, 89163-07-CO, and 91247-07-CO. The Company failed to comply with the provisions of these consent orders.

Based on our review, the Company did not have a disaster recovery or a business continuity plan for the period under examination as required by Consent Order 89163-07-CO. Article 22 (f) of that Consent Order required that a disaster coordination/response plan be put in place in the event of one or more catastrophic events such as hurricanes. The plan was to address the response to disaster, including impact to the policyholders, business continuity and the Company's office and/or records. The plan should also address the ability to outsource to independent entities if necessary. If contracting with an outside entity was anticipated plans were to also be in place with those entities. **Subsequent event:** The Company submitted an

updated disaster coordination/response plan on September 28, 2010. The plan is under review by the Office.

The Company was authorized to transact the business of Surety insurance only in Florida, as of December 31, 2009.

The Articles of Incorporation and the Bylaws were not amended during the period covered by this examination.

### **Dividends to Stockholders**

The Company did not declare dividends to its stockholders in 2009.

### **Capital Stock and Capital Contributions**

As of December 31, 2009, the Company's capitalization was as follows:

Number of authorized common capital shares	25,000
Number of shares issued and outstanding	25,000
Total common capital stock	\$2,500,000
Par value per share	\$100.00

Control of the Company was maintained by its two shareholders; John F. Troy and Sheri L. Dwyer. Each had an ownership interest of 50% of the Company's issued and outstanding stock.

### **Surplus Debentures**

The Company had no surplus debentures as of December 31, 2009.

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

The Company had no acquisitions, mergers, disposals, dissolutions, and purchase or sale through reinsurance for the period under examination.

## **CORPORATE RECORDS**

The recorded minutes of the shareholder, Board and certain internal committees were reviewed for the period under examination. The recorded minutes of the Board adequately documented its meetings and approval of Company transactions and events in accordance with Section 607.1601, Florida Statutes, including the authorization of investments as required by Section 625.304, Florida Statutes.

### **Conflict of Interest**

The Company adopted a policy statement requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code.

## **MANAGEMENT AND CONTROL**

### **Management**

The annual shareholder meeting for the election of directors was held in accordance with Sections 607.1601 and 628.231, Florida Statutes. Directors serving as of December 31, 2009, were:

## Directors

Name and Location	Principal Occupation
John F. Troy Naples, Florida	CEO/President & Treasurer Peninsular Surety Company
Sarah Burt Tallahassee, Florida	Secretary Peninsular Surety Company
Sheri Dwyer Parkland, Florida	Assistant Treasurer Peninsular Surety Company
Marshall Dore Louis Miami, Florida	Attorney
Joseph S. Rosenbaum Miami, Florida	Attorney

The Board in accordance with the Company's bylaws appointed the following senior officers:

## Senior Officers

Name	Title
John F. Troy	CEO/President & Treasurer
Sarah Burt	Secretary
Sheri Dwyer	Assistant Treasurer

Following were the principal internal board committees and their members as of December 31, 2009:

Executive Committee	Audit Committee	Compensation Committee
John F. Troy *	John F. Troy *	John F. Troy *
Sarah Burt	Joseph S. Rosenbaum	Joseph S. Rosenbaum
Sheri Dwyer	Marshall Dore Louis	Marshall Dore Louis

\* **Chairman**

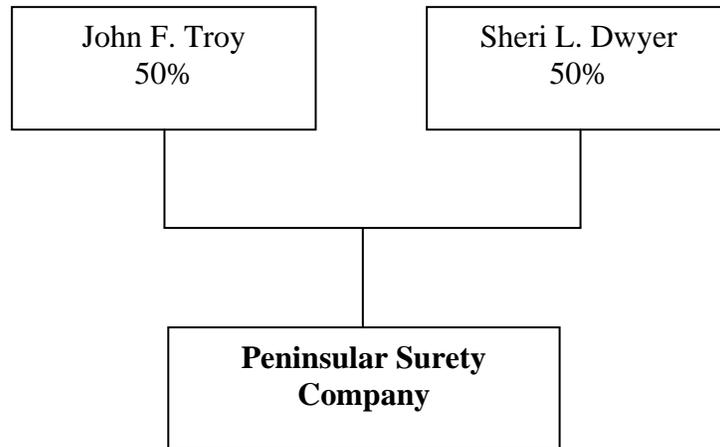
## **Affiliated Companies**

The Company was not a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code.

A simplified organizational chart as of December 31, 2009, reflecting the ownership structure is shown below.

### **PENINSULAR SURETY INSURANCE COMPANY ORGANIZATIONAL CHART**

**DECEMBER 31, 2009**



The following agreements were in effect between the Company and its Stockholders:

## **FIDELITY BOND AND OTHER INSURANCE**

The Company did not have the NAIC recommended Fidelity Bond coverage during the period covered by this examination.

**Subsequent Event:** The Company obtained fidelity bond coverage, for the period January 1, 2010 to January 1, 2011, in the amount of \$250,000 with a deductible of \$5,000, which was an amount considered adequate by NAIC guidelines.

The Company also maintained Directors, Officers (D&O) and General Liability Insurance coverage with limits of \$1,000,000 to \$3,000,000 and deductibles ranging from \$5,000 to \$50,000.

## **PENSION, STOCK OWNERSHIP AND INSURANCE PLANS**

The Company had no direct employees; therefore, it had no pension, stock ownership or insurance plans.

## **TERRITORY AND PLAN OF OPERATIONS**

The Company was authorized to transact insurance only in the state of Florida.

### **Treatment of Policyholders**

The Company established procedures for handling written complaints in accordance with Section 626.9541(1) (j), Florida Statutes.

The Company maintained a claims procedure manual that included detailed procedures for handling each type of claim in accordance with Section 626.9541(1) (i) 3a, Florida Statutes.

## COMPANY GROWTH

### Profitability of Company

The following table shows the profitability trend (in dollars) of the Company for the period of operations, as reported in the filed annual statements.

	2009	2008	2007
Premiums Earned	1,146,300	485,839	-
Net Underwriting Gain/(Loss)	183,791	(122,091)	(98,656)
Net Income	201,527	(63,038)	(40,030)
Total Assets	2,887,478	2,680,235	2,559,970
Total Liabilities	257,067	251,351	0
Surplus As Regards Policyholders	2,630,411	2,428,884	2,559,970

## LOSS EXPERIENCE

The Company did not have significant changes in the loss experience as of December 31, 2009.

## REINSURANCE

### Assumed

The Company assumed no risk through reinsurance.

### Ceded

The Company ceded no risk through reinsurance.

## **ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in Miami, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements annually for the years 2008 and 2009 in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, Florida Administrative Code.

The Company's accounting records were maintained on two standard computers. The Company was not able to provide a general ledger that tied into the filed annual statement. The CPA prepared general accounts were reconciled to the line items of the annual statement submitted to the Office. Subsequent to December 31, 2009, the Company obtained QuickBooks software where they maintained their accounting records.

The Company and non-affiliates had the following agreements:

### **Managing General Agents Bail Bond Agreement**

The Company was party to a Managing General Agent (MGA) Bail Bond Agreement with Louis Tousent for the purpose of supervising and conducting the writing of bail bond insurance in the state of Florida. Under the terms of the agreement, the agency was specifically excluded from authority to settle claims on behalf of the Company or bind reinsurance or retrocession.

The Company's MGA Bail Bond Agreement did not meet all requirements of Section 626.7451 (2), Florida Statutes, which required that funds be remitted to the Company on a monthly or

more frequent basis. Subsequent event: On September 28, 2010, the Company submitted revised MGA Agreements for review.

### **Independent Auditor Agreement**

The Company engaged Thomas Howell Ferguson PA to perform the statutory audits of its financial statements for the year under examination, as required by Section 624.424(8), Florida Statutes, and Rule 69O-137.002, Florida Administrative Code.

### **Information Technology Report**

Gary Farmer, CFE, AES, performed an evaluation of the information technology and computer systems of the Company.

### **STATUTORY DEPOSITS**

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

STATE	Description	Par Value	Market Value
FL	Cash	<u>\$ 100,000</u>	<u>\$ 100,000</u>
	TOTAL FLORIDA DEPOSITS	\$ 100,000	\$ 100,000
	TOTAL SPECIAL DEPOSITS	<u><u>\$ 100,000</u></u>	<u><u>\$ 100,000</u></u>

## **FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Company's financial position as of December 31, 2009, 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."

**PENINSULAR SURETY COMPANY**  
**Assets**

**DECEMBER 31, 2009 (Amended)**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Cash	\$2,881,602		\$2,881,602
Deferred Tax Asset	9,299		9,299
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Totals	\$2,890,901		\$2,890,901
	<hr/> <hr/>		

**PENINSULAR SURETY COMPANY**  
**Liabilities, Surplus and Other Funds**

**DECEMBER 31, 2009 (Amended)**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$100,000	(\$24,292)	\$75,708
Loss adjustment expenses	0	24,292	24,292
Other expenses	51,093		51,093
Taxes, licenses and fees	12,654		12,654
Current Federal Income Taxes	18,663		18,663
Unearned premium	98,233		98,233
Total Liabilities	\$280,643	\$0	\$280,643
Total Common Stock	\$2,500,000		\$2,500,000
Gross paid in and contributed surplus	100,000		100,000
Unassigned funds (surplus)	10,258		10,258
Surplus as regards policyholders	\$2,610,258		\$2,610,258
Total liabilities, surplus and other funds	\$2,890,901	\$0	\$2,890,901

**PENINSULAR SURETY COMPANY**  
**Statement of Income**

**DECEMBER 31, 2009 (Amended)**

**Underwriting Income**

Premiums earned	\$1,146,300
<b>Deductions:</b>	
Losses incurred	\$102,832
Loss adjustment expenses incurred	
Other underwriting expenses incurred	876,960
Total underwriting deductions	<u>\$979,792</u>
Net underwriting gain or (loss)	<u>\$166,508</u>

**Investment Income**

Net investment income earned	\$17,736
Aggregate write - ins for miscellaneous income	1,307
Net income before dividends to policyholders after capital gains tax and before all other federal & foreign income taxes	<u>\$185,551</u>
Net Income, after dividends to policyholders, but before federal & foreign income taxes	\$185,551
Federal income tax expense	<u>\$18,663</u>
Net Income (loss)	<u><u>\$166,888</u></u>

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year	\$2,428,884
Net Income	\$166,888
Changes in net deferred income tax	(34,437)
Change in non-admitted assets	43,736
Aggregate write-ins for gains and losses in surplus	5,187
Examination Adjustment	<u>0</u>
Change in surplus as regards policyholders for the year	<u>\$181,374</u>
Surplus as regards policyholders, December 31 current year	<u><u>\$2,610,258</u></u>

A comparative analysis of changes in surplus is shown below.

**PENINSULAR SURETY COMPANY**  
**Comparative Analysis of Changes In Surplus**

**DECEMBER 31, 2009**

The following is a reconciliation of Surplus as regards policyholders between that reported by the Company in an Amended 2009 Annual filing and as determined by the examination.

Surplus as Regards Policyholders December 31, 2009, per Amended Annual Statement	\$2,610,258
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	<u>PER COMPANY</u>	<u>PER EXAM</u>	<u>INCREASE (DECREASE) IN SURPLUS</u>
<b>ASSETS:</b>			
No adjustments			
<b>LIABILITIES:</b>			
Losses	\$100,000	\$75,708	\$24,292
Loss adjustment	0	24,292	(24,292)
Net Change in Surplus:			\$0
Surplus as Regards Policyholders December 31, 2009, per Examination			\$2,610,258

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

**Losses and Loss Adjustment Expenses** \$100,000

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, 2009, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements.

The Company failed to properly report the Losses and Loss Adjustment Expenses on their Schedule P of the filed annual statement with the Office and reported all Losses and Loss Adjustment Expenses on the LAE expense line. Subsequent event: The Company's amended report properly treated these entries and correctly displayed them on Schedule P.

The Office engaged an independent actuarial firm, Alliance Actuarial Services Inc., to review the reserves carried in the Company's balance sheet as of December 31, 2009 and they were in concurrence with this opinion.

### Capital and Surplus

**Surplus as regards to policyholders** \$2,610,258

The amended report, filed on September 28, 2010, had a surplus as regards to policyholders balance of \$2,610,258, which exceeded the minimum of \$1,500,000 required by Section 624.408, Florida Statutes.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Peninsular Surety Company**, as of December 31, 2009, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's surplus as regards policyholders was \$2,610,258 which exceeded the minimum of \$1,500,000 required by Section 624.408, Florida Statutes.

In addition to the undersigned, Roshanak Fekrat, CFE, CPA, CIA, Examiner in Charge, Gary Farmer, CPA, CFE, AES, Participating Examiner and IT Manager; and Aram Morvari, MBA, Participating Examiner, of Global Insurance Enterprises and Richard Lo, FCAS, MAAA, FCA, Actuary, of Alliance Actuarial Services, Inc. participated in the examination. Maurice Fuller, Financial Examiner/Analyst II, and Fidel Gonzalez, Financial Examiner/Analyst Supervisor, with the Office also participated in the examination.

Respectfully submitted,

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Kethessa Carpenter, CPA  
Financial Examiner/Analyst Supervisor  
Florida Office of Insurance Regulation