

**REPORT ON EXAMINATION**  
**OF**  
**SOUTH FLORIDA PHYSICIANS**  
**EXCESS INSURING TRUST**

**MIAMI, FLORIDA**

**AS OF**  
**JUNE 30, 2005**

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

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Tallahassee, Florida

October 13, 2006

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 624.486, 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 June 30, 2005, of the financial condition and corporate affairs of:

**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**19 West Flagler Street, Suite 711**  
**Miami, FL 33130**

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

## **SCOPE OF EXAMINATION**

This examination covered the period of July 1, 2002 through June 30, 2005. The Trust was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of June 30, 2002. This examination commenced, with planning at the Office, on May 1, 2006, and concluded as of October 13, 2006. 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, 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 Trust.

The examination included a review of the corporate records and other selected records deemed pertinent to the Trust's operations and practices. In addition, the Trust's independent audit reports and certain work papers prepared by the Trust'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 Trust's assets and liabilities as reported by the Trust in its annual statement as of June 30, 2005. Transactions subsequent to year-end 2005 were reviewed where relevant and deemed significant to the Trust's financial condition.

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

Based on the review of the Trust's control environment and the materiality level set for this examination, reliance was placed on work performed by the Trust's CPAs, after verifying the statutory requirements, for all accounts.

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

There were no adverse findings contained in the Office's prior examination as of June 30, 2002.

## **HISTORY**

### **General**

The Trust was approved on July 1, 1985 under the laws of the State of Florida as a Medical Malpractice Self Insurance Trust Fund and commenced business on July 1, 1985 under the name South Florida Physicians Excess Insuring Trust.

In accordance with Section 627.357, Florida Statutes and Rule 69O-187.004, Florida Administrative Code, the Trust was authorized to operate a self insurance trust fund and to provide professional medical malpractice liability insurance coverage for ophthalmologists who were

members of the South Florida Physicians Excess Insuring Trust. All members were subject to assessments for any deficits that may occur in the Trust.

The membership of the Trust was limited to ophthalmologists who were duly licensed by the State of Florida and practice in Palm Beach, Broward or Dade counties. Membership was limited to new ophthalmologists joining existing members. At June 30, 2005, the Trust had 67 members.

The bylaws were not amended during the period covered by this examination.

### **Profitability of Trust**

The following table shows the profitability trend (in dollars) of the Trust for the period of examination. A deficit in any fund year is required to be eliminated, either from unencumbered surplus from another fund year or years or, upon approval of the Office, by assessment of the membership, if necessary.

	<b>2005</b>	<b>2004</b>	<b>2003</b>
Premiums Earned	87,156	77,333	113,030
Net Underwriting Gain/(Loss)	521,260	45,395	(29,450)
Net Income	599,157	103,739	63,368
Total Assets	4,031,464	3,939,414	3,973,081
Total Liabilities	1,550,206	1,647,569	1,754,582
Trustees Account	2,481,258	2,291,845	2,218,499

### **Management**

The annual member meeting for the election of Trustees was held in accordance with Rule 69O-187.010 (1), Florida Administrative Code. Trustees serving as of June 30, 2005 were as follows:

## Trustees

<b>Name and Location</b>	<b>Principal Occupation</b>
Warren Lieberman, MD	Ophthalmologist
Stephen M. Kulvin, MD	Ophthalmologist
Eugene Eisner , MD	Ophthalmologist

The Board of Trustees in accordance with the Trust's bylaws appointed the following senior officers:

## Senior Officers

<b>Name</b>	<b>Title</b>
Warren Lieberman, MD	President
Stephen M. Kulvin, MD	Vice-President
Eugene Eisner , MD	Secretary/ Treasurer

## Trust Records

The recorded minutes of the Board of Trustees were reviewed for this examination. The recorded minutes of the Board adequately documented its meetings and approval of Trust transactions in accordance with Section 607.1601, Florida Statutes, including the authorization of investments as required by Section 625.304, Florida Statutes.

## FIDELITY BOND

The Trust maintained fidelity bond coverage of \$250,000 with a deductible of \$2,500 which the Trust deemed to be sufficient to protect the Fund against the misappropriation or misuse of any monies or securities in accordance with Rule 69O-187.005 (5), Florida Administrative Code.

## **INSURANCE PRODUCTS**

The Trust will pay on behalf of the insured all sums that the insured shall become legally obligated to pay as damages because of any claims for dental malpractice. These claims were not to exceed the \$500,000 per occurrence or the \$1,500,000 annual aggregate.

### **Territory**

The Trust was authorized to transact business only in the State of Florida.

### **Treatment of Members**

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

## **REINSURANCE**

The Trust neither assumed nor ceded any reinsurance risk during the examination period.

## **ACCOUNTS AND RECORDS**

An independent CPA audited the Trust's statutory basis financial statements annually for the fiscal years ending on June 30, 2003, 2004 and 2005, in accordance with Rule 69O-187.007(1), Florida Administrative Code. Supporting work papers were prepared by the CPA as required by Rule 69O-187.007, Florida Administrative Code.

In accordance with Rule-69O-187.007, Florida Administrative Code, the trustees filed a report as to the financial condition, loss experience and operation expense of the Trust on Form D14-342 titled

“Medical Malpractice Self Insurance Trust Fund Annual Financial Statement”, for the fiscal years ended June 30, 2003, 2004 and 2005.

The Trust’s accounting records were maintained on a computerized system. The Trust’s balance sheet accounts were verified with the line items of the annual statement submitted to the Office.

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

The Trust and non-affiliates had the following agreements:

**Custodial Agreement**

The Trust utilized the investment and custodial services of Northern Trust Bank, NA (Northern).

**Service Agent Agreement**

The Trust had a service agent agreement with Medical Service Agents, Inc. (MSA) to provide the services necessary to maintain a self insurance trust fund. The agreement included administrative management and financial services in accordance with Rule 69O-187.002, Florida Administrative Code. MSA received a fee of \$1,000 per member annually as compensation of these services. The terms of the agreement, which originated in 2001, were for two years with an automatic two year extension provided that each party did not give a written cancellation notice.

**Independent Auditor Agreement**

The Trust engaged Morrison, Brown, Argiz and Company, CPA, for the purpose of auditing the balance sheet and statutory financial statements. The Trust also engaged Freeman, Buzyner and

Gero, CPA, for the purpose of reporting the aforementioned information to the Office based on their compilation of the balance sheet and statutory financial statements.

### **FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Trust's financial position as of June 30, 2005, 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 Trustees Account."

**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**Assets**

**June 30, 2005**

	<b>Per Company</b>	<b>Examination</b>	<b>Per Examination</b>
		<b>Adjustments</b>	
Bonds	\$3,920,008		\$3,920,008
Cash on deposit	46,661		46,661
Premiums due	30,956		30,956
Accrued interest	33,839		33,839
	<hr/>		
Totals	\$4,031,464	\$0	\$4,031,464
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**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**Liabilities and Trustees Account**

**June 30, 2005**

	Per Company	Examination Adjustments	Per Examination
Losses: Incurred but not reported	\$935,000		\$935,000
Loss adjustment expenses	165,000		165,000
Other liabilities	411,000		411,000
Unearned premium	39,206		39,206
	<hr/>		<hr/>
Total Liabilities	\$1,550,206		\$1,550,206
Trustees account	<hr/> \$2,481,258		<hr/> \$2,481,258
Total liabilities and trustees account	<hr/> <u>\$4,031,464</u>		<hr/> <u>\$4,031,464</u>

**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**Statement of Income**

**June 30, 2005**

**Underwriting Income**

Premiums earned	\$87,156
DEDUCTIONS:	
Losses incurred	(425,000)
Loss expenses incurred	(57,570)
Administrative expenses	12,870
Other expenses	35,596
Total underwriting deductions	<u>(\$434,104)</u>
Net underwriting gain or (loss)	\$521,260

**Investment Income**

Net investment income earned	\$77,140
Net realized capital gains or (losses)	757
Net investment gain or (loss)	<u>\$77,897</u>

**Other Income**

Total other income	\$0
Net income before dividends to policyholders and before federal income taxes	\$599,157
Dividends to policyholders	0
Net Income, after dividends to policyholders, but before federal income taxes	<u>\$599,157</u>
Federal income taxes	<u>0</u>
Net Income	\$599,157

**Trustees Account**

Trustees account June 30 prior year	\$2,291,845
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**Gains and (Losses) in Surplus**

Net Income	\$599,157
Net unrealized capital gains or losses	(9,744)
Aggregate write-ins for gains and losses in surplus	0
Return of Member Surplus	(400,000)
Change in trustees account for the year	<u>\$189,413</u>
Trustees account June 30 current year	<u><u>\$2,481,258</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

<b>Losses and Loss Adjustment Expenses</b>	<b><u>\$1,100,000</u></b>
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The total reserve included losses incurred but not reported. In determining the liability for losses incurred but not reported, management considered among other factors, the Trust's loss experience, the volume of activity and economic trends. Adjustments of estimates and differences between estimates and amounts subsequently paid were reflected in operations as they occurred.

Medical malpractice claims develop slowly over a number of years. Accordingly, reserves for losses and loss adjustment may be more or less than the amount ultimately paid for all claims and related expenses. If a deficit existed in any year after the reserve for losses and loss adjustment had been established, the members of the Trust would be assessed.

The Office actuary reviewed work papers provided by the Trust and was in concurrence with this opinion .

**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**Comparative Analysis of Changes In Trustees Account**

**June 30, 2005**

The following is a reconciliation of trustees account between that reported by the Company and as determined by the examination.

Trustees account	
June 30, 2005, per Financial Statement	\$2,481,258

<u>PER</u>	<u>PER</u>	<u>INCREASE</u>
<u>COMPANY</u>	<u>EXAM</u>	<u>(DECREASE)</u>
		<u>IN SURPLUS</u>

ASSETS:  
No adjustment.

LIABILITIES:  
No adjustment.

Net Change in Trustees account:	<u>0</u>
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Trustees account	
June 30, 2005, Per Examination	<u><u>\$2,481,258</u></u>

## **SUMMARY OF FINDINGS**

### **Compliance with previous directives**

There were no previous directives, nor compliance issues.

### **Current examination comments and corrective action**

There were no items of interest or corrective action to be taken by the Company regarding findings in the examination as of June 30, 2005.

## CONCLUSION

The customary insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **South Florida Physicians Excess Insuring Trust** as of June 30, 2005, consistent with the insurance laws of the State of Florida.

In accordance with the examination findings, the Trustees Account was \$2,481,258.

In addition to the undersigned, John C. Berry, Financial Examiner/Analyst Supervisor, participated until the examination was suspended. Then, Kethessa Carpenter, CPA, Financial Examiner/Analyst Supervisor and Joseph Boor, FCAS, Office Actuary, participated in the examination to completion.

Respectfully submitted,

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Jay C. Ambler  
Financial Examiner/Analyst II  
Florida Office of Insurance Regulation