

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

**AS OF**  
**JUNE 30, 2002**

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

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Tallahassee, Florida

November 21, 2003

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

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes (FS), 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, 2002, of the financial condition and corporate affairs of:

**South Florida Physicians Excess Insuring Trust**  
**19 West Flagler Street, Suite 711**  
**Miami, Florida 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, 1998 through June 30, 2002. Representatives of the Florida Office of Insurance Regulation (Office) last examined the Trust as of June 30, 1998. This examination commenced with planning at the Office on March 11, 2003 to March 14, 2003. The fieldwork commenced on March 17, 2003 and was concluded as of November 21, 2003. This exam was suspended on May 16, 2003. Due to scheduling, this examination resumed on October 13, 2003. 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 4-137.001(4) and 4-138.001, Florida Administrative Code (FAC), with due regard to the statutory requirements of the insurance laws and rules of the State of Florida, specifically Section 627.357, FS and Rule 4-187, FAC.

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 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, 2002. Transactions subsequent to fiscal year-end 2002 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 except some investment items.

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

There were no adverse findings contained in the Office's prior examination report as of June 30, 1998.

## **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, with the name of South Florida Physicians Excess Insuring Trust.

In accordance with Section 627.357, FS, and Rule 4 – 187.004, FAC, the Trust was authorized to operate as a self-insurance trust fund and to provide professional medical malpractice liability insurance coverage for physicians who are members of the Trust. All members are subject to assessments for any deficits that may occur in the Trust.

The membership of the Trust is limited to physicians, who are members of the South Florida Physicians Excess Insuring Trust, are duly licensed by the State of Florida, and practice in Dade, Broward, Palm Beach, and Collier counties. At June 30, 2002, the Trust had 75 members.

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

### **Profitability of the Trust**

The Trust had an underwriting loss of \$663,413 and a net loss of \$505,939 as of June 30, 2002. 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.

## Management

The annual member meeting for the election of trustees was held in accordance with Rule 4 – 187.010 (1), FAC. Members serving as of June 30, 2002, were as follows:

### Trustees

<b>Name and Location</b>	<b>Principal Occupation</b>
Warren J. Lieberman Coral Gables, Florida	Medical Doctor
Eugene Eisner Tallahassee, Florida	Medical Doctor
Stephen M. Kulvin Ocala, Florida	Medical Doctor

The Board of Trustees in accordance with the Trust's bylaws appointed the following senior officers serving as of June 30, 2002:

### Senior Officers

<b>Name</b>	<b>Title</b>
Eugene Eisner	President
Stephen M. Kulvin	Vice President & Treasurer
Warren J. Lieberman	Secretary

### Conflict of Interest Procedure

The Trust had adopted a policy statement requiring annual disclosure of conflicts of interest, in accordance with Section 607.0832, FS. No exceptions were noted during this examination period.

## **Trust Records**

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

## **FIDELITY BOND AND OTHER INSURANCE**

The Trust maintained fidelity bond coverage up to \$250,000 with a deductible of \$5,000, which adequately covered the suggested minimum amount of coverage for the Trust as recommended by the NAIC. In accordance with Rule 4 – 187.005 (5), FAC, the Trust's fidelity bond coverage was sufficient to protect assets from misappropriation.

## **INSURANCE PRODUCTS AND RELATED PRACTICES**

The Trust provides medical malpractice coverage for claims in excess of \$500,000 up to \$1,000,000 per occurrence.

The maximum amount of coverage a member can have is \$1,000,000 per occurrence with an annual aggregate of \$3,000,000. This coverage is provided by the two medical malpractice trust funds as follows:

1. South Florida Physicians Excess Insuring Trust – provides the member with coverage of \$500,000 with an annual aggregate of \$1,500,000.

2. South Florida Ophthalmological Self Insuring Trust – provides the member with coverage of \$500,000 per occurrence with an annual aggregate of \$1,500,000.

### **Territory and Plan of Operation**

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

### **Treatment of Members**

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

The Trust maintained a claims procedure manual that included detailed procedures for handling each type of claim.

## **REINSURANCE**

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

## **ACCOUNTS AND RECORDS**

The company was audited annually by the CPA for the fiscal years ended June 30, for 1999, 2000, 2001 and 2002, in accordance with Rule 4 – 187.007 (1), FAC. Audited Statutory Financial Statements and supporting work papers were prepared by the CPA as required by Rule 4 – 187.007, FAC.

In accordance with Rule 4 – 187.007, FAC, the trustees filed a report as to the financial condition, loss experience, and operational 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, for 1999, 2000, 2001 and 2002.

The Trust’s accounting records were maintained on a non-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 had a custodial agreement with Northern Trust Bank for the safekeeping of its securities.

#### **Independent Auditor Agreement**

The Trust engaged Morrison, Brown, Argiz, and Company, CPA, for the purpose of auditing the balance sheet and statutory financial statements of the Trust. The Trust also engaged Freeman, Buczyner, 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 prepared by Morrison, Brown, Argiz, and Company. The Trust employed two CPA firms to comply with Section 624.424 (8) (d), FS.

### **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. This agreement included administrative, management, and financial services in accordance with Rule 4 – 187.002, FAC. MSA received a fee of \$500 per member annually as compensation for these services. The term of the agreement was for two years with automatic two year extensions, provided either party did not give written notice of cancellation.

## **FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Trust's financial position as of June 30, 2002, and the results of its operations for the fiscal 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."

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

**June 30, 2002**

Classification	Per Company	Examination Adjustments	Per Examination
Cash	\$74,766	\$0	\$74,766
Securities at Market Value	3,663,253	0	\$3,663,253
Accrued Interest	55,713	0	\$55,713
Premiums Due	36,757	0	\$36,757
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Totals	\$3,830,489	\$0	\$3,830,489
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**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**Liabilities, Surplus and Other Funds**

**JUNE 30, 2002**

<b>Liabilities</b>	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$1,402,500	\$0	\$1,402,500
Loss adjustment expenses	247,500	0	\$247,500
Unearned premium	28,909	0	\$28,909
Other liabilities	10,722	0	\$10,722
<b>Total liabilities</b>	<b>\$1,689,631</b>	<b>\$0</b>	<b>\$1,689,631</b>
Trustees account	2,140,858	0	\$2,140,858
<b>Total liabilities and Trustees account</b>	<b>\$3,830,489</b>	<b>\$0</b>	<b>\$3,830,489</b>

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

JUNE 30, 2002

**Underwriting Income**

Premiums earned	\$108,796
DEDUCTIONS:	
Losses incurred	630,000
Loss expenses incurred	99,672
Total fund loss and loss adjustment expenses incurred	<u>\$729,672</u>
Other expenses	31,990
Administrative expenses	10,547
Total underwriting deductions	<u>\$772,209</u>
Net underwriting gain or (loss)	(\$663,413)

**Investment Income**

Net investment income earned	\$176,542
Net realized capital gains or (losses)	(19,068)
Net investment gain or (loss)	<u>\$157,474</u>

**Other Income**

Other income	<u>\$0</u>
Total other income	<u>\$0</u>
Net income before dividends and before federal & foreign income taxes	(\$505,939)
Dividends	<u>0</u>
Net Income, after dividends, but before federal & foreign income taxes	(\$505,939)
Federal & foreign income taxes	<u>0</u>
Net income	(\$505,939)

**Trustees Account**

Trustees account, June 30 prior year	\$2,630,261
Net income	(\$505,939)
Net unrealized capital gains or losses	16,536
Change in trustees account during reporting period	(489,403)
Change to trustees account in examination report	<u>0</u>
Trustees Account, June 30 current year	<u>\$2,140,858</u>

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

**Losses and Loss Adjustment Expenses** \$1,650,000

The total reserve included amounts for reported losses and losses incurred but not reported. The amount related to reported losses was determined on a case by case basis. 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 exists in any year after the reserve for losses and loss adjustment has been established, the members of the Trust may be fully assessable.

The Office actuary reviewed work papers provided by the Trust and was in agreement that the amounts carried in the balance sheet as of June 30, 2002 made a reasonable provision for all unpaid loss and loss expense obligations.

**SOUTH FLORIDA PHYSICIANS EXCESS INSURING TRUST**  
**Comparative Analysis of Changes in Surplus**

JUNE 30, 2002

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

Surplus per June 30, 2002, Annual Statement \$2,140,858

	<u>PER</u> <u>COMPANY</u>	<u>PER</u> <u>EXAM</u>	<u>INCREASE</u> <u>(DECREASE)</u> <u>IN SURPLUS</u>
ASSETS:			
LIABILITIES:			
Net Change in Trustee Account:			0
Surplus as of June 30, 2002, Per Examination			\$2,140,858

## **SUMMARY OF FINDINGS**

### **Compliance with previous directives**

There were no previous directives, nor compliance issues.

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

There are none.

## 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, 2002, consistent with the insurance laws of the State of Florida.

In accordance with the examination findings of the Trust, the Trustees Account was \$2,140,858.

In addition to the undersigned, Vince Dyal, CFE, Financial Specialist, Mary James, CFE, Financial Examiner/Analyst Supervisor, participated until the examination was suspended, and John Berry, Financial Examiner/Analyst Supervisor and Doug Haseltine, Actuary, participated in the completed examination.

Respectfully submitted,

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Maurice Fuller  
Financial Examiner/Analyst I  
Florida Office of Insurance Regulation