

**2002 PROPERTY AND CASUALTY TARGET MARKET CONDUCT  
EXAMINATION**

**OF**

**SEMINOLE CASUALTY INSURANCE COMPANY**

**BY**

**THE FLORIDA DEPARTMENT OF INSURANCE**

**DATE FILED: 03/26/03**



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## EXECUTIVE SUMMARY

Seminole Casualty 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 February 2002. The examination began March 24, 2002 and ended May 25, 2002. The last property and casualty market conduct examination of this insurer by the Florida Department of Insurance was concluded in October 2000.

The purpose of this examination was to review the issues behind the volume of consumer complaints received by the Department of Insurance. From a review of the consumer complaints filed against the Company, the Department focused on the cancellation procedures and the timeliness of processing return of unearned premium, the timely processing of claims and the premium calculation procedures.

A total of three hundred eighteen (318) files were examined for this Company with twenty-four (24) errors identified. The following represents general findings; however, specific details are found in each section of the report.

Fifty-three (53) complaint files were examined resulting in five (5) errors. The errors included: failure to maintain complaint handling procedures for complaints other than DOI complaints; failure to return unearned premiums timely; failure to comply with the exchange of business; and failure to return unearned premium (gross) to the premium finance company.

One hundred (100) private passenger automobile policies were examined resulting in five (5) errors being identified. The errors were due to failure to follow the filed rates, rules or guidelines (use of incorrect driver classification), and failure to provide safety discounts as required.

Fifty (50) cancellations and nonrenewals were examined resulting in the identification of six (6) errors. One (1) error was the failure to comply with additional premium requirements; the Company canceled policies for nonpayment of additional premium beyond the first 60 days of the policy term. Other errors were due to failure to provide timely notice of nonrenewal and failure to comply with the return of unearned premium.

Eighty-five (85) claim files were examined resulting in two (2) errors. The errors were due to failure to pay sales tax and failure to affix the Fraud Statement to the Theft Affidavit.

Thirty (30) files were examined for the agents/MGA/advertising review. Six (6) errors were identified. Errors were due to use of unappointed agents and failure to display the agent's name/ ID number on the application.

The Company has been requested to establish a Privacy Plan as required by Florida Administrative Rule 4Er-01. The Company should also establish procedures to insure that all complaints are properly logged, and insure that the fraud statement is on all claim forms. Corrective action is to be reported to the Florida Department of Insurance within ninety (90) days after receipt of the examination report.

As a result of the findings of this examination, \$893.15 was returned to Florida consumers due to overcharges of premium and underpayments of claims. The Company was requested to make additional refunds in the amount of \$5,106.03 to the premium finance companies for return premiums (gross) that were not made by the agents. Also, \$420.00 is to be paid to the Florida Department of Insurance for licensing/appointment fees owed due to failure to properly appoint agents. See Pending Issues Section.

## **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

Seminole Casualty Insurance Company was incorporated June 9, 1988, as a domestic stock property and casualty insurer under the laws of the State of Florida, and commenced business on December 21, 1988, with the name of Seminole Casualty Insurance Company.

In accordance with Section 624.401(1), Florida Statutes, the Company was authorized to transact the following insurance coverage in the State of Florida:

Private Passenger Auto Liability and Private Passenger Auto Physical Damage

Seminole Insurance Services, Inc., is a wholly-owned subsidiary of Seminole Casualty Insurance Company, and is licensed as a Managing General Agency (MGA).

ETI Financial Corporation (ETI) is a company incorporated under the laws of the State of Florida, and is licensed in various states as a premium finance company. ETI and Seminole Casualty Insurance Company have no ownership in the other but may be considered affiliates, as the sole shareholder of Seminole Casualty Insurance Company is the largest shareholder in ETI.

Seminole Casualty Insurance Company is 94% owned by Carl Seaman with the other 6% ownership being vested in three (3) of the Company's executives.

The corporate officers are:

President	Peter H. Bergman
Vice President & Treasurer	James W. Blake, Jr.
Vice President	Frank E. Lozano
Secretary	James W. Blake, Jr.
Assistant Secretary	Barbara J. Perry

## **COMPANY PROCESSES/STATISTICAL AFFILIATIONS**

### **Computer System**

The primary computer system of the Company is provided through SCO Open Server Enterprise Unix servers running on Intel processors. The underwriting server hosts the production database and the applications for the underwriting, accounting, marketing and statistical departments. The claims server hosts the applications for the claims department, the company-wide fax service and the voice response telephone binder system.

### **Anti-Fraud Plan**

The Company has filed a Plan with the Florida Department of Insurance as required by Section 626.9891, Florida Statutes.

The Plan does meet the requirements by establishing a Special Investigation Unit.

### **Disaster Recovery Plan**

The Company has developed a Disaster Recovery Plan for use with Florida business. If the office is damaged or totally destroyed, the Plan provides details for all functions to be performed and responsibilities indicating names, phone numbers, titles, and Company response time line. If a catastrophic event renders a claim facility uninhabitable or unable to be utilized for normal business operation, the claim manager is notified of the situation. After confirming that the claim office is unusable for business purposes, the claim manager is responsible for contacting the key personnel, who have been previously identified, and for establishing office space in a nearby claim location to work/assign claims from the affected claim office.

### **Internal Audit Procedures**

The Company has developed Internal Audit Procedures for use in reviewing Florida business.

- All financial accounts are balanced monthly to source reports and bank/brokerage statements.
- New computer reports are balanced against existing reports, which are known to be reliable.
- Numerous system-generated edit reports are used to identify possible data entry errors.
- Claims files are reconciled to system reserves on a cyclical basis.
- After rate changes, major agency rating software programs are reconciled to the Company's system rating engine and corrections submitted to the software vendor.

## **Privacy Plan**

The Company has not developed a Plan to meet the requirements of Emergency Rule 4ER-01. The Company was requested to develop a plan and provide a copy to the Department of Insurance within 90 days of receipt of the examination report. The Company has since developed a plan and provided a copy to the analyst.

## **Statistical Affiliations**

Insurance Services Office acts as the statistical agent for the Company.

## **Credit Reports**

The Company does not use Credit Reports as an underwriting tool.

## **OPERATIONS/MARKETING**

### **Marketing**

The Company operates throughout the State but primarily in South Florida, with the greatest concentration in Broward, Orange and Palm Beach Counties. The principal operation is as a specialty market provider of non-standard private passenger automobile coverage. The Company marketing is conducted through independent agents located throughout the State of Florida.

### **Agents/Agencies/MGA/Exchange of Business/Direct Response/Internet Adjusters and Claims Handling**

The Company does not use MGA's (other than Seminole Insurance Services, Inc.), General Agents, Direct Response, /Exchange of Business or the Internet in its marketing. Its sole marketing is done through independent agents located throughout the State of Florida. The Company only writes Personal Injury Protection, Medical Pay, Uninsured Motorist, Private Passenger Automobile Liability and Private Passenger Automobile Physical Damage coverage.

### **Lines of Business**

During the scope of this examination the Company only wrote nonstandard private passenger automobile insurance.

## REVIEW OF POLICIES

### PRIVATE PASSENGER AUTOMOBILE

#### Description of Product/Lines of Business

The Company has independently filed a private passenger non-standard automobile program in the State of Florida. This product is marketed and produced by licensed and appointed independent agents.

#### 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>
2001	\$16,438,163	9,698
*2002	\$ 3,383,607	2,652

\* As of February 2002

#### Examination Findings

One hundred (100) policy files were examined.

Five (5) errors were found.

Errors affecting premium resulted in three (3) overcharges totaling \$ 67.15 and two (2) undercharges totaling \$249.00.

The errors are broken down as follows:

1. Two (2) errors were due to failure to follow the filed rates, rules or guideline. This constitutes a violation of Section 627.0651, Florida Statutes. The Company used incorrect driver classifications to rate the policies. These errors resulted in two (2) undercharges totaling \$249.00.
2. Three (3) errors were due to failure to follow the filed rate, rating plan or rating schedule. This constitutes a violation of Section 627.0653, Florida Statutes. These errors were due to failure to apply a credit on factory installed air bags and anti-lock brake systems. These errors resulted in three (3) overcharges totaling \$67.15, which has been refunded by the Company. These errors were due to incorrect data entry.

## **CANCELLATIONS/NONRENEWALS REVIEW**

### **DESCRIPTION OF CANCELLATION/NONRENEWAL PROCEDURES**

Of the files reviewed, the intent of the Company was to cancel and nonrenew policies giving the insured the number of days notice required by statutes, plus three days mailing time. Notices are sent to the insured, agent and lien holder. If a policy is cancelled at the request of the insured, or the request of the premium finance company, the return premium was computed short-rate (90% of prorata). Return premiums are calculated as of the effective date of calculation.

### **CANCELLATION REVIEW**

Forty (40) cancelled policies were examined.

Four (4) errors were found.

The errors are broken down as follow:

1. Two (2) errors were due to failure to comply with the additional premium requirements. This constitutes a violation of Florida Administrative Rule 4-167.002. Policies were cancelled for nonpayment of additional premium beyond the first 60 day after the effectuation of coverage.
2. Three (3) errors were due to failure to provide timely notice of cancellation/nonrenewal. This constitutes a violation of Section 627.728, Florida Statutes.
3. One (1) error was due to failure to timely return unearned premium. This constitutes a violation of Section 627.7283, Florida Statutes. The Company was requested to recalculate the return premium plus 8% interest and return to the premium finance company. The amount of interest was waived due to the \$5.00 waiver rule.

### **NONRENEWAL REVIEW**

Ten (10) 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 timely notice of nonrenewal. This constitutes a violation of Section 627.728, Florida Statutes.

## COMPLAINTS/INVESTIGATION REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has not been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints had not been completely established by the Company.

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

### COMPLAINTS/INVESTIGATIONS REFERRED BY MARKET CONDUCT

Consumer's Last Name	Alleged Violation	Violation Found	Comments
Saltgaver	627.427	None	Handle by DOI, recommendation, and no administrative action taken.
Strand Insurance Finance Co.	627.848	626.848	Failure to return unearned premium (gross) to PFC
Auto Premium Finance Group	627.848	626.848	Failure to return unearned premium (gross) to PFC

Three (3) DOI referral complaints were examined.

Two (2) errors were found.

These two (2) resulted in underpayments totaling \$5,106.03

The errors are broken down as follow:

1. Two (2) errors were due to failure to return unearned premium (gross) to the Premium Finance Company. This constitutes a violation of Section 627.848 Florida Statutes. These errors were caused when the Company refused to return that portion of unearned premium to the premium finance company that was the agent's commission, which had not been returned by the agent. The Company owes an estimated amount of \$ 5,106.03 to the premium finance companies. The Company agrees to refund the premiums to the two premium finance companies since they represent unearned commissions that could not be collected from the agents by the Premium Finance Companies.

**COMPLAINTS RECEIVED FROM DOI**

CONSUMER	DATE OF COMPLAINT TO DOI	ALLEGATION	STATUTE RULE	MONETARY IMPACT	CO. RESPONSE ACCEPTABLE Y/N	VIOLATION	EXPLANATION
PLUNKETT	1/22/2001	UNFAIR CLAIM SETTLEMENT	N	N	Y	NONE	PAYMENT ACCEPTED ON COMPARATIVE NEGLIGENCE
MONTMINY	2/9/2001	RT. PREMIUM	N	N	Y	NONE	RT. PREM CORRECT
JOSEPH BISHOP/TOWNSEND	123/21/01	UNDERWRITING	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
DAVIES	2/12/2001	UNDERWRITING/CANCELATION	N	N	Y	NONE	RT. PREMIUM CORRECT
ROMERO	2/13/2001	UNFAIR CLAIM SETTLEMENT	N	N	Y	NONE	PAYMENT ACCEPTED ON COMPARATIVE NEGLIGENCE
WALTERS	2/23/2001	UNDERWRITING	N	N	Y	NONE	POLICY CANCELED PROPERLY
TORRES	5/23/2001	RT.PREMIUM	N	N	Y	NONE	RT. PREMIUM CORRECT
GIOVANNI	3/15/2001	RT.PREMIUM	N	N	Y	NONE	CALCULATION CORRECT & TIMELY
AINSLEY	4/2/2001	CANCELATION FOR ADD'L PREM.	N	N	Y	NONE	ADD'L PREM REC'D POLICY REINSTATED
DIXON	4/5/2001	CANCELATION	N	N	Y	NONE	POL CANCELED FLAT NSF CHECK
OLORUNTOBI	4/9/2001	ADD'L PREM	N	N	Y	NONE	ADD'L PREM EXPLAINED
SALTSGAVER	5/31/2001	INT. PAYMENT	N	N	Y	NONE	INT. PAYMENT MADE/JUDGEMENT
SHIPLEY	5/31/2001	UNFAIR CLAIM SETTLEMENT	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
MOSS	5/8/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY POSITION UPHELD
VERDAYES	8/2/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY POSITION UPHELD
HERNANDEZ	8/7/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY POSITION UPHELD
PRIETO	8/7/2001	PREMIUM	N	N	Y	NONE	POLICY REINSTATED
OSBORNE	9/12/2001	CANCELLATION	N	N	Y	NONE	COMPANY POSITION UPHELD
RODRIGUEZ	9/25/2001	PREM REFUND	N	N	Y	NONE	COMPANY POSITION UPHELD

VAVOLULARIS	10/11/2001	CANCELLATION	N	N	Y	NONE	COMPANY POSITION UPHELD
OSBORNE	9/21/2001	CANCELLATION	N	N	Y	NONE	COMPANY POSITION UPHELD
ROJAS	10/26/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY POSITION UPHELD
MOON	10/19/2001	CANCELLATION	Y	Y	N	627.7283	Advisory Issued Requesting Premium Refund
GONZALEZ	11/20/2001	UNDERWRITING	N	N	Y	NONE	COMPANY POSITION UPHELD
FERRARI	11/16/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY POSITION UPHELD
PHILIP	12/3/2001	CANCELLATION	N	N	Y	NONE	COMPANY POSITION UPHELD
HUGEUX	11/20/2001	CANCELLATION	N	N	Y	NONE	COMPANY POSITION UPHELD
ROSSI	1/8/2002	UNDERWRITING	N	N	Y	NONE	COMPANY POSITION UPHELD
JAMBOR	1/31/2002	CLAIM DENIAL	N	N	Y	NONE	CLAIM PAID
NOVOSEL	2/18/2002	UNSATISFACTORY CLAIM SETTLEMENT	N	N	Y	NONE	SUPPLEMENT PAYMENT MADE
ORTIZ	2/20/2002	CANCELLATION	N	N	Y	NONE	COMPANY POSITION UPHELD
FREEMAN	1/18/2001	RT. PREMIUM	Y	Y	Y	627.7283	COMPANY FAILED TO INCLUDE INT. PAYMENT
GRAHAM	2/19/2001	RT.PREMIUM	N	N	Y	NONE	COMPANY FAILED TO INCLUDE INT. PAYMENT- Payment Waived
McCARTHY	2/22/2001	RT. PREMIUM	N	N	Y	NONE	COMPANY FAILED TO INCLUDE INT. PAYMENT – Payment Waived
JOSEPH	3/5/2001	RT. PREMIUM	N	N	Y	NONE	COMPANY FAILED TO INCLUDE INT. PAYMENT- Payment Waived
NELAMS	3/19/2001	CLAIM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
McGILLARD	4/4/2001	RT.PREMIUM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
MORGAN	4/25/2001	CLAIM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
TAYLOR	6/4/2001	CLAIM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
ANDERSON	7/9/2001	UNDERWRITING	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
HALL	5/23/2001	CLAIM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
NICHOLS	8/6/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE

WHITE	9/5/2001	CANCELLATION	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
SANCHEZ	9/17/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
MORENO	10/19/2001	CLAIM DENIAL	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
TOVSTOKHATKO	10/26/2001	RT.PREMIUM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
AYALA	11/29/2001	PREMIUM	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
AHUJA	12/5/2001	COVERAGE	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
SAWYER	3/18/2002	COVERAGE	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE
SEE	3/13/2002	CLAIM DENIAL DUE TO ADD'L PREM CANCELLATION	N	N	Y	NONE	COMPANY RESPONSE ACCEPTABLE

### **Examination Findings**

Fifty (50) files were reviewed.

Three (3) errors were found.

The errors are broken down as follows:

1. One (1) error was due to failure to maintain a complaint log. This constitutes a violation of Section 626.9541(1)(j) Florida Statutes. This error was caused when the Company failed to maintain a log of Company received complaints. The Company has now established a complaint log containing both Department of Insurance complaints and Company complaints.
2. Two (2) errors were due to failure to comply with the return of premium requirements. This constitutes a violation of Section 627.7283, Florida Statutes. This error was caused when the Company failed to cancel the policy flat when advised by the insured that possession of the vehicle never took place. The Company disagrees with this advisory stating, however, they will honor the request of the insured without further proof that the insured no longer owned the vehicle in that the Department concurs that there is no insurable interest.

## **CLAIMS REVIEW**

### **DESCRIPTION OF CLAIMS REVIEWED – NON-PPA/MEDICAL REVIEWS**

Private passenger automobile types of claims reviewed included bodily injury, property damage, comprehensive, collision, and personal injury protection.

#### **Examination Findings**

Fifty (50) claims were examined.

Two (2) errors were found.

One (1) error resulted in underpayments totaling \$828.06.

The errors are broken down as follows:

1. One (1) error was due to failure to pay or offer to pay sales tax upon replacement of a total loss vehicle. This constitutes a violation of Section 626.877, Florida Statutes. This error resulted in an underpayment totaling \$828.06, which has been paid by the Company.
2. One (1) error was due to failure to affix the fraud statement to the theft affidavit. This constitutes a violation of Section 817.234, Florida Statutes.

### **DESCRIPTION OF CLAIMS REVIEWED – PPA/MEDICAL REVIEWS**

Private passenger automobile personal injury protection (PIP) claims were reviewed to determine if independent medical examinations were properly handled.

#### **Examination Findings**

Thirty-five (35) claims were examined.

No errors were found.

## **AGENTS/MGA REVIEW/ADVERTISING/MARKETING**

### **DESCRIPTION OF MGA ARRANGEMENTS**

For private passenger automobile, the Company has appointed one MGA, Seminole Insurance Services, Inc., a wholly-owned subsidiary of Seminole Casualty Insurance Company. The MGA's properly licensed and appointed.

The Company uses licensed and appointed independent agents to produce business in the State of Florida except as noted below.

### **Examination Findings**

Ten (10) applications/policies written during the scope of examination were examined.

Twenty (20) agencies were examined.

Six (6) errors were found.

The errors are broken down as follows:

1. One (1) error was due to failure to display the agent's name/ID# on the application. This constitutes a violation of Section 627.4085, Florida Statutes.
2. Five (5) errors were due to failure to use appointed agents. This constitutes a violation of Section 626.112, Florida Statutes. These errors were due to failure of the Company to appoint all general lines agents in addition to the primary agent within an agency, when the agency has produced premium in excess of \$25,000.00 during the calendar year. These errors resulted in lost licensing fees due to the Florida Department of Insurance totaling \$420.00. See Pending Issues Section.

## **PENDING ISSUES**

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

### **MONETARY ISSUES**

Consumer Complaints - The Company refused to return that portion of unearned premium to the premium finance company that was the agent's commission, which had not been returned by the agent. The Company owes an estimated amount of \$5,106.03 to the premium finance companies. The Company's response is explained in Exhibit I of this report.

Agents – The Company failed to appoint all general lines agents within an agency in addition to the principally appointed primary agent when the agency produces premium in excess of \$25,000.00 during the calendar year. The Company has been requested to appoint all general lines agents employed within an agency that produces premium in excess of \$25,000.00 per year. The Company owes an estimated \$420.00 to the Department of Insurance for past agent appointment fees.

**EXHIBITS**

**SUBJECT**

**EXHIBIT NUMBER**

**COMPANY RESPONSE (unearned premium refund)**

**I**