



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

TARGET MARKET CONDUCT FINAL EXAMINATION REPORT

OF

SENSIBLE HOME WARRANTY, LLC

AS OF

DECEMBER 31, 2013

COMPANY CODE: 09764

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PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of Sensible Home Warranty, LLC pursuant to Section 634.314, Florida Statutes. The examination was performed by Global Insurance Enterprises, Inc. The scope period of this examination was January 11, 2012 (Date of licensure in Florida) through December 31, 2013. The examination began February 3, 2014 and ended March 19, 2014.

The purpose of this examination was to determine the extent of compliance with the provisions of Chapter 634, Part II, Florida Statutes, and Chapter 690-199, Florida Administrative Code.

In reviewing materials for this Final Report, the examiners relied on records provided by the Company. Procedures and conduct of the examination were in accordance with the *Market Regulation Handbook* produced by the National Association of Insurance Commissioners. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Sensible Home Warranty, LLC (hereinafter “Sensible” or “The Company”) is domiciled in State of Nevada with its principle office in Brooklyn, New York. Sensible was licensed to conduct business as a Home Warranty Association in the State of Florida on January 11, 2012. This is the first examination of this company since license #09764 was issued.

Total Direct Premiums Reported as Outstanding for Home Warranty Business are:

	As of 12/31/2012	As of 12/31/2013
Total Reported Premium	\$717,420	\$1,075,599
Florida Premium Reported	\$109,000	\$178,984

REQUIRED RECORDS

Section 634.3135, Florida Statutes, states, in part, that:

“Office records required.—Each licensed home warranty association, as a minimum requirement for permanent office records, shall maintain:

- (1) A complete set of accounting records, including a general ledger, cash receipts and disbursements journals, accounts receivable registers, and accounts payable registers.
- (2) A detailed warranty register, in numerical order by warranty number, of warranties in force. The register shall include the warranty number, date of issue, issuing sales representative, name of warranty holder, location of the property, warranty period, gross premium, commission to sales representative, and net premium.
- (3) A detailed claims register which includes the warranty number, date of issue, date of claim, issuing sales representative, amount of claim, date claim paid, and, if applicable, disposition other than payment and reason therefore.”

Access to these minimum permanent records was initially requested by the Office on February 3, 2014. To date, production of basic office records has been, at best, partially provided. The Company has expressed that the accounting system in use is not capable of providing the information requested. In addition, in a meeting with the examiners Mr. Gindi, Managing Member, stated that the company doesn't always book the cash or other income to their Quick Books account. Based on interviews with the Company's Managing Members the examiners noted that the Company is unable to provide the basic financial information as required by Section 634.3135, Florida Statutes. The warranty register and claims register provided are both incomplete.

Recommendation: Basic financial information is an integral part of managing a successful business. We recommend that the Company compile and maintain the minimum the office records detailed in Section 634.3135, Florida Statutes and ensure all transactions are recorded in these records. We further recommend that the Company obtain audited financial statements prepared by an independent Certified Public Accountant to ensure the accuracy of the transactional and accounting records.

NET WORTH

Section 634.3077(2), Florida Statutes, requires home warranty associations to maintain net assets equal to one-sixth of the gross written premiums it receives. The examination disclosed the company was not in compliance with this requirement as of December 31, 2013.

Based on \$1,075,599 in gross written premiums in force as reported on the recently filed 2013 Annual Report, the company was required to maintain minimum net assets of \$179,267. Management reported net assets of \$186,894 on the annual report; however, net assets per examination were determined to be (\$238,192) as follows:

Net Assets As Reported:		\$186,894
Less Adjustments made by examiner:		
Decrease Accounts Receivable	(196,160)	
Non-admitted Assets	(137,500)	
Increase Trade Payables	(86,800)	
Increase Taxes Payable	(4,626)	
<u>Total Adjustment to Net Assets as Reported:</u>		<u>(425,086)</u>
Net Assets Per Examination		<u>\$ (238,192)</u>

The reasons for the examiner's adjustments are as follows: 1) Deduct: A \$196,160 receivable that has not been supported with current documentation; additional information was requested on the merchant, as well as a copy of the agreement. To date, the requested information has not been provided. 2) Deduct: A \$100,000 CD that is pledged and a \$37,500 asset that is collateral for their surety bond; 3) Add: An adjusted trade payables amount in the amount of \$86,800 based upon confirmed balances on the Florida Vendor Listing provided by the company; which includes vendors who have performed claims services during the past three years and are as yet unpaid and 4) Add: Taxes payable in the amount of \$4,626 due to the State of Florida for unpaid 2013 premium taxes.

Recommendation: Based on the foregoing, a net asset deficiency of (\$417,267) existed as of December 31, 2013. Accordingly, management should take appropriate action to infuse additional capital to bring the company into compliance with Section 634.3077, Florida Statutes.

UNENCUMBERED ASSETS

Section 634.3077, Florida Statutes, requires home warranty associations to maintain a funded, unearned premium reserve account, consisting of unencumbered assets equal to a minimum of 25% of the gross written premiums received on all warranty contracts in force. Section 69O-199.005(6), Florida Administrative Code, further provides that “The unearned premium reserve account shall be totally funded at all times by unencumbered assets. Those prescribed assets funding the reserve shall be clearly designated for this purpose.”

On the 2013 Annual Report submitted to the Office, on March 19, 2014, management designated \$25,000 in funds held by the State Treasurer as unearned premium reserve. An additional \$100,000 CD, specifically pledged to the State of Arizona, for the benefit of Arizona consumers was also designated as unearned premium reserve. However, based on the reported \$1,075,599 in nationwide gross written premiums, the company was required to maintain a minimum of \$271,160 in funded unencumbered assets held in the form of cash or invested in securities as provided in Part II, Chapter 625, Florida Statutes. As such, while the exact number of Arizona consumer premiums has not been disclosed to the Office, the reserve was underfunded in the amount of at least (\$146,160).

Recommendation: As such, management must immediately deposit additional funds, or designate other acceptable, unencumbered assets, to fully fund the reserve. Steps should also be taken to ensure the required reserve is fully funded by unencumbered assets at all times.

CLAIMS REGISTER

Section 634.3165, Florida Statutes, requires home warranty associations to maintain certain permanent office records, including a detailed claims register, which includes: a warranty number, date of issue, date of claim, issuing sales representative, amount of claim, date claim paid and, if applicable, disposition other than payment and reason therefore.

Our examination disclosed the company does not maintain appropriately detailed registers for claims or for complaints. Management indicated an inability to produce a complete population of claims for the scope period.

Recommendation: Management should ensure that a detailed claims register is established and that support documentation of the resolution of each claim is maintained for a minimum of five years.

COMPLAINT RECORDS

Pursuant to Section 634.336(6), Florida Statutes, a home warranty associations' failure to maintain complete records of each written complaint for a 3-year period after the date of receipt is a violation of the Florida Statutes.

Our examination disclosed the company does not maintain any registers for complaints received: from the consumer; the Department of Financial Services; the Florida Attorney General's Office; or through the Better Business Bureau. The Company indicated that it does not keep a complaint log or any other document that allows for keeping track of the complaints and the disposition of the complaints. Therefore, the Company personnel were unable to establish that all complaints have been processed and handled appropriately.

Recommendation: Management should ensure that complaint registers are established and that support documentation of the resolution of each complaint is maintained for at least three years after receipt.

FAILURE TO PRODUCE RECORDS

Home Warranty Associations licensed under Chapter 634, Part II are subject to periodic examination by the Office pursuant to Section 634.314, Florida Statutes.

Management has failed to produce the following books, records, documents and information requested in connection with the examination.

- The examiners requested an explanation of the company's accounting process and systems. The Company did not provide a clear picture of their accounting system. The examiners were, however, told that not all transactions are recorded on the accounting system within the office.
- Claims and Complaint handling procedures were requested. Examiners were provided a copy of the Claims and Complaint handling data used for training purposes. No other documents have been provided for this request and the company's staff did not have a copy of these manuals for reference use.
- Underwriting procedures were requested. The Company noted that there are no underwriting manuals.
- The Company asserted that they use a call center located in Manila, Philippines. The examiners requested copies of the complete executed call center servicing agreements. These were not provided; nor were any additional records regarding services provided or volume of business addressed in the offshore office produced.
- Cancellation and refund records have not been made available to the Office, however, numerous complaints to the Better Business Bureau were related to failure to pay refunds as promised upon cancellation of the contract. The company's response to the Office indicated that the number of contracts with cancellations would be very small; however, details have yet to be provided.

- The examiners observed that Management did not utilize any type of customary management reports usually used by businesses for routine daily operations.

Recommendation: To ensure an accurate reflection of the affairs, transactions, accounts records and assets of the licensee, accounting records and company procedures should be made available to the examination team. We further recommend that underwriting, claims and complaint procedure manuals be drafted which can be used as guidelines by the staff during the day-to-day operations. In addition, we recommend that management prepare routine management reports to allow for better handling of the Company's daily operations.

SALES REPRESENTATIVES

Section 634.317, Florida Statutes, requires salespersons for home warranty associations to be properly licensed and appointed by the Department of Financial Services. Section 634.318, Florida Statutes, further states: "...No employee or sales representative of a home warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent, unless so qualified, licensed, and appointed therefor under the insurance code."

The examiner was unable to substantiate that the sales representatives who executed warranty agreements from the date of licensure through the scope of this examination were licensed and appointed. After being advised of the Florida licensing requirements by the examiners, the Company has taken corrective action to have two individuals licensed. Two days after the start of the examination two employees obtained sales representative licenses with the Department; however, to date, they have yet to be appointed by the Company.

Recommendation: Accordingly, we recommend management take immediate action to ensure all sales representatives are properly licensed and appointed prior to selling the company's warranty products.

EXAMINATION REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report and additional research conducted by the Office. No additional information was provided by the company.