



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

TARGET MARKET CONDUCT FINAL EXAMINATION REPORT

OF

STEWART TITLE GUARANTY COMPANY

AS OF

April 13, 2007

NAIC COMPANY CODE: 50121

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EXECUTIVE SUMMARY

A sample of 3023 randomly selected files and items were reviewed as-well-as specifically requested records. A total of 268 violations were noted. The following represents general findings, however, specific details are found in each section of the report.

TABLE OF VIOLATIONS

Statute/ Rule	Description	Files Reviewed	Number of Violations
626.9541 (1)(j) Florida Statutes	Failure to maintain complaint-handling procedures; failure to maintain a complete record of all complaints received.	75	10
624.509, Florida Statutes	The Company did not account for the full amount of title insurance premium charged to consumers by its agents in 2004 and 2005 and therefore did not pay the correct premium tax, a violation of Section 624.509, Florida Statutes.	100	58
626.9541(1)(h) 3.a., Florida Statutes; 690-186.003 (9)(a), Florida Administrative Code	The Company did not receive and retain at least 30% of the risk premium charged to consumers. This is a violation of Florida Statutes, and the Florida Administrative Code.	100	49
690-186.003(1) Florida Administrative Code, 626.9541(1)(h) 3.a., Florida Statutes; 626.9541(1)(o) 2., FLORIDA	Failure to charge promulgated rates, a violation of Rule 690-186.003(1), Florida Administrative Code, Title Insurance Rates, including 3 undercharges in violation of Section 626.9541 (1)(h)3.a., Florida Statutes, and 40 overcharges in violation of Section 626.9541 (1)(o), 2., Florida Statutes.	100	43
627.8473 (6), F.S.; 690-186.003 (9)(c), Florida Administrative Code; 690-186.009, Florida Administrative Code.	Agents of the Company did not remit insurance premiums, less commission, in a timely manner, a violation of Rule 690-186.003 (9)(c), Florida Administrative Code.	100	58
690-186.009, Florida Administrative Code.	Failure to maintain escrow account reconciliation records for 12 agencies and produce them upon request of the Office, a violation of Rule 690-186.009, Florida Administrative Code.	50	5
627.7773, Florida Statutes	The Company could not account for outstanding forms for 45 of 50 agencies (90%) in calendar year 2005, a violation of Section 627.7773, Florida Statutes.	50	45

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of Stewart Title Guaranty Company (Company) pursuant to Section 624.3161, Florida Statutes. The examination was performed by RSM McGladrey, Inc.

The period of this examination was January 1, 1998 through October 31, 2005. The examination began December 12, 2005 and concluded April 13, 2007.

The purpose of this examination was to verify compliance with Florida Statutes and the Florida Administrative Code relating to title insurance. The areas of examination were:

- Company Operations/Management
- Complaint Handling
- Marketing and Sales
- Policyholder Service
- Underwriting and Rating
- Claims Handling
- Escrow, Settlement, Closing or Security Deposit Funds
- Producer Relations
- Captive Reinsurance Arrangements
- Affiliated Business Agreements

The Company records were examined at its Florida office located at 3401 W Cypress Street, Tampa, FL 33607. In reviewing materials for this final report, the examiner relied primarily on records maintained by the Company. Procedures and conduct of the examination were in accordance with the Statement of Work and work programs provided by the Office, and the Market Regulation Handbook produced by the National Association of Insurance Commissioners. Throughout the report when random selection is referenced it refers to random selection Audit Command Language (ACL) based on 2006 Market Regulation Handbook guidelines.

This report is based on information from the Examiner's draft report, additional research conducted by the Office and additional information provided by the Company.

Company History

Stewart Information Services Corporation, a Delaware holding company, is the parent company of Stewart Title Guaranty Company (Company), and has its headquarters in Houston, Texas, with more than 8,000 title insurance issuing offices located throughout the United States and in 13 international markets. Stewart Title Guaranty Company was incorporated in Texas on February 20, 1908, and is currently domiciled in the State of Texas. On April 28, 1958, the Company was first licensed in the State of Florida. The Company is licensed to do business in all states except Iowa.

The Company's rates are established by Section 627.782, Florida Statutes and Rule 690-186.003, Florida Administrative Code.

Total Premiums Written between 1999 and 2004, as reported on the Company's annual statements, are as follows:

Year	Total Written Premium in Florida
1999	\$758,873,000
2000	\$658,187,000
2001	\$893,978,000
2002	\$1,287,743,000
2003	\$1,623,467,000
2004	\$1,577,303,000

COMPANY OPERATIONS/MANAGEMENT

Findings:

Company responses to information regarding their operations were reviewed.

The examiners made requests for information prior to and during the examination field work. In all instances the Company was given a minimum of seven calendar days to provide the information. The Company's responses to requests were extremely slow and negatively impacted the duration of the examination. Responses were provided an average of 49 days past the due dates - the longest being 186 days past due, the shortest being five days before the due date. Of the 133 requests for information, documents or data, 8 responses were delivered in a timely manner. Often, responses were incomplete requiring a follow-up request. The table below summarizes the Company's response time.

Days Beyond Due Date	No. of Items	Percentage of Total Items Requested
Early - 0	8	6%
1-30 days	34	25.5%
31-60 days	30	22.6%
61-90 days	42	31.6%
91-120 days	15	11.3%
Over 120 days	4	3%

COMPLAINT HANDLING

Findings:

All 75 complaint files maintained during the scope of the examination were reviewed.

Ten (10) violations were noted as follows:

1. **The Company failed to maintain complete records of complaints in 10 of 75 files (13%).**

The Company's failure to maintain a complete record of all complaints is a violation of Section 626.9541(1)(j), Florida Statutes. For purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance. The Company was unable to provide sufficient documentation to demonstrate how these complaints were handled preventing the examiners from completing a review of these complaints.

Corrective Action: The Company should establish and implement procedures to maintain a complete record of all complaints received.

Company Response: The Company proactively implemented a scanning procedure so that complete documentation regarding complaints would occur from 2006 forward.

MARKETING AND SALES

Findings:

The examiners requested all procedural manuals used in the marketing process and copies of all advertising and sales-related materials distributed by the Company. The Company's initial response was that no advertising is done. However, the Company then provided access to their marketing web site. The examiners are unable to determine if all materials were provided.

Access was requested and granted to bulletins sent to agents. A sampling of the bulletins was reviewed and it appears that information is regularly passed along to agents. All bulletins, including older bulletins, are available to agents via the Stewart Virtual Underwriter.

No exceptions were noted.

POLICYHOLDER SERVICE

Findings:

Policyholder service is generally provided by the agency force, not the underwriter. The Company addresses policyholder issues relating to complaints and claims. Please refer to those respective sections in this report.

UNDERWRITING AND RATING

Findings:

A random sample of 100 policies was selected from 438,157 policies issued by the Company in 2004 and 2005. The following violations were noted:

1. **In 58 instances the Company failed to pay the correct premium tax, and did not account for the full amount of title insurance premium charged to consumers by its agents in 2004 and 2005 and therefore did not pay the appropriate premium tax.**

The failure to pay appropriate premium taxes is a violation of Section 624.509 (1)(a), Florida Statutes.

Corrective Action: The Company should pay delinquent premium taxes and establish a process to ensure the taxes are paid correctly in the future.

Company Response: The Company proactively implemented measures to assure that agents remit premium based on the full premium charged by agents and that appropriate premium tax is paid. Additionally, the Company has directed its audit department to specifically check for this when conducting audits of its agents.

2. **In 49 of 100 policies reviewed, the Company did not collect the full 30% of the premium charged to consumers.** The failure to retain 30% of the premium charged is a violation of Section 626.9541(1)(h)3.a, Florida Statutes and Rule 69O-186.003 (9)(a), Florida Administrative Code.

Corrective action: The Company should establish a process to ensure they receive and retain a minimum of 30% of the premium charged to consumers.

Company Response: The Company proactively implemented measures to assure that agents remit premium based on the full premium charged by agents and that appropriate premium tax is paid. Additionally, the Company has directed its audit department to specifically check for this when conducting audits of its agents.

3. **In 43 of 100 policies reviewed, consumers were charged premiums other than the promulgated rate in violation of Rule 69O-186.003(1), Florida Administrative Code.** In 3 instances, policy charges were below the promulgated rate and in 40, the charges were above the promulgated rate. Files in which the rate charged was above the promulgated rate reflect overcharges in premiums and unfairly discriminatory application of insurance rates for similar risk in violation of Section 626.9541 (1)(o) 2., Florida Statutes. Files in which the rate charged was less than the promulgated rate reflect unlawful premium rebates in violation of Section 626.9541(1)(h) 3.a., Florida Statutes.

Corrective action: The Company should discontinue this practice and advise its agencies to remit the Company's portion of the premium based on the total premium charged.

Company Response: On December 12, 2006 the Company proactively issued a bulletin to all issuing offices in Florida and advised that all remittances must be based on the total charged and not the minimum promulgated rate.

4. **In 58 of 100 policies reviewed, the policy data provided by the Company indicated that appointed agents of the Company did not remit insurance premiums, less commission, in a timely manner.** The Company advised the examiners a policy is considered to be reported timely when the policy is reported within 60 days from the date of the policy, provided that all of the requirements of the commitment have been satisfied. In 58 of 100 policies reviewed, the required retention funds were not timely remitted to the Company. These are violations of Section 627.8473 (6), Florida Statutes and Rule 69O-186.003 (9)(c), Florida Administrative Code. The

required retention of funds must be remitted to the insurer by the agent at least monthly, and pursuant to Rule 69O-186.009, Florida Administrative Code, shall be reported on a monthly basis during the reconciliation period.

Corrective action: The Company should require that its agents submit all reconciliation reports and remit the related retention funds on a timely basis.

CLAIMS REVIEW

Findings:

As part of its claims process, the Company initially labels a notification of potential loss as an "inquiry." Through an evaluation process, the Company determines if the inquiry should be elevated to the level of a claim. This determination is subjective as the Company has not established any specific criteria by which they re-classify a notice of potential loss from an inquiry to a claim.

For the purpose of this examination, a claim is a notice of potential loss, which therefore includes inquiries. Based on this definition, the examiners sampled the Company's inquiry population and applied claims standards to it.

The examiners randomly sampled claims and inquiries from 2004 and 2005. Fifty (50) claims were chosen from a population of 745 claims and 46 inquiries were chosen from a population of 1,515 inquiries.

The following was noted:

1. The Company acknowledged claim communications received from its agents however did not document when its agent received notification of a claim. As communication to the agent constitutes communication to or by the insurer, this lack of documentation prevented the examiners from determining whether the Company timely acknowledged and acted regarding claim communications.
2. Files categorized as "inquiries" by the Company, resulted in findings that either communications regarding a claim were not acknowledged within 14 days (14 instances) or the file lacked sufficient documentation for examiners to determine when the claim was first reported and whether the Company timely communicated and acted with regard to a claim communication (3 instances).

Corrective Action: The Company should maintain its claim files in a manner that documents timely acknowledgement and action with regard to claim communications in order to demonstrate that it has adopted and implemented standards for the proper investigation of claims.

ESCROW, SETTLEMENT, CLOSING OR SECURITY DEPOSIT FUNDS

Findings:

Escrow fund handling is an agency function. Stewart is required to monitor its agents by receiving monthly reconciliations of the agents' escrow accounts. Nine hundred eighty (980) agencies were identified. A random sample of 50 agencies was selected and copies of the agency contracts and reconciliation records were reviewed. One agency's affiliation expired beyond the required 5 year period for maintaining these records. The Company could not provide escrow account reconciliation records for 5 of 49 agencies in the sample (10%) in violation of Rule 69O-186.009, Florida Administrative Code.

Corrective Action: The Company should collect and maintain a record of agency escrow account reconciliations on a timely basis and retain the records for at least 5 years.

PRODUCER LICENSING & RELATIONS

Findings:

Two thousand fifty-eight (2,058) agents and agencies identified by the Company. A random sample of 50 agencies was selected for review. The finding of the review is as follows:

1. **Information regarding the auditing and tracking of policy forms was requested. A review of 50 agencies revealed that 45 of the agencies (90%) did not receive the required annual policy inventory accounting in calendar year 2005.** This is a violation of Section 627.7773, Florida Statutes.

Corrective Action: The Company should implement procedures to ensure compliance with policy form audit requirements.

REINSURANCE

Findings:

Three (3) of 43 reinsurance treaties reviewed involved property insured in Florida. During the scope period the premium paid to these reinsurers compared with the claims paid by them suggested that the Company ceded premiums to reinsurers affiliated with title agencies or builders with little or no transfer of risk commensurate with premiums paid. In an interrogatory response the Company's stated purpose for these reinsurance agreements was "to secure business for Stewart Title."

Company Response: The Company indicates that of the 12 captive reinsurance agreements reviewed during the examination, only 3 captive reinsurance agreements were applicable to Florida properties. Of those 3 that were applicable to Florida properties, 1 was cancelled in 2001 and the other 2 were cancelled in 2006. The Company has discontinued the use of captive reinsurance agreements in Florida.

AFFILIATED BUSINESS ARRANGEMENTS (“ABAs”)

Findings:

1. The Company response to ABA interrogatories disclosed that it was affiliated with 26 ABA’s in Florida. The following activity suggests that ABA arrangements exist for the purpose of providing inducements for the referral of title insurance from realtors, lenders, agents and/or builders who were participants in the ABA:
 - Employee sharing among title agency, settlement producer and/or ABA without apparent sharing of expenses;
 - Title searches contracted exclusively to Stewart Title owned entities;
 - ABA sharing office space with a settlement producer/agency owner (In one instance, this was not disclosed to examiners);
 - ABA staff member listed as working for multiple agencies at the same time;
 - Agency reported premium to the Company yet reported no policies issued; and/or
 - There is no specific description of the insurance or closing services provided or fees charged by the ABA.

Company Response: The Company has discontinued the use of Affiliated Business Arrangements in Florida. As of May 4, 2009, the Company had one remaining ABA in operation in Florida and it was scheduled to be closed on May 31, 2009.

EXAMINATION REPORT SUBMISSION

The Office issued this Final Report based upon information from the examiner’s draft report, additional research conducted by the Office, and additional information provided by the Company.