

REPORT ON EXAMINATION
OF
WINDHAVEN INSURANCE COMPANY
MIAMI, FLORIDA
AS OF
DECEMBER 31, 2007

BY THE
OFFICE OF INSURANCE REGULATION

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Tallahassee, Florida

March 25, 2009

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 624.316, 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 December 31, 2007, of the financial condition and corporate affairs of:

**WINDHAVEN INSURANCE COMPANY
7205 CORPORATE CENTER DRIVE, SUITE 200
MIAMI, FLORIDA 33126**

Hereinafter referred to as the "Company". The report of examination is herewith respectfully submitted.

SCOPE OF EXAMINATION

This examination covered the period of December 23, 2005, through December 31, 2007. This was a first year examination of the Company. This examination commenced with planning at the Florida Office of Insurance Regulation (Office), on January 20, 2009, to January 22, 2009. The fieldwork commenced on January 27, 2009, and was concluded as of March 25, 2009.

This financial examination was a statutory financial examination conducted in accordance with the Financial Condition 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.

The *Financial Condition Examiners Handbook* requires that the examination be planned and performed to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All accounts and activities of the Company were considered in accordance with the risk-focused surveillance examination approach.

The examination included a review of the corporate records and other selected records deemed pertinent to the Company's operations and practices. In addition, the NAIC reports, the Company's independent audit reports and certain work papers prepared by the Company's independent certified public accountant (CPA) and other reports, as considered necessary, were reviewed and utilized where applicable within the scope of this examination.

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

Status of Adverse Findings from Prior Examination

This was the first examination of the Company.

HISTORY

General

The Company was incorporated on December 21, 2005, as a stock property and casualty insurer. On March 29, 2006, the Company received its Certificate of Authority from the Office and began writing business on May 1, 2006.

The Company was authorized to transact the following insurance coverage in Florida on December 31, 2007:

Private Passenger Auto Liability

Private Passenger Auto Physical Damage

The Company wrote both lines of business for which it was authorized as of December 31, 2007.

The Articles of Incorporation and the Bylaws were not amended during the period covered by this examination.

Capital Stock

As of December 31, 2007, the Company's capitalization was as follows:

Number of authorized common capital shares	100,000
Number of shares issued and outstanding	62,000
Total common capital stock	\$6,200,000
Par value per share	\$100

Control of the Company was maintained by its parent, Windhaven Managers, Inc., a Florida Corporation, which owned 100% of the common stock issued by the Company. Windhaven Managers is wholly owned by Windhaven Holdings, Ltd, a Bermuda based holding company wholly owned by Jimmy E. Whited.

Licensing Consent Order

The Company was subject to licensing Consent Order 85477-06-CO which was reviewed for compliance. The Company met the terms and was in compliance with the licensing Consent Order as of December 31, 2007.

Profitability of Company

The following table shows the profitability trend (in dollars) of the Company for the period of operations, as reported in the Company's filed annual statements.

	2007	2006
Premiums Earned	10,958,958	5,410,0520
Net Underwriting Gain/(Loss)	(155,576)	(1,461,292)
Net Income	62,026	(1,262,456)
Total Assets	11,391,441	15,466,258
Total Liabilities	6,513,796	10,424,758
Surplus As Regards Policyholders	4,877,645	5,041,500

Dividends to Stockholders

The Company did not declare or pay dividends to its stockholder in 2007.

Management

The annual shareholders meeting for the election of directors was held in accordance with Sections 607.1601 and 628.231, Florida Statutes. Directors serving as of December 31, 2007 were:

Directors

Name and Location

Principal Occupation

Jimmy Eric Whited
Miami, FL

President
Windhaven Insurance Company

Jonathan Cocks
Richardson, TX

Certified Public Accountant
Self Employed

Benjamin Joel Turner
Austin, TX

Chief Actuary
Texas Mutual Insurance Company

Susan Beth Wollenberg
Overland Park, KS

Controller
Kansas City Southern

David Parks Martin Jr.
Plano, TX

Vice President
Windhaven Insurance Company

The Board of Directors (Board) in accordance with the Company's bylaws appointed the following senior officers that were serving at December 31, 2007:

Senior Officers

Name	Title
Jimmy Eric Whited	President and Chairman
Jonathan Cocks*	Treasurer, Secretary, CFO and Vice President
David Parks Martin, Jr.	Vice President

* Jonathan Cocks resigned his positions as officer and director of the Company effective August, 07, 2008. Jimmy Whited was elected to the additional positions of CFO and Treasurer. David Scruggs was elected the Company's Secretary.

The Company's Board appointed internal committees in accordance with Section 607.0825, Florida Statutes. Following are the members as of December 31, 2007:

Investment Committee	Audit Committee
Jimmy Eric Whited ¹	Susan Beth Wollenberg ¹
Susan Beth Wollenberg	Jimmy Eric Whited
Jonathan Cocks	Jonathan Cocks

¹ Chairman

A review of the members of the Audit Committee revealed that Jimmy Whited, President and Jonathan Cocks, CFO were on the audit committee at December 31, 2007. The Company was not in compliance with Section 624.424 (8) (c), Florida Statutes, which requires the audit committee be comprised solely of members who are free from any relationship that, in the opinion of its Board of Directors, would interfere with the exercise of independent judgment as a committee member.

Subsequent Event: As reflected by the unanimous written consent effective February 24, 2009, the Company elected three independent Board members to its audit committee, satisfying Florida Statutes, Section 624.424 (8) (c), Florida Statutes. The three Board members elected to the Audit Committee were: Susan Wollenberg, Benjamin Turner and David Scruggs.

Conflict of Interest Procedure

The Company adopted a policy statement requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook.

The Company's Statement of Policy Regarding Conflict of Interest states, "Each Board member shall disclose, either in writing or orally at the annual meeting, the Board member's affiliation with entities or transactions representing current or anticipated conflict circumstances."

The Company's Board of Directors and/or Officers did not complete annual conflict of interest questionnaires and the review of the Board of Directors minutes for the period covered under this examination did not mention disclosure to the Board of Directors of any conflicts of interest in violation of Section 607.0832(2), Florida Statutes.

Corporate Records

The minutes of the Board, shareholder and internal committees were reviewed for the period under examination. The review of the Company's minutes found the following issues:

- The minutes of the Board of directors did not contain the annual appointment or election of officers of the Company as required by the Company's Articles of Incorporation.
- There were no minutes provided of the shareholder meeting and, therefore, they did not contain the annual appointment or election of Board members of the Company as required by the Company's Articles of Incorporation.
- There were no minutes provided for the Investment Committee.
- There were no minutes provided for the Audit Committee.

- There was no approval of Company investments.
- The minutes provided did not reflect the hiring of the Company's CPA and did not reflect any discussion or review of the Company's 2007 CPA's report.
- The minutes provided did not reflect any discussion or review of the Company's 2007 actuary's report.

These are violations of Section 607.1601, Florida Statutes.

Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales through Reinsurance

The Company had no acquisitions, mergers, disposals, dissolutions, and purchases or sales through reinsurance.

Surplus Debentures

The Company did not have any surplus debentures at December 31, 2007.

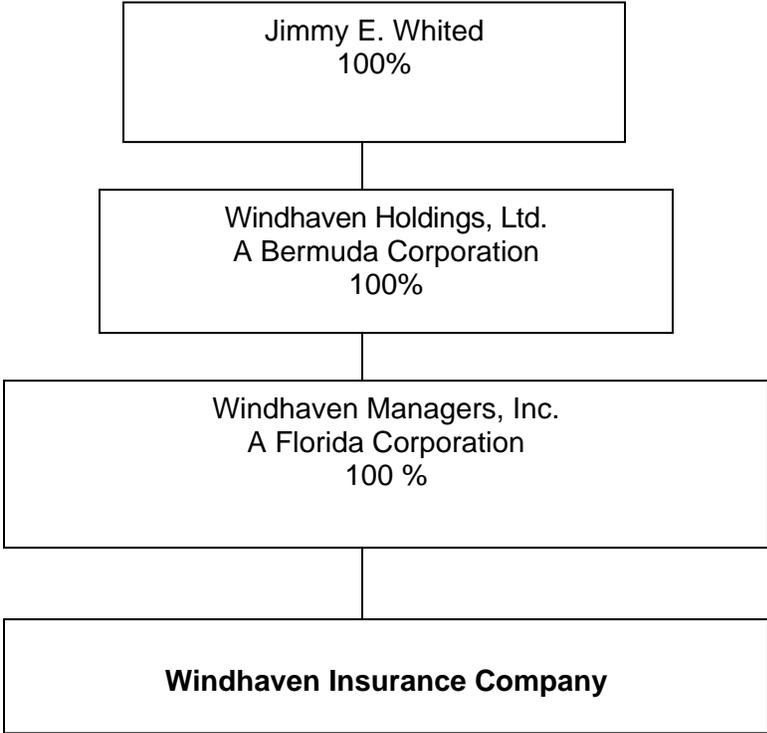
AFFILIATED COMPANIES

The Company was a member of a insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code. The latest holding company registration statement was filed with the State of Florida on March 03, 2008, as required by Section 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

A simplified organizational chart as of December 31, 2007, reflecting the holding company system, is shown below.

**WINDHAVEN INSURANCE COMPANY
ORGANIZATIONAL CHART**

DECEMBER 31, 2007



The following agreements were in effect between the Company and its affiliates:

Managing General Agent Agreement

The Company had a Managing General Agency Agreement with its affiliate, American Southwest Insurance Managers of Florida, LLC. The agreement was effective December 30, 2005 and administered 100% of the policies written by the Company and provided services for managing and administering the affairs of the Company. Services included, but not limited to, marketing, general ledger accounting, information services, product and underwriting development and management.

Executive Management and Claims Administration Agreement

The Company had an Executive Management and Claims Administration Agreement with its parent, Windhaven Managers, Inc. The agreement was effective February 1, 2006, and provided the Company with administrative and managerial oversight of the MGA agreement, claims administration services, as well as certain services not covered by the MGA Agreement.

FIDELITY BOND AND OTHER INSURANCE

The Company maintained fidelity bond coverage up to \$3,000,000 with a deductible of \$100,000, which adequately covered the suggested minimum amount of coverage for the Company as recommended by the NAIC.

The Company also maintained Directors and Officers (D&O) liability insurance coverage with limits of \$3,000,000 with a deductible of \$15,000.

PENSION, STOCK OWNERSHIP AND INSURANCE PLANS

In August of 2006, the Company established a qualified retirement plan in accordance with the requirements of Section 410(k) of the Internal Revenue Code. The Company matched a portion of eligible employees' plan contributions and may make a discretionary profit sharing contribution.

STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes:

<u>State</u>	<u>Description</u>	<u>Par Value</u>	<u>Market Value</u>
FL	CD, 2.72%,	<u>\$ 750,000</u>	<u>\$ 750,000</u>
Total Florida Deposits		<u>\$ 750,000</u>	<u>\$ 750,000</u>
Total Special Deposits		<u>\$ 750,000</u>	<u>\$ 750,000</u>

INSURANCE PRODUCTS

Territory

At December 31, 2007, the Company was authorized to transact insurance only in the State of Florida.

Treatment of Policyholders

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

The Company maintained a claims procedure manual that included detailed procedures for handling each type of claim in accordance with Section 626.9541 (1)(i) 3.a., Florida Statutes.

REINSURANCE

The reinsurance agreements were reviewed by the Company's appointed actuary and were utilized in determining the ultimate loss opinion.

The reinsurance agreements reviewed complied with NAIC standards with respect to the standard insolvency clause, arbitration clause, transfer of risk, reporting and settlement information deadlines.

Assumed

The Company assumed no reinsurance risk in 2007.

Ceded

The Company began 2007 with an excess of loss treaty with Imagine International Reinsurance. Under this treaty, the Company retained all losses up to a ratio of 49% during any single agreement year. The Company cancelled this treaty on October 31, 2007, and on November 1, 2007, entered into a quota share agreement in which the Company ceded 75% of its losses incurred after October 31, 2007, to a group of reinsurers pursuant to the terms of that agreement.

ACCOUNTS AND RECORDS

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

An independent CPA audited the Company's statutory basis financial statements annually for the year ending December 31, 2007, in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, Florida Administrative Code.

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

The examination actuarial review as of December 31, 2007, indicated that loss and loss adjustment expense reserves amount of \$1,126,000 as reported by the company were understated by \$249,000 or 22.1%. Actuarial analysis indicated that the correct amounts should be \$788,759 for loss reserves and \$587,476 for new loss adjustment expense.

The Company and non-affiliates had the following agreements in effect at December 31, 2007:

Custodial Agreement

The Company did not have a formal written agreement with its custodian, Bank of America.

FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2007, 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 Surplus".

WINDHAVEN INSURANCE COMPANY
Assets

DECEMBER 31, 2007

	Per Company	Examination Adjustments	Per Examination
Bonds	\$750,000		\$750,000
Common stocks	380,157		\$380,157
Cash	5,742,889		5,742,889
Investment income due and accrued	1,710		1,710
Agents' Balances:			
Deferred premium	3,465,931		3,465,931
Reinsurance			
Amounts recoverable from reinsurers	1,024,128		1,024,128
EDP and software	1,852		1,852
Receivable from parents, subsidiaries and affiliates	24,774		24,774
Totals	\$11,391,441	\$0	\$11,391,441

WINDHAVEN INSURANCE COMPANY
Liabilities, Surplus and Other Funds

DECEMBER 31, 2007

	Per Company	Examination	Per
	Per Company	Examination	Examination
		Adjustments	
Losses	\$760,759	\$28,000	\$788,759
Loss adjustment expenses	366,476	221,000	587,476
Other expenses	14,301		14,301
Taxes, licenses and fees	137,456		137,456
Unearned premiums	1,043,976		1,043,976
Ceded reinsurance premiums payable	3,939,688		3,939,688
Provision for reinsurance	128,000		128,000
Aggregate write-ins	123,140		123,140
Total Liabilities	\$6,513,796	\$249,000	\$6,762,796
Common capital stock	\$6,200,000		\$6,200,000
Surplus Notes	0		0
Gross paid in and contributed surplus	0		0
Unassigned funds (surplus)	(1,322,355)	249,000	(1,571,355)
Surplus as regards policyholders	\$4,877,645		\$4,628,645
Total liabilities, surplus and other funds	\$11,391,441		\$11,391,441

WINDHAVEN INSURANCE COMPANY
Statement of Income
Per Examination

DECEMBER 31, 2007

Underwriting Income

Premiums earned	\$10,958,958
Deductions	
Losses incurred	\$6,830,095
Loss expenses incurred	1,927,459
Other underwriting expenses incurred	2,356,980
Total underwriting deductions	<u>11,114,534</u>
Net underwriting gain or (loss)	(\$155,576)

Investment Income

Net investment income earned	\$181,068
Net realized capital gains (losses)	36,534
Net investment gain or (loss)	<u>\$217,602</u>

Other Income

Net gain or (loss)	0
Finance and service charges not included in premiums	\$0
Total other income	<u>\$0</u>

Net Income, after dividends to policyholders, but before federal & foreign income taxes	\$62,026
Federal income taxes	<u>\$0</u>

Net Income	\$62,026
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Capital and Surplus Account

Surplus as regards policyholders, December 31 prior year	\$5,041,500
Net Income	\$62,026
Change in net unrealized capital gains	(\$20,682)
Change in net deferred income tax	(8,016)
Change in non-admitted assets	(69,183)
Change in provision for reinsurance	(128,000)
Capital changes	0
Paid in surplus	0
Aggregate write-ins for gains and losses in surplus	(249,000)
Change in surplus as regards policyholders for the year	<u>(\$412,855)</u>
Surplus as regards policyholders, December 31 current year	<u><u>\$4,628,645</u></u>

COMMENTS ON FINANCIAL STATEMENTS

Liabilities

Net loss reserves

\$788,759

The examination actuarial review as of December 31, 2007, indicated that the Company's net loss reserves were \$28,000 greater than the Company's reported value of \$760,759.

Net loss adjustment expenses

\$587,476

The examination actuarial review as of December 31, 2007 indicated that the Company's net loss adjustment expenses were \$221,000 greater than the Company's reported value of \$366,476.

A comparative analysis of changes in surplus is shown below.

**WINDHAVEN INSURANCE COMPANY
COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS**

DECEMBER 31, 2007

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

Surplus as Regards Policyholders December 31, 2007, per Annual Statement	\$4,877,645
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	<u>PER COMPANY</u>	<u>PER EXAM</u>	<u>INCREASE (DECREASE) IN SURPLUS</u>
ASSETS:			
No adjustment			
LIABILITIES:			
Losses	\$760,759	\$788,759	(\$28,000)
Loss adjustment expenses	\$366,476	\$587,476	(\$221,000)
Net Change in Surplus:			(249,000)
Surplus as Regards Policyholders December 31, 2007, Per Examination			\$4,628,645

SUMMARY OF FINDINGS

Compliance with previous directives

This was the first examination of the Company by the Office.

Current examination comments and corrective action

The following is a brief summary of items of interest and corrective action to be taken by the Company regarding findings in the examination as of December 31, 2007.

Conflict of Interest Procedure

The Company's Statement of Policy Regarding Conflict of Interest states, "Each Board member shall disclose, either in writing or orally at the annual meeting, the Board member's affiliation with entities or transactions representing current or anticipated conflict circumstances."

The Company's Board of Directors and/or Officers did not complete annual conflict of interest questionnaires signed by the Board members and the review of the Board of Directors minutes for the period under examination did not indicate and/or mention disclosure to the Board of Directors of any conflicts of interest. **We recommend the Company comply with the NAIC Financial Condition Examiners Handbook and annually have the members of the Board of Directors and officers sign a Conflict of Interest Questionnaire/Statement or record in the annual Board minutes inquiries made concerning possible conflicts and note the results of those inquiries.**

Custody Agreement

The Company did not have a formal written agreement with its custodian, Bank of America. **We recommend that the Company comply with Rule 690-143.042, Florida Administrative Code, and formalize a written agreement authorized by a resolution of the Company's Board of Directors, with its custodian.**

Corporate Records

The minutes of the Board of Directors, shareholder and internal committees were reviewed for the period under examination. The review of the Company's minutes found the following issues:

- The minutes of the Board of Directors did not contain the annual appointment or election of officers of the Company as required by the Company's Articles of Incorporation.
- There were no minutes provided of the shareholder meeting and, therefore, they did not contain the annual appointment or election of Board members of the Company as required by the Company's Articles of Incorporation.
- There were no minutes provided for the Investment Committee.
- There were no minutes provided for the Audit Committee.
- There was no approval of Company investments.
- The minutes provided did not reflect the hiring of the Company's CPA and did not reflect any discussion or review of the Company's 2007 CPA's report.
- The minutes provided did not reflect any discussion or review of the Company's 2007 actuary's report.

We recommend that the Company comply with Section 607.1601, Florida Statutes and keep as permanent records minutes of all meetings of its shareholders and Board of Directors, a record of all actions taken by the shareholders or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the corporation.

We recommend that the Company comply with Section 625.304, Florida Statutes and reflect approval of investments in the Board of Directors' minutes.

We recommend that the Company comply with Section 624.424(8) (c), Florida Statutes and reflect the hiring of the Company's CPA and discussion of the Company's CPA report in the Company's Board minutes and/or Audit Committee minutes.

Loss and Loss adjustment expenses

The examination actuarial review as of December 31, 2007, indicated that the Company's net loss and loss adjustment expense (LAE) reserves were \$249,000 higher than the Company's booked net loss and LAE reserves of \$1,126,000, as reflected in the Schedule P - Part 1 of the 2007 annual statement. This difference represented a 22.1% increase over the December 31, 2007 net annual statement reserves. **We recommend that the Company reevaluate its net loss and LAE reserve estimates and report adequate reserves, as required in Section 625.091 (1), Florida Statutes.**

SUBSEQUENT EVENTS

In 2008, the Company became party to Consent Order 91749-07-CO filed May 14, 2008. Under Consent Order 91749-07-CO the Company agreed to the following:

- Within sixty days of the date of the proposed order, the Company will make a rate filing, prepared by an actuary, with appropriate supporting documentation.
- For two years following the date of the date of the proposed order, the Company will request approval from the OIR before implementing any rate change.
- The Company's future rate filings will be made by someone with at least five years of experience in insurance ratemaking.
- The Company was assessed \$3,000 in administrative costs.
- Provided the Company complies with the terms and conditions of this consent order, the OIR will hold in abeyance any action regarding refunds or credits to policyholders in connection with the December 29, 2006 rate filing.

CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Windhaven Insurance Company** as of December 31, 2007, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's Surplus as Regards Policyholders was \$4,628,645, in compliance with Section 624.408, Florida Statutes.

In addition to the undersigned, Patricia Casey Davis, CFE, CPA, INSRIS Examiner Supervisor; Greg Taylor, CFE, INSRIS Examiner in Charge; Matt Perkins, CFE, INSRIS Examiner and Mark Brown, OIR Reinsurance/Financial Specialist participated in the examination. We also recognize INS Consultants, Inc. and INS Services, Inc.'s participation in the examination.

Respectfully submitted,

Kethessa Carpenter, CPA
Financial Examiner/Analyst Supervisor
Florida Office of Insurance Regulation