

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

AMERICAN SAFETY CASUALTY INSURANCE COMPANY
(AMERICAN SAFETY INSURANCE GROUP)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

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I. INTRODUCTION

American Safety Casualty Insurance Company (Company) is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty target market conduct examination. The scope period for this examination was January 1998 through March 2001. The examination began May 20, 2001 and ended August 18, 2001. This is the first property and casualty market conduct examination of this insurer conducted by the Florida Department of Insurance.

The purpose of the current target market conduct examination was to verify that the Company's business practices and procedures are in compliance with Florida Statutes/Rules since the Company began writing business in Florida in July 1998.

During this examination, records reviewed included policies, cancellations/nonrenewals, statistical reporting, agent/MGA licensing and consumer complaints for the period of January 1998 through March 2001, as reflected in the report.

This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances, the Company was directed to take corrective action as required, issue appropriate refunds, make all necessary filings with the Department of Insurance and immediately cease any activity that continued to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings of this examination, \$28,551.38 was returned to Florida consumers due to overcharges of premium.

II. PRE-EXAM REVIEW OF COMPANY WRITINGS

A. CERTIFICATE OF AUTHORITY - AUTHORIZED LINES

1. General Comments

The Certificate of Authority/Renewal Invoices were reviewed for all years within the scope of the examination.

2. Exam Findings

The review included verification of the lines of business the Company was authorized to write during the scope of examination versus those lines actually being written. It also included verification that notification requirements were met for any line of business that was discontinued.

No errors were found.

III. COMPANY OPERATIONS/MANAGEMENT

A. PROFILE

TIC Indemnity Company (TIC) was incorporated in Georgia in June 1981. It began writing insurance in various states, but was later seized, and placed in liquidation by the California Department of Insurance. The Los Angeles County Superior Court approved the sale of TIC to American Safety Insurance Group, Ltd. (ASIG), in September 1992. The corporation was re-domesticated to Delaware in April 1993 and the name was changed to American Safety Casualty Insurance Company (ASCIC). ASCIC began writing business in Florida in July 1998. In August 1999, the stock of ASCIC was transferred from ASIG to American Safety Holdings Corporation. ASCIC is now a wholly-owned subsidiary of American Safety Holdings Corporation, a Georgia Corporation.

ASCIC markets its products by using independent agents, general agents and program managers. Managing general underwriters are used to write business in Florida. Due to limited volume of business, these entities are not managing general agents. The Company does no direct response marketing and does not have an Internet site. The Company specializes in providing direct casualty insurance, and reinsurance in the alternative insurance market. This includes, but is not limited to, environmental risks, contractors, employee leasing risks and other “main street” type accounts. The Company’s claim adjusting is handled by in-house adjusters and outside adjusting firms. Both employee and independent auditors conduct the audits of auditable policies. The Company operates from their home office. There are no branch or regional offices.

B. MANAGEMENT

1. Company Computer System

The Company utilizes a PC server based computer system in the home office, however, the Company does not currently use the system for rating or policy issuance. Agents and brokers are not connected directly to the Company's computer. Program business partners have computer systems of their own. The Company is in the process of bringing computer rating and policy issuance systems on-line for workers' compensation and surety business.

2. Anti-Fraud Plan

An Anti-Fraud Plan was filed with the Florida Department of Insurance on December 21, 1999. The Plan is designed to prevent fraud involving employees or company representatives, misrepresentation on applications for insurance coverage and claims fraud, through a program of detection, investigation, reporting and prevention.

3. Disaster Recovery Plan

The Company has a Disaster Preparedness Plan with procedures in place to enable it to continue operations in the event of a disaster.

4. Internal Audit Plan

The Company's Internal Audit Department has a manual of procedures to review the program managers' and agents' accounting procedures, regulatory compliance, adherence to underwriting guidelines and authority levels. In addition, periodic internal reviews are performed on auditable policy handling.

5. Privacy Plan 4ER01

The Company has developed a new “Notice of Privacy Policy” which is to be mailed to all policyholders and complies with Rule 4ER01, Privacy of Consumer Financial and Health Information.

C. OPERATIONS

The Company began writing surety business in Florida in July 1998 and began writing workers’ compensation in 1999. The Company provides insurance programs for businesses, such as, but not limited to, environmental contractors, consultants, storage tank owners, commercial real estate owners, manufacturing facilities, asbestos and lead abatement contractors, and hazardous waste facilities. It has developed workers’ compensation insurance programs for specialty risks that the standard market has not traditionally served. In addition to the types of risks described above, the Florida market focus is toward “main street” type businesses including retail clothing, wholesale trade, retail food products and private schools. The Company is listed with the U.S. Treasury Department as an approved surety company for providing surety bonds for Federal obligees. Policies are marketed in Florida with independent agents and by contracts with program managers who also use sub-producers. The managing general underwriter, Insurance Services of America, LLC, produced the majority of the workers’ compensation policies reviewed during this examination.

IV. REVIEW OF POLICIES

A. COMMERCIAL AUTOMOBILE

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

American Safety Casualty Insurance Company is a subscriber of Insurance Service Office (ISO) and as such, ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

American Safety Casualty Insurance Company is a subscriber of ISO and as such, ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

ISO acts as the Company's official statistical agent.

2. 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>	
1998	\$ 0	0	
1999	\$ 960,778	254	
2000	\$ 262,476	34	
2001*	\$ 0	0	*as of 3/31/2001

The decrease in premium from 1999 to 2000 was due to the Company nonrenewing the business they acquired in 1999 from Principal Management, Inc. This insurance program management group no longer represents the Company. Exhibit I.

3. Exam Findings

One hundred (100) policy files were examined.

Eighteen (18) errors were found.

Errors affecting premium resulted in fifteen (15) overcharges totaling \$4,375.38 and three (3) undercharges totaling \$480.00.

The errors are broken down as follows:

1. Six (6) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. The Company documented a schedule rating credit/debit factor, however, a different factor was applied. These errors resulted in one (1) undercharge of \$101.00 and five (5) overcharges totaling \$961.52, which have been refunded by the Company.
2. Five (5) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. The Company used incorrect territories. These errors resulted in one (1) undercharge of \$361.00 and four (4) overcharges totaling \$2,977.88, which have been refunded by the Company.
3. Five (5) errors were due to failure to apply credits/debits within the 25% range. This constitutes a violation of Rule 4-170.004, Florida Administrative Code. These errors resulted in five (5) overcharges totaling \$254.79, which have been refunded by the Company.
4. Two (2) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. The Company used a non-applicable fleet factor. These errors resulted in one (1) undercharge of \$18.00 and one (1) overcharge of \$181.19, which has been refunded by the Company.

B. SURETY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

American Safety Casualty Insurance Company is a member of the Surety Association of America (SAA) and as such, SAA is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

American Safety Casualty Insurance Company is a member of SAA and as such, SAA is authorized to file forms on the Company's behalf. In addition, the Company does make some independent filings.

c. Statistical Affiliation

The Insurance Services Office, Inc., acts as the Company's official statistical agent.

2. Premium and Bond Counts

Direct Premiums Written and in-force bond counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Bond Count</u>	
1998	\$ 291,814	27	
1999	\$ 412,540	254	
2000	\$1,516,903	196	
2001*	\$ 199,920	75	*as of 3/31/2001

The Company began writing business in Florida in late 1998. This caused the difference shown in the 1999 statistics. While bonds decreased in 2000, larger accounts were written causing the increase in premiums.

3. Exam Findings

One hundred (100) surety bonds were examined.

Three (3) errors were found.

Errors affecting premium resulted in one (1) overcharge totaling \$60 and two (2) undercharges totaling \$124.

The errors are broken down as follows:

1. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. The premium was calculated incorrectly. This error resulted in an overcharge of \$60, which has been refunded by the Company.
2. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. The bond premium was incorrectly calculated by using an incorrect percentage factor. This error resulted in an undercharge of \$106.
3. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. This constitutes a violation of Section 627.062, Florida Statutes. An additional premium for added coverage was waived. This error resulted in an undercharge of \$18.

C. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

American Safety Casualty Insurance Company is a National Council on Compensation Insurance (NCCI) company and as such, uses this organization's rules, rates and forms. The NCCI acts as statistical agent for this line of business.

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>	
1998	\$ 0	0	
1999	\$2,335,002	643	
2000	\$6,278,917	528	
2001*	\$2,633,098	455	*As of 3/31/2001

The differences in premium from 1999 to 2000 were due to increases in the size of accounts written in 2000.

b. Error Percentages

One hundred (100) policies, including eighty (80) audits, were examined.

Thirty-eight (38) errors were found.

Errors affecting premium resulted in twelve (12) overcharges totaling \$11,666 and fifteen (15) undercharges totaling \$52,195. The policy review revealed some policies contained multiple errors resulting in overcharges and undercharges. These policies' premium errors were totaled for the net effect on each policy.

1. Seven (7) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The errors are broken down as follows: three (3) errors were due to failure to apply correct payroll classifications; two (2) errors were due to failure to apply current experience modifications to the premium billing and two (2) errors were due to incorrect calculations of audit billings. These errors resulted in net overcharges totaling \$202, which have been refunded to the policyholders and net undercharges totaling \$31,726.
2. One (1) error was due to use of an unfiled rate. This constitutes a violation of Section 627.091, Florida Statutes. An unfiled rate was used for a waiver of subrogation endorsement.
3. Nine (9) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The audit billing did not reflect the current experience modification. These errors resulted in three (3) overcharges totaling \$6,459, which have been refunded to the policyholders, and six (6) undercharges totaling \$11,970.

4. Five (5) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to correctly classify the audited payroll. These errors resulted in three (3) overcharges totaling \$4,408, which have been refunded to the policyholders, and two (2) undercharges totaling \$3,517.
5. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to apply the correct minimum premiums on policy billings. These errors resulted in two (2) undercharges totaling \$244.
6. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to use correct calculations in the audit billing procedure. The errors resulted in one (1) overcharge totaling \$145, which has been refunded to the policyholder, and one (1) undercharge totaling \$4,738.
7. One (1) error was due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The error was due to use of incorrect rates for Florida exposure on a multi-state policy. This error resulted in an overcharge totaling \$452, which has been refunded to the policyholder.

8. Seven (7) errors were due to failure to audit within 90 days. This constitutes a violation of Section 627.191, Florida Statutes. There were no changes in premium due to these errors.
9. Four (4) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The Company applied experience modifications to policies that did not qualify for the experience rating plan. There were no changes in premium due to these errors since the modification applied was 1.00.

2. Unit Statistical Review

The review of statistical cards is for the purpose of verifying that premium and claim statistics are properly reported to the NCCI. Workers' Compensation statistics are utilized in the rate making process when rate filings are presented to the Department of Insurance for consideration, as well as, in the development of experience modification factors on individual risks.

a. Audit Comparison

Forty (40) premium statistical cards were examined.

Four (4) errors were found.

Errors affecting statistical reporting resulted in two (2) overreports totaling \$3,113 and two (2) underreports totaling \$2,524.

The errors are broken down as follows:

1. Three (3) errors were due to failure to send revised statistical cards to NCCI after revised audits were performed. This constitutes a violation of Section 627.191, Florida Statutes.
2. One (1) error was due to reporting incorrect premium and class code statistics. This constitutes a violation of Section 627.191, Florida Statutes.

b. Claim Comparison

Two (2) claim statistical cards were examined.

One (1) error was found.

The error is described as follows:

1. One (1) error was due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The error was caused by reporting a lawn maintenance employee as a clerical employee.

V. AGENTS/MGA REVIEW

Thirty (30) applications/policies written during the scope of examination were examined.

Ten (10) errors were found.

None of the errors affected policy fees.

The errors are broken down as follows:

1. Seven (7) errors were due to use of unappointed agents. This constitutes a violation of Section 626.112, Florida Statutes.
2. Two (2) errors were due to use of unlicensed and unappointed agents. This constitutes a violation of Section 626.112, Florida Statutes.
3. One (1) error was due to failure to display an agent's identification number on the application. This is a violation of Section 627.4085, Florida Statutes.

VI. CANCELLATIONS/NONRENEWALS REVIEW

One hundred (100) cancelled/nonrenewed policies were examined.

Fifty (50) cancellations/nonrenewals were commercial automobile policies and fifty (50) were workers' compensation policies.

Thirty-four (34) errors were found.

Errors affecting premium resulted in thirteen (13) underreturns totaling \$12,450 and four (4) overreturns totaling \$10,154. The review revealed some policies contained multiple errors resulting in underreturns and overreturns. These policies' premium errors were totaled for the net effect and are described in number two below.

The errors are broken down as follows:

1. Ten (10) errors were due to failure to comply with return of unearned premium requirements. This constitutes a violation of Rule 4-167.001, Florida Administrative Code. These errors were caused by failure to return premium within 15 days on commercial automobile policies.
2. Ten (10) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The ten (10) errors are broken down as follows: two (2) errors were due to applying a safety credit without the correct certification form in the file; four (4) errors were due to applying incorrect classifications to audited payrolls; two (2) errors were due to use of an incorrect experience modification factor; one (1) error was due to use of an incorrect premium discount factor and one (1) error was due to not charging for an owner when the owner was covered by endorsement. These errors resulted in net underreturns totaling \$262, which have been refunded to the policyholders and net overreturns totaling \$9,716.

3. Four (4) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. The errors were due to failure to audit and bill the policyholders within 90 days. These errors did not affect premiums.
4. Three (3) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to use of incorrect experience modification factors. These errors resulted in two (2) underreturns totaling \$723, which have been refunded to the policyholders and one (1) overreturn totaling \$965.
5. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to applying incorrect classifications to audited payroll. These errors resulted in an one (1) underreturn totaling \$743, which has been refunded to the policyholder and one (1) overreturn totaling \$8,927.
6. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. One (1) error was due to use of an incorrect expense constant and one (1) error was due to charging for an excluded office of a corporation. These errors resulted in two (2) underreturns totaling \$1,268, which have been returned to the policyholders.
7. Two (2) errors were due to failure to provide specific reasons for denial, cancellation or nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. The cancellation notices read “No longer meets underwriting guidelines”.

8. One (1) error was due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.1615, Florida Statutes.

This error was due to having minimum premium requirements to renew workers' compensation business.

VII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company. Complaint handling procedures are described in Exhibit II.

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

A. CONSUMER RECEIVED COMPLAINTS

The review of the complaint log revealed that one (1) complaint was received directly from the consumer. All others had previous involvement with the Florida Department of Insurance. The one complaint regarded a claim matter and was resolved correctly and timely, therefore, no errors were found.

VIII. PENDING ISSUES

The following issue was pending at the conclusion of the examination field work:

During the review of cancelled policy files in the workers' compensation phase of the examination, it was revealed that underwriting requirements of the program managers under contract to the Company have minimum premium requirements that are in violation of Section 627.1615, Florida Statutes.

The Company was directed to comply with the above statute and give the Florida Department of Insurance a written response, within 90 days of receipt of this report, outlining how compliance will be implemented.

IX. EXHIBITS

SUBJECT _____ EXHIBIT NUMBER

COMMERCIAL AUTOMOBILE NEWS REPORT I

CONSUMER COMPLAINT HANDLING PROCEDURES II