

2000 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

ZENITH INSURANCE COMPANY  
(ZENITH NATIONAL INSURANCE CORP)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

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## I. INTRODUCTION

Zenith Insurance Company is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this examination, January 1997 to December 1999. The examination began September 24, 2000 and ended November 11, 2000. This is the first workers' compensation examination of the Company by the Florida Department of Insurance.

The purpose of this target examination was to verify that the Company is conducting business according to Florida Statutes.

During this examination, records reviewed included policies, cancellations/nonrenewals, agent/MGA licensing, and consumer complaints for the period of January 1997 through December 1999, as reflected in this 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 and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings of this examination, \$1,598.00 was returned to Florida consumers due to overcharges of premium.

II. PRE-EXAM REVIEW OF COMPANY'S 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 the 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

Zenith Insurance Company (“The Zenith”) is a California domiciled carrier founded in 1949. Since 1978, when current management joined the Company, Zenith has specialized in underwriting workers’ compensation insurance.

The Company’s California and Texas operations began to expand during 1996. The expansion and geographical diversification continued into Florida, and effective December 30, 1996, Zenith acquired AGC Self-Insured Trust located in Orlando, Florida.

The Florida expansion continued into 1998, and effective April 1, 1998, substantially all of the assets and certain liabilities of RISCORP, INC. and certain of its subsidiaries related to workers’ compensation were acquired by Zenith.

Currently, Zenith is licensed in forty-three (43) states, with branch offices located in California, Utah, Texas, Florida, North Carolina, Illinois and Pennsylvania. The Company continues to specialize in workers’ compensation insurance in all branch operations.

Zenith National Insurance Corp. is parent to Zenith Insurance Company, ZNAT Insurance Company, Zenith Star Insurance Company and several non insurance companies.

The Company is not a direct writer, and does not use MGA's, but markets workers' compensation through independent agents as well as advertising literature, brochures and marketing initiatives pursued by its marketing representatives. The internet is not used for marketing, but the Company does have a web site at [www@zenithnational.com](http://www.zenithnational.com).

Zenith supplements its Company claims adjuster staff with the use of Independent Adjusters and Adjusting Companies.

B. MANAGEMENT

A Disaster Preparedness Plan has been developed and is in use by the Company. An antifraud plan has been developed and filed with the State of Florida. Zenith's Investigative Unit Mission Statement is twofold; one, to produce thorough, timely, accurate and value added investigations, and two, to prevent, identify and defeat fraud through training, early recognition, timely investigation and the aggressive prosecution of those who attempt to defraud the Workers' Compensation system, insureds and Zenith. The Company has established an Internal Audit Department which functions as an independent appraisal activity within the Corporation.

C. OPERATIONS

The Company operates through the independent agency system throughout the State of Florida. The markets solicited are the main street retail businesses, distressed business with high experience modifications.

IV. REVIEW OF POLICIES

A. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

Zenith Insurance Company is a National Council on Compensation Insurance (NCCI) company and as such uses this organization's rules, rates and forms. The Company makes some independent filings. 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>
1997	\$45,787,498	2,537
1998	\$82,953,000	13,564
1999	\$99,100,434	11,633

b. Error Percentages

One-hundred seventy (170) policies and audits were examined.

Eighty-one (81) errors were found.

Errors affecting premium resulted in four (4) overcharges totaling \$1,014.00 and thirteen (13) undercharges totaling \$243,738.00.

The errors are broken down as follows:

The following errors were recorded in the Orlando Florida Office.

1. One (1) error was due to using classification code Parks-9102 instead of Religious organization-non-professional employees-9101 for a church. This error resulted in an overcharge totaling \$30.00. This constitutes a violation of Section 627.191, Florida Statutes.
2. One (1) error was due to using classification codes 8868 and 7380 instead of 8869 and 9059 for a Daycare center-nursery. This error resulted in an overcharge totaling \$451.00 which has been refunded by the Company. This constitutes a violation of Section 627.191, Florida Statutes.
3. One (1) error was due to allowing a 2% Workplace Safety Credit without the proper certification form in the file. This constitutes a violation of Section 627.191, Florida Statutes.

The following errors were recorded in the Sarasota Florida Office.

1. Fifty (50) errors were due to the use of an unfiled form to display the rate and premium information for the policy. This constitutes a violation of Section 627.410, Florida Statutes.

2. Nine (9) errors were due to including the premium discount on policies written subject to retrospective rating. These errors resulted in undercharges totaling \$243,045.00. This constitutes a violation of Section 627.191, Florida Statutes.
3. Five (5) errors were due to the use of an unfiled retrospective rating endorsement WC 00 05 03 A(1). This constitutes a violation of Section 627.410, Florida Statutes.
4. Four (4) errors were due to using an unfiled rating plan for a paid loss retrospective rating plan. This constitutes a violation of Section 627.091, Florida Statutes.
5. Three (3) errors were due to failure to use the filed charge for the attachment of a Waiver of Subrogation endorsement WC 00 03 13. One (1) of these errors resulted in an undercharge totaling \$34.00. This constitutes a violation of Section 627.191, Florida Statutes.
6. Two (2) errors were due to making an incorrect manual charge for a corporate officer. These errors resulted in undercharges totaling \$64.00. This constitutes a violation of Section 627.191, Florida Statutes.
7. One (1) error was due to using classification codes 3076 and 3724 instead of 5538 for a sheet metal shop. This constitutes a violation of Section 627.191, Florida Statutes.
8. One (1) error was due to placing a church nursery worker's payroll in classification code 9101 instead of 8868. This error resulted in an overcharge totaling \$249.00, which has

been refunded by the company. This constitutes a violation of Section 627.191, Florida Statutes.

9. One (1) error was due to using classification code 8006 instead of 8061 for a convenience store not exceeding 5000 square feet. This error resulted in an overcharge totaling \$284.00, which has been refunded by the company. This constitutes a violation of Section 627.191, Florida Statutes.
10. One (1) error was due to failing to audit a policy within the required 90 days. This constitutes a violation of Section 627.191, Florida Statutes.
11. One (1) error was due to failure to provide documentation for use of the experience modification. This constitutes a violation of Section 624.318, Florida Statutes.

The Company responded to the advisories stating “Agree/Disagree”. The Company is making the necessary revisions and filings to address the violations of Florida Statutes. The Company is making the corrections, but not admitting a violation of Florida Statutes. See Exhibit II.

## 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 or individual risks.

a. Audit Comparison

Sixty-two (62) premium statistical cards were examined.

Thirty-eight (38) errors were found.

The errors are broken down as follows:

The following errors were recorded in the Sarasota Florida Office.

1. Twenty-eight (28) errors were due to reporting the policies as cancelled mid term when they had run full term. This constitutes a violation of Section 627.191, Florida Statutes.
2. Ten (10) errors were due to failure to report the policies as being subject to a retrospective rating plan. This constitutes a violation of Section 627.191, Florida Statutes.

b. Claim Comparison

Twenty-seven (27) claim statistical cards were examined.

Eleven (11) errors were found.

The errors are broken down as follows:

The following errors were recorded in the Orlando Florida Office.

1. Two (2) errors were due to failure to report the correct injury code according to the benefits paid to the injured

worker. Injury code 5 was reported instead of injury code 3 when impairment benefits were paid due to a permanent impairment rating. This constitutes a violation of Section 627.191, Florida Statutes.

The following errors were recorded in the Sarasota Florida Office.

1. Eight (8) errors were due to failure to report the correct injury code according to the benefits paid to the injured worker. Injury code 5 was reported instead of injury code 3 when impairment benefits were paid due to a permanent impairment rating. This constitutes a violation of Section 627.191, Florida Statutes.
2. One (1) error was due to failure to report the correct injury code according to the benefits paid to the injured worker. Injury code 5 was reported instead of injury code 2 when permanent total disability benefits were paid. This constitutes a violation of Section 627.191, Florida Statutes.

V. AGENTS/MGA REVIEW

Twenty (20) applications/policies written during the scope of the examination were examined.

One (1) error was found.

The error did not affect policy fees.

The error is described as follows:

The following error was recorded in the Orlando Florida Office.

1. One (1) error was due to failure to display the agent's license identification number on the application. This constitutes a violation of Section 627.4085, Florida Statutes.

## VI. CANCELLATIONS/NONRENEWALS REVIEW

Seventy-five (75) cancelled/nonrenewed policies were examined.

Six (6) errors were found. Four (4) of these errors resulted in underreturns totaling \$584.00.

The errors are broken down as follows:

The following errors were recorded in the Sarasota Florida Office.

1. Two (2) errors were due to failure to audit the cancelled policy in a timely manner. This constitutes a violation of Section 627.191, Florida Statutes.
2. One (1) error was due to making a charge on the final audit for a non-remunerated corporate officer. This error resulted in an overcharge totaling \$106.00, which has been refunded by the Company. This constitutes a violation of Section 627.191, Florida Statutes.
3. One (1) error was due to use of a short rate factor instead of pro rata when the insured went out of business. This error resulted in an overcharge of \$91.00, which has been refunded by the Company. This constitutes a violation of Section 627.191, Florida Statutes.
4. One (1) error was due to failure to include the proper remuneration for corporate officers. One officer was not limited to the maximum and a non-remunerated officer was included in the final audit billing. This error resulted in an overcharge totaling \$245.00, which has been refunded by the Company. This constitutes a violation of Section 627.191, Florida Statutes.

5. One (1) error was due to not using the proper pro rata procedure for a cancellation. This error resulted in an overcharge totaling \$142.00, which has been refunded by the Company. This constitutes a violation of Section 627.191, Florida Statutes.

The Company responded to the advisory concerning short rate cancellation for non pay stating that many insureds are using non pay as a means of avoiding the short rate penalty when they are actually placing their coverage with another carrier. See Exhibit III.

## VII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company 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 I. Consumer complaints received during the scope of the examination were reviewed, and findings are as follows:

### A. DOI REFERRALS

Information submitted to the Florida Department of Workers Compensation by an insurance Company was referred to the Bureau of Property and Casualty Insurer Solvency and Market Conduct for review during this examination. The information submitted alleged possible violations of commission rebating, an improper “Premium Payment Plan and Agreement” and dividend rules in proposals and quotes associated with retrospective rating. The review revealed no violations of any Florida Statute, however, some of the language contained in the proposals as well as the “Premium Payment Plan and Agreement” appears misleading, therefore, the Company was directed to revise the language in these documents and file them with the Bureau of P&C Forms and Rates for approval. The Company agreed and is working on the revisions in order to make the necessary filings.

B. INFORMAL COMPLAINTS

<u>COMPLAINANT</u>	<u>COMPLAINT</u>	<u>VIOLATION</u>
1. Liberty Tire & Rubber	Question on audit	No error
2. Comprehensive Energy Services	Experience mod	No error
3. RFI Inc.	Class code	No error
4. American Plastering	Dividend	No error
5. Suncoast Insurance	Dividend	No error
6. Cicero	Final audit	No error
7. Lapin	Class code	No error
8. Summit Erectors	Dividend	No error
9. Norris	Experience mod	No error
10. Acordia – Clearwater	Audit & dividend	No error

VIII. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
COMPLAINT HANDLING PROCEDURES	I
COMPANY RESPONSE TO POLICY/AUDIT REVIEW ADVISORIES	II
COMPANY RESPONSE TO SHORT RATE CANCELLATION ADVISORY	III