

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

FIREMAN'S FUND INSURANCE COMPANY
(FIREMAN'S FUND INSURANCE COMPANIES)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

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I. INTRODUCTION

Fireman's Fund 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 market conduct examination, January 1997 through December 1999. The exam began February 25, 2001 and ended May 12, 2001. The last property and casualty examination of this insurer, by the Florida Department of Insurance, was concluded January 10, 1997.

The 1997 examination report included the review of dwelling fire, homeowners, personal excess, commercial fire/HPR, commercial automobile, general liability, american business coverage, commercial multi-peril, miscellaneous professional, excess, inland marine, vehicle service contract, surety and workers' compensation. Violations cited included failure to follow filed rates, failure to document/substantiate debits/credits, use of unfiled forms, failure to offer/obtain/maintain signed UM acceptance/rejection forms, failure to correctly specify contents of policies, failure to provide timely notice of renewals, failure to comply with PIP benefit requirements, failure to license/appoint agency employees, failure to display agent's name/license ID number or insurer name on applications, failure to countersign/obtain power of attorney, use of unlicensed nonresident agents and failure to comply with valued policy law requirements.

The purpose of this target examination was to ensure compliance with Florida Statutes and Administrative Code.

During this examination, records reviewed included policies, cancellations/nonrenewals, agent/MGA licensing, claims and consumer complaints for the period of January 1997 through December 1999, 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 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, \$2,465.00 was returned to Florida consumers due to overcharges of premium, underpayments of claims and/or inappropriately charged fees.

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

Fireman's Fund Insurance Company was incorporated under the laws of the State of California in 1864. In January 1991, it became, along with all of its subsidiaries, a wholly-owned subsidiary of Allianz Insurance Company, a subsidiary of Allianz of America, which is a subsidiary of Allianz Aktiengesellschaft of Munich, Germany. The Company is one of six companies that comprise the Group- Fireman's Fund Insurance Companies.

Company adjusters are utilized for the adjustment of claims, often working with independent adjusters. Third-party administrators adjust claims for certain classes of business, such as hospitality risks, colleges and entertainment accounts.

The home office is located in Novato, California, with a field office in Tampa, Florida. Personal lines underwriting is performed in Bethlehem, Pennsylvania. The claims office for personal lines is located in Greensboro, North Carolina. The Tampa claims office handles all other types of claims.

B. MANAGEMENT

Fireman's Fund Insurance Company uses Windows NT as its operating system. Lotus Notes is used for e-mail and WORD for word processing.

Fireman's Fund Commercial Policy Processing Department consists of a centralized client management system and a rating and issuance system. The Rating and Issuance System provides interfaces to the Corporate Management System, Financial System, Reporting System and Claims System to support first notice of loss and coverage verification.

The Company has established the Special Investigation Unit to investigate insurance claims and has created an Anti-Fraud Plan, to comply with Section 626.9891, Florida Statutes. These plans have been filed with the Department.

The Company's Disaster Recovery Plan includes the establishment of a catastrophe center in St. Louis, Missouri, for the handling of disaster property claims. In the event of a catastrophe, all loss reports, inquiries and information update requests are directed to the St. Louis Catastrophe Center.

The Fireman's Fund Insurance Company internal audit function is known as Audit and Investigative Services (AIS). There are approximately sixteen employees and they report directly to the President/Chief Executive Officer of the Company. A detailed risk assessment is performed each year to serve as a basis for the annual audit plan.

C. OPERATIONS

Marketing of homeowners and other liability policies, as well as other lines of business, is accomplished through over 500 independent agents in 75 agencies in Florida. These products are marketed in all counties within the State of Florida, but the emphasis on homeowners is more growth in Central and Southwest Florida to obtain a better spread across the State.

A small portion of the Company's business is brokered under the exchange of business statute. This is limited to two professional liability programs. The Company does not utilize direct response or internet marketing.

IV. REVIEW OF POLICIES

A. HOMEOWNERS

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Fireman's Fund Insurance Company is a member of Insurance Services Office (ISO) and as such ISO is authorized to file rates/rules on the Company's behalf in accordance with Section 627.062, Florida Statutes. The Company has independently filed Homeowners rules/rates.

b. Form Filings

Fireman's Fund Insurance Company is a member 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>
1997	\$22,368,184	11,980
1998	\$24,857,285	12,267
1999	\$27,194,309	13,386

3. Exam Findings

One hundred (100) policy files were examined.

Twenty-four (24) errors were found.

Errors affecting premium resulted in four (4) overcharges totaling \$2,380.00 and two (2) undercharges totaling \$823.00.

The errors are broken down as follows:

1. Sixteen (16) errors were due to failure to follow the filed rating plan. This constitutes a violation of Section 627.062, Florida Statutes. The errors were all incorrect protection classes that did not affect the premium. This error occurred in the 1997 Examination, Page 6. Exhibit I.
2. Four (4) errors were due to failure to follow the filed rating plan. This constitutes a violation of Section 627.062, Florida Statutes. The premiums were calculated using incorrect territories. Three (3) errors resulted in overcharges totaling \$2,320.00, which have

been refunded by the Company. One (1) error resulted in an undercharge of \$263.00.

3. Two (2) errors were due to use of unfiled rates for risks located in Protection Class 1. This constitutes a violation of Section 627.062, Florida Statutes. The Company failed to file rates for Protection Class 1.
4. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.062, Florida Statutes. The Company used the rates filed effective January 1, 1998, to calculate the premium, but the applicable rates were those effective August 1, 1996. This error resulted in an overcharge of \$60.00, which has been refunded by the Company.
5. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.062, Florida Statutes. The premium was based on superior construction, but the application indicated the building was masonry construction. This error resulted in an undercharge of \$560.00.

B. OTHER LIABILITY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Fireman's Fund Insurance Company is a member of Insurance Services 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.

The review of other liability included personal catastrophe liability, dwelling liability, commercial umbrella, excess liability, excess umbrella, employment-related practices liability and miscellaneous professional liability.

b. Form Filings

Fireman's Fund Insurance Company is a member 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 act 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>
1997	\$11,928,676	4,026
1998	\$14,835,739	3,895
1999	\$11,615,990	3,454

3. Exam Findings

One hundred (100) policy files were examined.

Sixty-six (66) errors were found.

Errors affecting premium resulted in three (3) overcharges totaling \$577.00 and two (2) undercharges totaling \$731.00.

The errors are broken down as follows:

1. Thirty-two (32) errors were due to failure to report or properly report individually-rated risks. This constitutes a violation of Rule 4-137.008, Florida Administrative Code. All commercial umbrella policies with limits in excess of \$1,000,000, and all excess umbrella policies, are subject to individual risk rating. The Company failed to report these premiums as required, or included only a small portion of the actual premium that was subject to individually-risk rating, on the quarterly reports to the Department. The entire premium subject to individual rating should be reported.

After this error was brought to the attention of the Company, the quarterly reports for 1997, 1998, 1999 and 2000 were revised to show 100% of the premium that was individually rated on each policy. The revised reports have been submitted to the Department. Exhibit II.

2. Nine (9) errors were due to failure to document/substantiate credits/debits. This constitutes a violation of Rule 4-170.004, Florida Administrative Code. The premiums on these policies reflected the application of credits or debits, but the Company failed to document what characteristics of the risk determined the specified credits/debits.
3. Seven (7) errors were due to use of unfiled rates for swimming pools. This constitutes a violation of Section 627.062, Florida Statutes. When the Company filed rates for the \$1,000,000 commercial umbrella limit of liability, the rate for swimming pools was omitted and the premiums for this exposure were not reported as individually-rated risks. As a result of this examination, the Company has submitted a filing for pools. Exhibit III.
4. Three (3) errors were due to use of unfiled rates for limits/deductibles displayed on the policy. This constitutes a violation of Section 627.062, Florida Statutes. On one (1) policy the Company failed to use the base rate that was filed and there was no filed rate for a \$5,000 deductible. One (1) policy was written with limits of \$1,000,000 and the other was written with limits of \$3,000,000, but the maximum limits filed in 1966 were \$500,000.
5. One (1) error was due to use of unfiled adjustment factors. This constitutes a violation of Section 627.062. On this commercial umbrella policy, the Company applied "adjustment factor" .80 to the general liability primary premium and "adjustment factor" .85

to the Commercial Automobile primary premium and added “premium adjustment” \$2,000.00 to the final premium. None of these adjustments were filed.

6. Five (5) errors were due to use of unfiled Form Year 2000 Exclusion. This constitutes a violation of Section 627.410, Florida Statutes.
7. One (1) error was due to use of unfiled Form 5234-8/92R, Advertising Injury Liability Insurance. This constitutes a violation of Section 627.410, Florida Statutes. The cancellation provision in this form does not meet Florida cancellation provisions. It simply states that the policy may be cancelled by giving ten (10) days notice.
8. One (1) error was due to use of unfiled Form LSA000301-94, Comparative Advertising Exclusion. This constitutes a violation of Section 627.410, Florida Statutes.
9. Two (2) errors were due to failure to apply credits within the 25% range. This constitutes a violation of Rule 4-170.004, Florida Administrative Code. Thirty percent (30%) schedule credits were applied to the premiums. These errors resulted in undercharges totaling \$731.00.
10. Two (2) errors were due to failure to follow the filed rating plan. This constitutes a violation of Section 627.062, Florida Statutes. The filed rate was \$138.00, but the Company used a rate of \$140.00. These errors resulted in overcharges totaling \$108.00, which have been refunded by the Company.
11. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.062, Florida Statutes. The Company used \$4,000,000 gross receipts and 1.50 Prior Acts factor to calculate the premium. The application indicated gross receipts were \$4,200,000 and the filed Prior Acts factor is 1.40.

This error resulted in an overcharge of \$469.00, which has not yet been refunded by the Company.

12. Two (2) errors were due to failure to maintain a detailed worksheet in the file. This constitutes a violation of Section 627.318, Florida Statutes. Due to this omission, the Examiner was unable to verify the premiums charged.

V. AGENTS/MGA REVIEW

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

One (1) error was found.

None of the errors affected policy fees.

The error is described as follows:

1. One (1) error was due to use of an unlicensed nonresident agent. This constitutes a violation of Section 626.741, Florida Statutes. The application was submitted by a person who is not licensed.

VI. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

Seven (7) errors were found.

One (1) error resulted in an underreturn of \$8.00.

The errors are broken down as follows:

1. One (1) error was due to failure to correctly calculate the unearned premium due to cancellation. This constitutes a violation of Section 627.062, Florida Statutes. This error resulted in an underreturn of \$8.00, which has not yet been refunded by the Company.
2. One (1) error was due to failure to return unearned premium within fifteen days. This constitutes a violation of Rule 4-167.001, Florida Administrative Code. The Company received the policy release from the insured on December 26, 1999, but failed to process the return premium until February 16, 2000.
3. One (1) error was due to failure to maintain cancellation evidence in the file. This constitutes a violation of Section 627.318, Florida Statutes. The file contained return premium calculations and a note that the policy had been canceled, but there was no notice of cancellation request from the insured. The Company indicated that information was in another file, which could not be located.
4. One (1) error was due to failure to provide timely notice of nonrenewal. This constitutes a violation of Section 627.4133, Florida Statutes.
5. One (1) error was due to failure to provide timely notice of cancellation. This constitutes a violation of Section 627.4133, Florida Statutes.

6. One (1) error was due to failure to provide a specific reason for nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. No reason was given on the notice of nonrenewal.
7. One (1) error was due to failure to provide proof of mailing of the notice of nonrenewal. This constitutes a violation Rule 4-167.010, Florida Administrative Code.

VII. CLAIMS REVIEW

Fifty (50) claims were examined.

Six (6) errors were found.

None of the errors affected payments.

The Company's internal claims handling procedures and reserving practices are described in Exhibits IV and V.

The errors are broken down as follows:

1. Three (3) errors were due to use of unlicensed independent adjusters. This constitutes a violation of Section 626.863, Florida Statutes.
2. Two (2) errors were due to use of unlicensed nonresident adjusters. This constitutes a violation of Section 626.873, Florida Statutes.
3. One (1) error was due to failure to disclose information within thirty (30) days. This constitutes a violation of Section 627.4137, Florida Statutes.

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

A. COMPANY RECEIVED COMPLAINTS

Ten (10) complaints were reviewed.

No errors were found.

IX. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
1997 EXAMINATION REPORT, PAGE 6	I
LETTER DATED APRIL 19, 2001 TO DEPARTMENT QUARTERLY REPORT CORRECTION	II
LETTER DATED APRIL 18, 2001 TO DEPARTMENT RATE FILING FOR SWIMMING POOLS	III
WORKFLOW FOR HOMEOWNERS CLAIMS	IV
WORKFLOW FOR OTHER LIABILITY CLAIMS	V
CORPORATE COMPLAINT HANDLING GUIDELINES	VI