

# **FINANCIAL SERVICES COMMISSION**

**OFFICE OF INSURANCE REGULATION  
MARKET INVESTIGATIONS**

**TARGET MARKET CONDUCT FINAL EXAMINATION  
REPORT**

**OF**

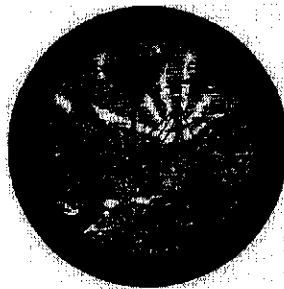
**OCEAN HARBOR CASUALTY INSURANCE COMPANY**

**AS OF**

**March 11, 2005**

**NAIC COMPANY CODE: 12360**

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## **PURPOSE AND SCOPE OF EXAMINATION**

Under authorization of the Financial Services Commission, Florida Office of Insurance Regulation (Office), Market Investigations, pursuant to Section 624.3161, Florida Statutes, a target market conduct examination of Ocean Harbor Casualty Insurance Company (Company) was performed by Examination Resources, LLC. The scope of this examination was January 1, 2004 through March 11, 2005.

The purpose of this examination was to review consumer complaints received by the Florida Department of Financial Services (Department), and to verify the Company's compliance with Florida Statutes and Administrative Rules.

In reviewing materials for this report, the examiner relied primarily on records maintained by the Company's managing general agent (MGA), Pearl Holding Group (Pearl) (formerly known as JAJ Holding Company, Inc.). Complaint, claim and cancelled policy files were selected systematically from data files provided by the MGA using Microsoft Excel's "random sample" selection process. In addition, three (3) investigation referrals from the Office were also reviewed. A completeness test of the data files provided by the Company was also performed. The examination report is a report by exception. As a result, files or material reviewed containing no improprieties by the Company have been omitted from the examination report. Procedures and conduct of the examination were in accordance with the Market Conduct Examiner's Handbook produced by the National Association of Insurance Commissioners.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.

Error tolerance levels applied are as follows: monetary returns under \$5.00 were waived; zero tolerance levels were applied to all improprieties by the Company which were in violation of Florida Statutes and Rules. As a result of this examination, \$1,729.33 was refunded to Florida consumers due to underpayments of unearned premiums.

## **COMPANY OPERATIONS/MANAGEMENT**

Ocean Harbor Casualty Insurance Company is a domestic property and casualty insurer licensed to conduct business in the State of Florida during the scope of this market conduct examination. In September of 1994, Ocean Harbor entered into a contract with Pearl where it became the MGA for Ocean Harbor in Florida. The MGA provides marketing, underwriting and claims functions on the Company's behalf for private passenger automobile insurance.

## **COMPANY OVERSIGHT**

The Company requires the MGA to submit on a monthly basis the following reports:

- Claim Register
- Outstanding Check Register
- Claim Checks Issued
- LAE Check Register
- Account Current
- Earned History Report

## COMPLAINT HANDLING

### Total Population Findings

A complete record of all complaints received by the Company since the date of the last examination has been maintained as required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company. Complaints are received by the Company and sent to the MGA for review and response. The MGA sends a copy of the response to the Company.

The Company received 482 complaints during the scope of this examination. These complaints are broken down as follows:

Type of Complaint	2004 – 2005
Claims	291
Underwriting	191
Totals	482

The review of a sample of individual complaints is included in the Claims Review Section and in the Cancellations/Nonrenewals Review Section.

### Investigation Referrals Findings

Three (3) investigation referrals were provided by the Office for review.

Two (2) errors were found.

### Review Findings

1. One (1) error was due to failure of the Company to provide a complete response to a complaint. Rule 690-166.025, Florida Administrative Code, states that every insurer, upon receiving an inquiry from the Department, shall furnish the Department with an appropriate response. The Company's response did not address all of the concerns raised as it was limited to providing a copy of the claim denial letter to the insured.

**Corrective Action:** The Company should ensure that all responses completely address the issues included in complaints.

2. One (1) error was due to use of an unappointed agent. Section 626.112, Florida Statutes, states that applications should be accepted only from appointed agents. The Company accepted one application after learning that the appointment of the agent had been suspended.

**Corrective Action:** The Company should establish procedures to ensure that unappointed agents cannot bind coverage. The MGA stated that this problem occurred due to a programming error in the computer software.

## CANCELLATIONS/NONRENEWALS REVIEW

### Sample Review Findings

Ninety (90) cancelled/nonrenewed policies, including complaints, were reviewed.

Twenty (20) errors were found. Twelve (12) errors resulted in underpayments totaling \$1,729.33, which have been refunded.

1. Twenty (20) errors were due to failure of agents to comply with return of unearned premium requirements. Section 627.7283, Florida Statutes, states that an insured, upon cancellation of their insurance policy, is entitled to the unearned premium and it must be mailed to the insured within a specific time frame. Although the Company returned premiums to their agents, the agents did not include the unearned commission in the refund, did not return unearned premiums or did not return unearned premiums timely. This resulted in underpayments totaling \$1,729.33, which have been refunded to insureds.

**Corrective Action:** The Company should establish procedures to ensure that unearned premiums are returned in accordance with Florida Statutes and notify its agents of the procedures.

## CLAIMS REVIEW

### DESCRIPTION OF CLAIMS REVIEWED

This examination included the review of claims made under private passenger automobile insurance policies and included the following types of coverage: bodily injury and property damage liability, personal injury protection benefits, uninsured motorist, physical damage including comprehensive and collision. Licensing and appointments of adjusters were also verified.

### Sample Review Findings

One hundred fifty (150) private passenger automobile claims and complaint files were reviewed.

Eleven (11) errors were found.

1. Seven (7) errors were due to failure to adjust claims in accordance with the contract. Section 626.877, Florida Statutes, states that every adjuster shall adjust every claim in accordance with the terms and conditions of the contract and of the applicable laws of this state. This violation was previously cited in the 2002 market conduct examination.

**Corrective Action:** The Company should ensure that adjusters process claims in accordance with contract requirements.

2. Three (3) errors were due to failure of the Company to send claim denial letters. Section 626.9541(1)(i)(3)(f), Florida Statutes, states an insurer must provide a reasonable explanation in writing to the insured for denial of a claim. These involved claims where

reservation of rights letters had been sent to the insured and/or claimant, however, the claim files were later closed without denial letters.

**Corrective Action:** The Company should establish procedures to ensure claim denial letters are sent to the insured and/or claimant. The MGA stated that although these cases were closed due to non-cooperation of the insured, the claims were not denied. However, the MGA stated that it would begin sending letters informing the insured and/or claimant that due to failure to cooperate, the claim has been closed, but will be re-opened, investigated, and reviewed if warranted.

3. One (1) error was due to failure of the Company to provide a Personal Injury Protection (PIP) Notice of Rights letter to the claimant. Section 627.7401, Florida Statutes, states every insurer must mail to the insured a notice within 21 days following notice of an automobile accident.

**Corrective Action:** The Company should ensure that on all PIP claims, the Notice of Rights letter is sent to the claimant.

### **REPORT SUMMARIZATION**

A sample review of 243 claim, complaint, investigation and cancellation files was conducted for this Company. Thirty-three (33) errors were found. The following represents general findings, however, specific details are found in each section of the report.

#### **Sample Files Reviewed – (243)**

- Three (3) investigations referred by the Office
- Ninety (90) cancellations (including complaints)
- One hundred fifty (150) claims (including complaints)

#### **Findings**

- Investigations – Two (2) errors – page two (2) of the report
  - Failure to provide complete response to complaint
  - Use of unappointed agent
- Cancellations – Twenty (20) errors – page three (3) of the report
  - Failure of agents to comply with return of unearned premium requirements
- Claims – Eleven (11) errors – pages three (3) and four (4) of the report
  - Failure to adjust claims in accordance with the contract
  - Failure to send claim denial letters
  - Failure to provide PIP Notice of Rights

### **EXAMINATION FINAL REPORT**

The Office hereby issues this report as the Final Report, which is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.