

The Great Seal of the State of Florida is a circular emblem. It features a central scene with a woman in a blue dress holding a scale, a palm tree, a ship, and a landscape. The outer ring contains the text "GREAT SEAL OF THE STATE OF FLORIDA" at the top and "IN GOD WE TRUST" at the bottom, separated by two stars.

**2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION**

**OF**

**FCCI INSURANCE COMPANY  
(FCCI INSURANCE GROUP, INC.)**

**BY**

**THE FLORIDA DEPARTMENT OF INSURANCE**

**Filed Date: 08/05/03**

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## INTRODUCTION

FCCI Insurance Company (Company) is a domestic property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty market conduct examination. The scope of this examination was January 1999 through September 2001. The examination began October 21, 2001 and ended December 22, 2001. The last property and casualty market conduct examination of this insurer, by the Florida Department of Insurance, was concluded in January 2000.

The prior examination report included a review of workers' compensation policies. Violations cited included use of unfiled forms, failure to endorse policies when they were changed to participating policies, failure to attach "Anniversary Rating Date" endorsements, use of incorrect basic premium factors on Retro endorsements, failure to audit and bill the policies within 90 days, failure to provide specific reasons for cancellations or nonrenewals and failure to endorse policies to make them eligible for participation in any share of surplus.

The purpose of the current examination was to address consumer complaints and verify that the Company's business practices and procedures complied with Florida Statutes and Administrative Rules.

During this examination, records reviewed included workers' compensation policies, final audits, cancellations/nonrenewals and consumer complaints 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 requested 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, \$47,655 was returned to Florida consumers due to overcharges of premium.

## **CERTIFICATE OF AUTHORITY – AUTHORIZED LINES**

### **GENERAL COMMENTS**

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

### **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 lines of business that were discontinued.

No errors were found.

## COMPANY OPERATIONS/MANAGEMENT

### HISTORY/MANAGEMENT

FCCI Insurance Company was originally organized in 1959 as the Florida Construction, Commerce and Industry Self-Insurers Fund, an assessable self-insurers fund regulated by the Florida Department of Labor. In 1994, the Fund was converted into a non-assessable mutual insurance company and its name was changed to the FCCI Mutual Insurance Company.

FCCI Mutual was reorganized into a mutual insurance holding company structure, converted to a stock insurance corporation and renamed FCCI Insurance Company. This was effective on September 1, 1998. In addition, a mutual insurance holding company named FCCI Mutual Insurance Holding Company and FCCI Group, Inc., a stock holding company were formed. FCCI Mutual Insurance Holding Company owns all the shares of FCCI Group, Inc., which, in turn, wholly-owns FCCI Insurance Company.

FCCI Insurance Company owns all of the outstanding stock of FCCI Insurance Group, Inc. (FIG), a Florida stock holding corporation formerly known as FCCI Investment Group, Inc. FIG owns all the outstanding stock of:

- (1) National Trust Insurance Company, a Tennessee corporation licensed to write workers' compensation and commercial property and casualty insurance policies in Florida and other states.
- (2) FCCI Services, Inc., a Florida stock corporation, which provides underwriting, claims servicing and management, loss control and general administrative functions for the insurance companies in FCCI Insurance Group.
- (3) FCCI Commercial Insurance Company, which is a Florida property and casualty insurer.
- (4) Monroe Guaranty Companies, Inc., an Indiana domiciled corporation, which, in turn, wholly-owns Monroe Guaranty Insurance Company, an Indiana stock insurer. In addition, FIG owns eighty percent (80%) of Brierfield Insurance Company, a Mississippi domiciled property and casualty insurance company. Mississippi Insurance Managers, Inc., owns the remaining twenty percent (20%) of Brierfield Insurance Company.

FIG's wholly-owned subsidiary, FCCI Services, Inc., owns all the stock of: FCCI Claims Services, Inc., a Florida stock corporation; FCCI Agency, Inc., a Florida stock corporation, which offers insurance and reinsurance brokerage services to FCCI Services, Inc., and its clients; and FCCI Staffing Solutions, Inc., a Florida stock corporation, which offers employee leasing services to its clients.

The corporate officers of FCCI Insurance Company include the following:

Gordon Williams Jacobs, President/CEO;	David Webber, Executive VP/CFO;
Debbie Douglas, Executive VP	Robert McManus, Executive VP
Joseph Keene, Executive VP	Thomas Koval, Sr. VP
Olivia Thomas, Sr. VP	Robert McCarthy, Sr. VP
Joseph Kinker, Sr. VP	Rupert Willis, Sr. VP
Basil Morgan, VP	Joseph Geracie, VP
Earl Price, VP	Cathy Simmons, AVP
Sally Rosinsky, AVP	Alison Thurau, AVP
James Venza, AVP	Richard Rueger, AVP

## **COMPANY PROCESSES/STATISTICAL AFFILIATIONS**

### **Computer System**

FCCI utilizes several computer systems and local area networks to meet business needs. The AS400 system is used for claims, issuing workers' compensation policies, endorsements and reports. "Expresswrite/FCCINet" is used for workers' compensation quoting. This system is currently being replaced with the Phoenix system from Allenbrook.

### **Anti-Fraud Plan**

The Company has filed an Anti-Fraud Plan with the Florida Department of Insurance as required by Section 626.9891, Florida Statutes. An updated Plan was filed on June 11, 2001.

The Plan does meet the requirements by establishing a Special Investigation Unit. FCCI Insurance Group on behalf of its affiliated insurance carriers which includes, FCCI Insurance Company, National Trust Insurance Company, FCCI Commercial Insurance Company and Monroe Guaranty Insurance Company, has established one Anti-Fraud/SIU Plan for all of its companies.

FCCI Insurance Group utilizes both internal and external resources to control fraud directed at the Company, agents and policyholders. The SIU's objectives are to review claims that are potentially fraudulent, coordinate investigations and make recommendations on Division of Fraud referrals. Quarterly oversight meetings are held to review SIU activities and procedures.

### **Disaster Recovery Plan**

The Company has developed a Disaster Recovery Plan for use with Florida business. The FCCI Disaster Recovery Plan encompasses a designated site to continue operations, computer backup, an action plan (short and long term plans), communication plan, contact lists, written procedures and checklist of critical inventory for each department including the Orlando office. The various departments' procedures in the event of a disaster are outlined in the Plan.

### **Internal Audit Procedures**

The Company has developed Internal Audit Procedures for use in reviewing Florida business. The procedures provide analysis, recommendations, counsel and information concerning the activities reviewed. Internal auditing does continual examination and evaluation of the adequacy and effectiveness of the Company's system of internal controls and the quality of performance in carrying out assigned responsibilities. The Corporate Internal Auditor subscribes to the "Standards for the Professional Practice of Internal Auditing" published by the Institute of Internal Auditors.

### **Privacy Plan**

The Company has developed a Plan that meets the requirements of Emergency Rule 4ER-01.

## **Statistical Affiliations**

FCCI is a Subscriber with the National Council on Compensation Insurance (NCCI) and as such uses this organization's rules, rates and forms. The NCCI acts as the statistical agent for workers' compensation operations. In addition, the Company makes some independent filings.

## **Credit Reports**

The Company does not use Credit Reports as an underwriting tool.

## **OPERATIONS/MARKETING**

### **Marketing**

FCCI writes business throughout the State of Florida. FCCI has used independent agencies since the late 1970's, and there are no current plans to introduce alternate distribution methods. In the past, FCCI has written a large amount of construction business along with a variety of other types of manufacturers and mercantile operations.

The current marketing approach is to seek quality business in the marketplace. There are a variety of marketing plans, including guaranteed cost, dividend plans, retrospective rating plans with dividends and large deductible plans. The requirements vary according to the premium level of the policies.

The construction trade is the largest segment of business, representing 50% of written premium. The mercantile and service industry, consisting of carpet and wallpaper contractors, restaurants, stores, and various sales and installation businesses, represents 30% of written premium. Manufacturing of component parts and printers represents 15% and various agricultural businesses such as citrus harvesters and packers represent approximately 5% of written premium. Marketing plans for the future will not result in a change in the mix of business as described above.

### **Agents/Agencies/MGA/Exchange of Business/Direct Response/Internet/Adjusters and Claims Handling**

Currently, FCCI has approximately 300 contracted agencies in the State of Florida. Agencies are located in all major metropolitan areas and other less populated communities throughout Florida. Underwriting authority remains solely with FCCI. "Expresswrite" is a program that allows agents access to writing workers' compensation with FCCI via use of the Internet. It allows the agent to access FCCI for a quote and to conditionally cover the account, using a password specific for that agent. The address is: [www.expresswrite.com](http://www.expresswrite.com). There is no use of the Internet to market products at this time.

FCCI does not have Managing General Agent's in Florida; however, FCCI has a contact with one General Agent who does not handle claims.

Exchange of business is not a marketing tool used by FCCI.

FCCI does not use direct response methods to market their products.

FCCI uses company adjusters along with limited use of independent adjusters and adjusting companies. Company adjusters oversee independent adjusters and adjusting companies that may be used to adjust claims.

The home office of FCCI is located in Sarasota, Florida and there are three regional offices and a branch office.

### **Lines of Business**

FCCI Insurance Company currently writes allied lines, burglary & theft, commercial automobile physical damage, other commercial automobile liability, commercial multi-peril, fidelity, fire, glass, inland marine, products liability, other liability, and workers' compensation insurance.

## REVIEW OF POLICIES

### WORKERS' COMPENSATION

#### Description of Types of Risks

FCCI markets workers' compensation coverage to a variety of risks. Construction companies made up a major portion of the policies reviewed below. In addition, there were various types of manufacturing, mercantile and service businesses in the sampling.

#### 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>
1999	\$231,736,806	12,686
2000	\$296,195,010	12,204
*2001	\$282,865,146	11,169

\*As of 9/30/2001

#### Examination Findings

One hundred (100) policies and audits were examined.

Thirty (30) errors were found.

Errors affecting premium resulted in six (6) overcharges totaling \$10,879 and three (3) undercharges totaling \$83,461.

The errors are broken down as follows:

1. Nineteen (19) 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. This is considered a business practice. These errors were due to failure to issue a billing statement to the policyholders within ninety days of expiration of the policy. These errors were also identified in the 2000 Examination, Page 5, Item 12, Exhibit I.
2. Eight (8) 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 the incorrect payroll classification to the business or employees within the business. These errors resulted in three (3) overcharges totaling \$9,486, which have been refunded by the Company and three (3) undercharges totaling \$83,461.
3. 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. Two (2) of these errors were due to making premium charges for non-remunerated or excluded officers. One (1) error was due to charging a

\$500 penalty without incurring actual travel expenses for audit attempts. These errors resulted in three (3) overcharges totaling \$1,393, which have been refunded by the Company.

The examination process revealed that the Company failed to audit and bill the policyholders on a timely basis. Due to the high percentage of errors, the Company is requested to confirm in writing what actions will be implemented to correct this problem. This response should be received by the Florida Department of Insurance within 90 days of receipt of the examination report.

## **CANCELLATIONS/NONRENEWALS REVIEW**

### **DESCRIPTION OF CANCELLATION/NONRENEWAL PROCEDURES**

FCCI Insurance Company's written cancellation procedures comply with Florida Law regarding the timely issuance of notices of cancellation/nonrenewal. The Company's procedures are to send a notice of nonrenewal at least 45 days prior to the expiration of the policy and a notice of cancellation at least 30 days prior to a mid-term cancellation.

### **CANCELLATION REVIEW**

Forty (40) cancelled policies were examined.

Fourteen (14) errors were found.

One (1) error resulted in an overreturn of \$129.

Two (2) errors resulted in underreturns totaling \$2,808.

The errors are broken down as follows:

1. Six (6) errors were due to failure to provide specific reasons for denial, cancellation or nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. This is considered a business practice. These errors were due to failure to provide the specific reason for nonrenewal on the notice of cancellation to the insured and to the Department of Labor. These errors were also identified in the 2000 Examination, Page 8, Item 1, Exhibit II.
2. 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. These errors were due to failure to issue a billing statement to the policyholders within 90 days.
3. 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 on a multiple error policy. One (1) error was due to an incorrect classification being applied to the business. One (1) error was due to charging the full term premium for domestic servants instead of pro-rating the charge per NCCI rules. These errors resulted in a net underreturn of \$40, which has been paid by the Company.
4. 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. This error was due to failure to properly charge for an officer. The officer was charged for 52 weeks of coverage on a policy that was in force for 112 days. This error resulted in an underreturn of \$2,768 which has been paid by the Company.
5. 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. This error was due to applying an incorrect payroll classification to a business. This error resulted in an overreturn of \$129.

## **NONRENEWAL REVIEW**

Ten (10) nonrenewed policies were examined.

Five (5) errors were found.

The errors are broken down as follows:

1. 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. This is considered a business practice. These errors were due to failure to issue a billing statement within 90 days of nonrenewal.
2. Two (2) errors were due to failure to provide a specific reason for denial, cancellation or nonrenewal. This constitutes a violation of Section 627.4091, Florida Statutes. This is considered a business practice. These errors were due to failure to provide the specific reason for nonrenewal on the notice to the insured and the Department of Labor. This error was also identified in the 2000 Examination, Page 8, Item 1, Exhibit II.
3. One (1) error was due to failure to provide timely notice of renewal, nonrenewal or cancellation. This constitutes a violation of Section 627.4133, Florida Statutes. Notice of nonrenewal was issued 15 days prior to expiration of the policy.

The examination process revealed that the Company failed to provide a specific reason for cancellations or nonrenewal of policies. Due to the high percentage of this type of error found in both the cancellation and nonrenewal reviews, the Company is requested to confirm in writing what actions will be implemented to correct this problem. This response should be received by the Florida Department of Insurance within 90 days of receipt of the examination report.

**COMPLAINTS/INVESTIGATION 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.

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

**DOI COMPLAINTS RECEIVED/INVESTIGATIONS REFERRAL**

Consumer Services Ref. Number	Consumer's Last Name	Alleged Violation	Violation Found	Corrective Action Requested
S-0001-0007508	BEGLEY	Check not received, policy cancelled, insured paid, not reinstated	None	None
00S-1686	GIBBS	Charged for excluded sub-contractor	627.191, FS and 440.02 (14) 7.	REFUND \$22,244

Two (2) complaints were examined.

One (1) error was found.

Errors affecting premium resulted in one (1) overcharge of \$22,244.

The error is described as follows:

1. The 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 insured was charged for a sub-contractor that had an exclusion certificate. A charge was made, according to the Company, because the sub-contractor was paid an amount the Company felt was excessive. The excluded sub-contractor paid two sub-contractors who also had exclusion certificates, one of which did not apply during this audit period. The payments to this sub-contractor should have been charged on the audit, rather than the entire contract price paid by the insured's sub-contractor. This error resulted in an overcharge of \$22,244, which has been refunded to the policyholder.

**COMPANY RECEIVED COMPLAINTS**

Consumer's Policy No.	Alleged Violation	Violation Found	Corrective Action Requested
WC99A-39460	Audit Errors	None	None
WC99A-39347	Officer not excl	None	None
WC00A-04988	Officer not excl	None	None

Consumer's Policy No.	Alleged Violation	Violation Found	Corrective Action Requested
WC99A-39546	Officer not excl	None	None
WC01A-47886	Class complaint	None	None
WC99A-39353	Uninsured subs	None	None
WC99A-31323	Uninsured subs	None	None
WC99A-31323	Owner charged	None	None
WC00A-39321	Class compliant	None	None
WC99A-40203	Chg for ins sub	None	None
WC00A-39624	Audit error	None	None
WC99A-39829	Triple-billed audit	None	None
WC99A-39677	Chg for ins sub	None	None
WC00A-40582	Chg for owner	None	None
WC99A-40722	Charged for sub/officer	None	None
WC99A-41448	Chg for sub w/ valid exclusion	None	None
WC99A-43729	Chg for ins sub	None	None
WC00A-42457	Chg for ins sub	None	None
WC00A-42334	Chg for ins sub	None	None
WC99A-06633	Class dispute	None	None
WC00A-12358	Uninsured subs	None	None
WC00A-12899	Class dispute	None	None
WC00A-26295	Employee class dispute	None	None
WC00A-28601	Class, uninsured subs	None	None
WC00A-30166	Overtime	None	None
WC00A-30340	Uninsured subs	None	None
WC00A-30348	Chg for Pres	None	None
WC00A-30476	Uninsured subs	None	None
WC00A-30781	Officer charged	None	None
WC00A-30791	Class dispute	None	None
WC00A-31004	Uninsured subs	None	None
WC00A-31062	Uninsured subs	None	None
WC00A-31077	Uninsured subs	None	None
WC99A-31191	Uninsured subs	None	None
WC00A-31241	Uninsured subs/class	None	None
WC00A-42633	Uninsured subs	None	None
WC99A-41381	Chg for owner	None	None

Consumer's Policy No.	Alleged Violation	Violation Found	Corrective Action Requested
WC99A-39529	Class dispute	None	None
WC00A-41956	Chg for sub	None	None
WC00A-40750	Chg for sub	None	None
WC99A-39938	Chg for sub	None	None
WC99A-31397	Chg for sub	None	None
WC99A-34849	Pro rated audit	None	None
WC99A-34922	Chg for officer	None	None
WC00A-35303	Class dispute	None	None

Consumer's Last Name	Alleged Violation	Violation Found	Corrective Action Requested
Touchton Davis, Inc	Charged for labor for repairs to Pres's home	627.191	Not in course of employment Refund \$83.
Fields Marshburn, Inc	Class dispute	627.191	Adjusted, Sub misclassified. Refund \$1069.
Diocese of Central Florida	Charged for companies that mowed grass and trim trees	627.191	Companies were not in the insured's employment. Refund \$479.
Fidelity Federal Bank & Trust	Officer's excess wages not credited.	627.191	Real estate appraisers class incorrect- Refunded \$65.
Banner Aluminum, Inc.	Charged for excluded subs	627.191	Class correction not per NCCI Rule IV-G-2, Refund \$10,028.

Fifty (50) complaints were examined.

Five (5) errors were found.

Errors affecting premium resulted in five (5) overcharges totaling \$11,724.

The errors are broken down as follows:

1. 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 charging for payments to companies that performed work for the insured, which was not in the course of the

employment of the insured. These errors resulted in overcharges totaling \$562, which have been refunded to the policyholders.

2. 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 payroll classification to employees and an uninsured sub-contractor. These errors resulted in overcharges totaling \$1,134, which have been refunded to the policyholders.
3. 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 insured was misclassified during the term of the policy. When the audit was processed, the correct code was endorsed retroactive to the inception date of the policy and insured was billed at the higher rate. This is a violation of NCCI Manual Rule IV-G-2 (c). This error resulted in an overcharge of \$10,028, which has been refunded to the policyholder.

A review was made of the Company-received complaint log. The log showed 1,880 complaints logged during the scope of the examination. The majority (1,093 complaints) were due to the Company's practice of charging for all uninsured sub-contractors and non-exempt individual sub-contractors and officers who had not renewed their exemptions when the law was changed in 1999. These complaints were handled satisfactorily after they refiled for new exemptions. The Company also charged for excluded contractors as described below and these practices require correction.

The audits are reviewed prior to billing. During the internal Company review of contractor's audits, the Company assumed individual sub-contractors had employees or other type help on construction jobs based solely on the contract price exceeding a certain pre-determined amount. The audit would be adjusted to include the entire sub-contractor payment and in many cases, was charged without further investigation.

The Company should obtain the amount paid to others by the sub-contractor. It can then be determined if those persons are also exempt contractors. In addition, material costs can be excluded up to a certain percentages, if a breakdown is available. If the payroll and materials cost is unobtainable, the entire contract payment may be included in the audit.

When complaints were filed with the Company concerning the above-described procedures, they would reply to the insured that the Company would determine if they would honor the Exemptions issued by the Florida Department of Labor rather than honoring them as required. After finding out the reason for the higher premiums, the policyholders would provide the Company with the sub-contractor exemption form and the billing would be adjusted or the Company would simply advise the insured that the Department of Labor issued exemption was not valid and continue to bill the insured for that sub-contractor.

The Company is requested to confirm in writing to the Florida Department of Insurance that the practice of not accepting Florida Department of Labor exemptions will be preceded by an investigation of the appropriateness of disallowing exemptions regardless of the amount of payroll in question, as dictated by statute. For any policy wherein an exemption is not honored, documentation must exist which supports the failure to honor the exemption. This should be received by the Florida Department of Insurance within 90 days of receipt of this report.

## **PENDING ISSUES**

The following issues were pending at the conclusion of the examination field work:

### **CORRECTIVE ACTIONS**

In the Policy Section of the report, the examination process revealed that the Company failed to audit and bill the policyholders on a timely basis. Due to the high percentage of errors, the Company is requested to confirm in writing to the Department of Insurance, what actions are being implemented to correct this problem. This response should be received by the Florida Department of Insurance within 90 days of receipt of the examination report. The procedures were subsequently provided by the Company.

In the Cancellations Section of the report, the examination process revealed that the Company failed to provide a specific reason for cancellations or nonrenewal of policies. Due to the high percentage of this type of error found in both the cancellation and nonrenewal reviews, the Company is requested to confirm in writing what actions are being implemented to correct this problem. This response should be received by the Florida Department of Insurance within 90 days of receipt of the examination report.

In the Complaints Section of the report, the Company is requested to readjust its procedures for sub-contractors that have exemptions issued by the Florida Department of Labor. With proper documentation, charges can be made for uninsured or non-excluded labor. These revised procedures are to be completed within 90 days of receipt of the examination report and provided to the Florida Department of Insurance. The procedures were subsequently provided by the Company.

**EXHIBITS**

**SUBJECT**

**EXHIBIT NUMBER**

**2000 EXAMINATION, PAGE 5, ITEM 12**  
**2000 EXAMINATION, PAGE 8, ITEM 1**

**I**  
**II**