

**REPORT ON EXAMINATION**  
**OF**  
**MEDMAL DIRECT INSURANCE**  
**COMPANY**

**JACKSONVILLE, FLORIDA**

**AS OF**  
**DECEMBER 31, 2013**

**BY THE**  
**FLORIDA OFFICE OF INSURANCE REGULATION**

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February 2, 2015

Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation  
State of Florida  
Tallahassee, Florida 32399-0326

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes, Rule 690-138.005, Florida Administrative Code, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2013, of the financial condition and corporate affairs of:

**MEDMAL DIRECT INSURANCE COMPANY  
245 RIVERSIDE AVENUE, SUITE 550  
JACKSONVILLE, FLORIDA 32202**

Hereinafter referred to as the "Company". Such report of examination is herewith respectfully submitted.

## **SCOPE OF EXAMINATION**

This examination covered the period of January 1, 2013, through December 31, 2013. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) as of December 31, 2012. This examination commenced with planning at the Office on July 21, 2014, to July 25, 2014. The fieldwork commenced on July 30, 2014, and concluded as of February 2, 2015.

This financial examination was a multi-state financial examination conducted in accordance with the Financial Condition Examiners Handbook, Accounting Practices and Procedures Manual and annual statement instructions promulgated by the NAIC as adopted by Rules 69O-137.001(4) and 69O-138.001, Florida Administrative Code, with due regard to the statutory requirements of the insurance laws and rules of the State of Florida.

The Financial Condition Examiners Handbook requires that the examination be planned and performed to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company including corporate governance, identifying and assessing inherent risks within the Company, and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation and management's compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process.

This report of examination is confined to significant adverse findings, a material change in the financial statements or other information of regulatory significance or requiring regulatory action. The report comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special explanation or description.

## **SUMMARY OF SIGNIFICANT FINDINGS**

### **Current Exam Findings**

The following is a summary of material adverse findings, significant non-compliance findings, or material changes in the financial statements noted during this examination.

### **Actuarial Report Documentation**

The opining actuary did not describe the assumptions and methodologies used in the actuarial report “with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work as presented in the actuarial report,” as required in Paragraph 3.2 of Actuarial Standard of Practice No. 41.

### **Schedule P Reconciliation**

The opining actuary’s analysis did not include a Schedule P reconciliation, where there are some errors in the actuarial data presented in the report as compared to Schedule P data in accordance with Paragraph 7 of the Actuarial Opinion section of the NAIC’s Annual Statement Instructions.

### **Actuarial Report Summary Exhibit**

The actuarial report did not contain an exhibit summarizing the results of the analysis and comparing them to reserves booked by the Company, as required in Paragraph 7 of the Actuarial Opinion section of the NAIC's Annual Statement Instructions. In addition, the results presented in the actuarial report, when summarized, do not reconcile to the amount represented as the actuary's point estimate in the Actuarial Opinion Statement ("AOS").

### **Prior Exam Findings**

There were no findings, exceptions or corrective action to be taken by the company for the examination as of December 31, 2012.

## **SUBSEQUENT EVENTS**

During 2014, Integro Insurance Brokers, Ltd. replaced Lockton as the Company's reinsurance Intermediary.

The Company received Certificates of Authority to write business in the states of Illinois, Missouri and Ohio during 2014.

## **HISTORY**

### **General**

The Company was incorporated in Florida on June 14, 2010, and commenced business on June 17, 2010, as MedMal Direct Insurance Company.

The Company was party to Consent Order 110831-10-CO filed June 10, 2010, regarding the application for the issuance of a Certificate of Authority. The Company was in compliance with the Consent Order.

The Company was authorized to transact Medical Malpractice insurance coverage in Florida on June 17, 2010 and continued to be authorized as of December 31, 2013. The Company was authorized to transact Casualty coverage in Georgia, Texas, and North Carolina on December 31, 2013. **Subsequent Event:** The Company received a Certificate of Authority to write business in the States of Illinois, Missouri and Ohio during 2014.

The Bylaws were not amended during the period covered by this examination. The Articles of Incorporation were amended on March 14, 2013, which changed the par value from \$1 per share to \$.50 per share. **Subsequent Event:** The Bylaws were amended on March 24, 2014 to allow for the separation of roles of the President and Chief Executive.

### **Dividends to Stockholders**

The Company did not declare or pay any dividends during the period of this examination.

### **Capital Stock and Capital Contributions**

As of December 31, 2013, the Company's capitalization was as follows:

Number of authorized common capital shares	10,000,000
Number of shares issued and outstanding	9,500,360
Total common capital stock	\$4,750,180
Par value per share	\$0.50



Control of the Company was maintained by MedMal Direct Insurance Group, LLC who owned 100% of the stock issued by the Company, who in turn was 100% owned by Physicians Trust, LLC, a Florida corporation.

### **Surplus Notes**

The Company did not have any surplus notes during the period of this examination.

### **Acquisitions, Mergers, Disposals, Dissolutions, and Purchase or Sales Through Reinsurance**

The Company had no acquisitions, mergers, disposals, dissolutions and purchase or sales through reinsurance during the period of this examination.

## **CORPORATE RECORDS**

The recorded minutes of the Shareholder(s), Board of Directors (Board) and certain internal committees were reviewed for the period under examination. The recorded minutes of the Board adequately documented its meetings and approval of Company transactions and events, in compliance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code, including the authorization of investments as required by Section 625.304, Florida Statutes.

### **Conflict of Interest**

The Company adopted a policy statement requiring periodic disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code.

## MANAGEMENT AND CONTROL

### Management

The annual shareholder meeting for the election of directors was held in accordance with Section 628.231, Florida Statutes. Directors serving as of December 31, 2013, were:

#### Directors

<b>Name and Location</b>	<b>Principal Occupation</b>
Carter Byrd Bryan Jacksonville, Florida	Director MedMal Direct Insurance Company
Timothy Robert Bone Jacksonville, Florida	President MedMal Direct Insurance Company
Philip Butler Ball Jacksonville, Florida	Chief Executive Officer MedMal Direct Insurance Company
Michael John Wallace Saint Johns, Florida	Vice President and Chief Financial Officer MedMal Direct Insurance Company
Christopher McNeill Ball Jacksonville, Florida	Chief Executive Officer Wingard Creative

In accordance with the Company's bylaws, the Board appointed the following senior officers:

#### Senior Officers

<b>Name</b>	<b>Title</b>
Phillip Butler Ball	Chief Executive Officer
Timothy Robert Bone	President
Michael John Wallace	Vice President and Chief Financial Officer
Carter Byrd Bryan	Chairman

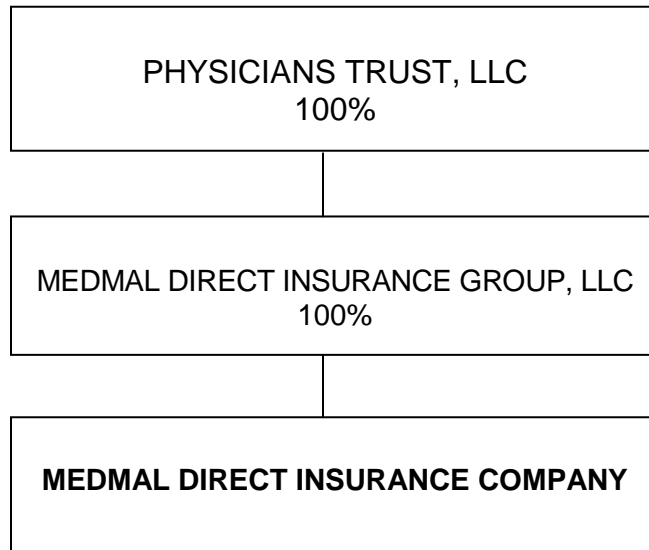
The Company maintained an audit committee, as required by Section 624.424(8) (c), Florida Statutes.

**Affiliated Companies**

The latest holding company registration statement was filed with the State of Florida on February 26, 2013, as required by Section 628.801(1), Florida Statutes.

An organizational chart as of December 31, 2013, reflecting the holding company system, is shown below. Schedule Y of the Company's 2013 annual statement provided a list of all related companies of the holding company group.

**MEDMAL DIRECT INSURANCE COMPANY  
ORGANIZATIONAL CHART  
DECEMBER 31, 2013**



The following agreements were in effect between the Company and its affiliates:

### **Service Agreement**

The Company entered into a Service Agreement on June 11, 2010 with the MedMal Direct Insurance Group, LLC whereby personnel was provided to perform certain services for the benefit of the Company, including but not limited to, sales and marketing, accounting and financial reporting, operations and regulatory. The Company paid the MedMal Direct Insurance Group, LLC a fee equal to one hundred and fifteen percent (115%) of the actual compensation and related personnel costs incurred as a result of providing these services to the Company.

### **FIDELITY BOND**

The Company maintained fidelity bond coverage up to \$1,000,000 with a deductible of \$50,000, which reached the suggested minimum as recommended by the NAIC. The coverage was effective for the period December 1, 2012 through December 1, 2013.

### **PENSION, STOCK OWNERSHIP AND INSURANCE PLANS**

The Company had no employees and therefore no pension, stock ownership or insurance plans.

### **TERRITORY AND PLAN OF OPERATIONS**

The Company was authorized to transact insurance in the following states:

Florida	Georgia
Texas	North Carolina

The Company received a Certificate of Authority to write business in the States of Illinois, Missouri and Ohio in 2014.

### **Treatment of Policyholders**

The Company established procedures for handling written complaints in accordance with Section 626.9541(1) (j), Florida Statutes.

The Company maintained a claims procedure manual that included detailed procedures for handling each type of claim in accordance with Section 626.9541(1) (i) 3a, Florida Statutes.

## **COMPANY GROWTH**

The Company commenced writing business in June of 2010. The Company experienced significant growth in written and earned premiums during 2013. The Company's operating results improved during 2013, as they experienced an underwriting gain of \$107,120 as compared to the net underwriting losses of \$1.14 million in 2012, which was primarily attributable to start-up costs and expenses related to the continued expansion into new areas. The Company marketed directly to prospects through the internet, mailing, referrals, seminars, conventions, meetings and other means of direct marketing. In 2013, the Company wrote business in Florida, Georgia, and Texas. With the expansion into new states and time to gain market share in all states, the Company anticipates continued significant premium growth over the next several years.

## Profitability of Company

The following table shows the profitability trend (in dollars) of the Company for the period of operations, as reported in the filed annual statements.

	2013	2012	2011
Premiums Earned	9,532,989	6,268,821	2,368,062
Net Underwriting Gain/(Loss)	107,120	(1,142,281)	(1,436,562)
Net Income (Loss)	773,046	(577,768)	(1,067,195)
Total Assets	22,934,956	17,468,994	9,114,314
Total Liabilities	12,484,473	8,547,915	3,380,787
Surplus As Regards Policyholders	10,450,483	8,921,079	5,733,527

## LOSS EXPERIENCE

Earned premiums increased from \$6,268,821 in 2012 to \$9,532,989 in 2013, which was an increase of 52%. Incurred Losses and Loss Adjustment Expenses increased from \$4,074,090 in 2012 to \$5,676,566 in 2013, which was an increase of 39%.

The opining actuary did not describe assumptions and methodologies used in the actuarial report “with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work as presented in the actuarial report,” as required in Paragraph 3.2 of Actuarial Standard of Practice No. 41.

The opining actuary’s analysis did not include Schedule P reconciliation, where there are some errors in the actuarial data presented in the report as compared to Schedule P data in

accordance with Paragraph 7 of the Actuarial Opinion section of the NAIC's Annual Statement Instructions.

The actuarial report did not contain an exhibit summarizing the results of the analysis and comparing them to reserves booked by the Company, as required in Paragraph 7 of the Actuarial Opinion section of the NAIC's Annual Statement Instructions. In addition, the results presented in the actuarial report, when summarized, do not reconcile to the amount represented as the actuary's point estimate in the Actuarial Opinion Statement ("AOS").

## **REINSURANCE**

The reinsurance agreements reviewed complied with NAIC standards with respect to the standard insolvency clause, arbitration clause, transfer of risk, reporting and settlement information deadlines.

### **Assumed**

The Company did not assume any reinsurance during the period of this examination.

### **Ceded**

The Company ceded risk through an excess of loss reinsurance agreement with clash coverage to various Lloyd's Syndicates in order to limit its financial exposure to large claims by using Lockton Re, LP as its reinsurance intermediary. The treaty period covered claims made from March 1, 2011 through March 1, 2014. Under the per risk excess of loss coverage, the reinsurers paid up to \$750,000 per loss insured, in excess of \$250,000. Under the clash coverage, the reinsurers paid up to \$500,000 per loss occurrence, in excess of \$500,000. Each

loss occurrence under the clash coverage provision comprised at least three insureds. The reinsurance agreement provided for adjustable premiums based on ceded incurred losses. There were no ceded incurred losses during the year ended December 31, 2013. **Subsequent events:** During 2014, Integro Insurance Brokers, Ltd. replaced Lockton as the Company's reinsurance Intermediary.

The reinsurance contracts were reviewed by the Company's appointed actuary and were utilized in determining the ultimate loss opinion.

## **ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in Jacksonville, Florida.

An independent CPA audited the Company's statutory basis financial statements annually for the years 2010, 2011, 2012 and 2013, in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA as required by Rule 69O-137.002, Florida Administrative Code.

The Company's accounting records were prepared using Intuit QuickBooks to support general ledger activity, cash collections and payables. Microsoft Dynamics was used for processing claims and underwriting. Microsoft Excel was used primarily for rating, but also to support general ledger entries, accounting calculations, fixed asset details, and other accounting functions.



Microsoft Dynamics was implemented as of June 12, 2013, and replaced QuickBooks as the financial system in use. In addition, the Company began using Clearwater Analytics on October 1, 2013 for the accounting of investments.

The Company and non-affiliates had the following agreements:

### **Custodial Agreement**

The Company utilized Merrill Lynch as its custodian during the period covered by this examination. The Company executed a custodian agreement on August 16, 2012 that met all requirements of Rule 690-143.042, Florida Administrative Code. The agreement was in effect during the examination period.

On September 23, 2013, the Investment Committee appointed BlackRock Investment Management, LLC, as a discretionary investment manager with full power and authority to transact purchases and sales of currencies, securities and other instruments subject to the limitations within the Company's investment policies.

### **Lease Agreements**

On August 1, 2012, the Company executed a five year lease agreement for office space with PKY Fund II (Parkway Realty). Rent expense, under all lease agreements was \$159,659 and \$143,587 for years ending December 31, 2013 and December 31, 2012, respectively.

The Company subleased office space to an unaffiliated party, Bryan Group, effective August 1, 2010 which was terminated on July 31, 2013. Rental income related to the sublease agreement was \$0 and \$18,215 for the years ending December 31, 2013 and December 31, 2012, respectively.

### **Information Technology Agreement**

The Company entered into an agreement with NetTech Consultants, Inc. (NetTech) on August 24, 2012. NetTech provided the Company with Information Technology services including performance, availability & predictive failure monitoring, patch monitoring & management, virus definition monitoring and management, systems administration, systems maintenance, emergency support, and monthly review meetings. The Company paid NetTech for the services on a specified fee schedule per device on a monthly basis. The Company entered into a new agreement with NetTech on August 1, 2013.

### **Reinsurance Intermediary Agreement**

The Company entered into a reinsurance intermediary agreement with Lockton Re on March 1, 2012 that met the requirements of Section 626.7492 (4) (5), Florida Statutes. **Subsequent event:** During 2014, Integro Insurance Brokers, Ltd. replaced Lockton as the Company's reinsurance Intermediary.

### **Independent Auditor Agreement**

The Company contracted with an external independent CPA firm to perform the annual audit of its financial statements as required by Rule 69O-137.002 (7) (c), Florida Administrative Code.

## INFORMATION TECHNOLOGY REPORT

Tom Baxter, CPA, CFE, CFF, CGMA, CISA, CITP, IT Consulting of Baxter Enterprises, LLC, performed an evaluation of the information technology and computer systems of the Company. Results of the evaluation were noted in the Information Technology Report provided to the Company.

## STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes and with various state officials as required or permitted by law:

STATE	Description	Par Value	Market Value
FL	Cash	<u>\$ 250,000</u>	<u>\$ 250,000</u>
TOTAL FLORIDA DEPOSITS		\$ 250,000	\$ 250,000
GA	Cash	\$ 25,002	\$ 25,002
NC	Cash	200,000	200,000
TX	FFCB Bond, 0.44%, 10/16/2015	1,000,000	999,970
TX	FNMA Note, 0.48%, 11/25/2015	<u>1,000,000</u>	<u>1,001,240</u>
TOTAL OTHER DEPOSITS		<u>\$ 2,225,002</u>	<u>\$ 2,226,212</u>
TOTAL SPECIAL DEPOSITS		<u>\$ 2,475,002</u>	<u>\$2,476,212</u>

## FINANCIAL STATEMENTS PER EXAMINATION

The following pages contain financial statements showing the Company's financial position as of December 31, 2013, and the results of its operations for the year then ended as determined by this examination. There were no adjustments made as a result of the examination.

**MEDMAL DIRECT INSURANCE COMPANY**  
**Assets**

**DECEMBER 31, 2013**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Bonds	\$14,199,163		\$14,199,163
Stocks:			
Common	2,009,644		2,009,644
Preferred	271,071		271,071
Cash and Short-Term Investments	2,944,539		2,944,539
Agents' Balances:			
Uncollected premium	2,746,301		2,746,301
Investment income due & accrued	76,899		76,899
Net deferred tax asset	669,252		669,252
Aggregate write-in for other than invested assets	18,087		18,087
Totals	<u>\$22,934,956</u>	<u>\$0</u>	<u>\$22,934,956</u>

**MEDMAL DIRECT INSURANCE COMPANY**  
**Liabilities, Surplus and Other Funds**

**DECEMBER 31, 2013**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$5,972,774		\$5,972,774
Loss adjustment expenses	1,615,757		1,615,757
Other expenses	585,855		585,855
Taxes, licenses and fees	40,965		40,965
Unearned premiums	4,708,968		4,708,968
Advance premium	633,954		633,954
Ceded reinsurance premiums payable	(1,111,704)		(1,111,704)
Current federal income tax payable	3,409		3,409
Payable to affiliates	34,495		34,495
Total Liabilities	\$12,484,473	\$0	\$12,484,473
Common capital stock	\$4,750,180		\$4,750,180
Gross paid in and contributed surplus	7,149,820		7,149,820
Unassigned funds (surplus)	(1,449,517)		(1,449,517)
Surplus as regards policyholders	\$10,450,483	\$0	\$10,450,483
Total liabilities, surplus and other funds	\$22,934,956	\$0	\$22,934,956

**MEDMAL DIRECT INSURANCE COMPANY**  
**Statement of Income**

**DECEMBER 31, 2013**

**Underwriting Income**

Premiums earned		\$9,532,989
	<b>Deductions:</b>	
Losses incurred		\$3,668,912
Loss expenses incurred		2,007,655
Other underwriting expenses incurred		3,749,302
Total underwriting deductions		\$9,425,869
Net underwriting gain or (loss)		\$107,120

**Investment Income**

Net investment income earned		\$359,624
Net realized capital gains or (losses)		321,711
Net investment gain or (loss)		\$681,335

**Other Income**

Net gain or (loss) from agents' or premium balances charged off		\$0
Finance and service charges not included in premiums		0
Total other income		\$0

Net income before dividends to policyholders and before federal & foreign income taxes		\$788,455
Dividends to policyholders		0
Net Income, after dividends to policyholders, but before federal & foreign income taxes		\$788,455
Federal & foreign income taxes		15,409
Net Income		\$773,046

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year		\$8,921,079
Net Income		\$773,046
Change in net unrealized capital gains or (losses)		(233,472)
Change in net deferred income tax		(112,857)
Change in non-admitted assets		(97,313)
Capital changes:		
Paid-in		120
Transferred to surplus		(4,750,060)
Surplus Adjustment:		
Paid-in		5,949,940
Change in surplus as regards policyholders for the year		\$1,529,404
Surplus as regards policyholders, December 31 current year		\$10,450,483

A comparative analysis of changes in surplus is shown below.

**MEDMAL DIRECT INSURANCE COMPANY**  
**Comparative Analysis of Changes in Surplus**

**DECEMBER 31, 2013**

The following is a reconciliation of Surplus as regards policyholders between that reported by the Company and as determined by the examination.

Surplus as Regards Policyholders  
December 31, 2013, per Annual Statement \$10,450,483

	<u>PER</u> <u>COMPANY</u>	<u>PER</u> <u>EXAM</u>	<u>INCREASE</u> <u>(DECREASE)</u> <u>IN SURPLUS</u>
ASSETS:			
No Adjustment			0
LIABILITIES:			
No Adjustment			0
Net Change in Surplus:			<u>0</u>
Surplus as Regards Policyholders December 31, 2013, Per Examination			<u><u>\$10,450,483</u></u>

## COMMENTS ON FINANCIAL STATEMENTS

### Liabilities

#### Loss and Loss Adjustment Expenses

**\$7,588,531**

An outside actuarial firm appointed by the Board of Directors rendered an opinion that the amounts carried in the balance sheet as of December 31 2013, made a reasonable provision for all unpaid loss and loss adjustment expense obligations of the Company.

The Officer's consulting actuaries R. Glenn Taylor, ACAS, MAAA, Brent Sallay, FCAS MAAA, and Solomon Frazier, ACAS, ASA, MAAA consulting actuaries of Taylor-Walker Associates Inc., reviewed the loss and loss adjustment expense work papers provided by the Company and they were in concurrence with this opinion.

#### Capital and Surplus

The amount of Capital and Surplus reported by the Company of \$10,450,483, exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.



## **SUMMARY OF RECOMMENDATIONS**

### **Actuarial Report Documentation**

The examining actuary recommends that the opining actuary describe assumptions and methodologies used in future actuarial reports “with sufficient clarity that another actuary qualified in the same practice area could make an objective appraisal of the reasonableness of the actuary’s work as presented in the actuarial report,” as required in Paragraph 3.2 of Actuarial Standard of Practice No. 41.

### **Schedule P Reconciliation**

For examination purposes, the examining actuary recommends that the opining actuary include a Schedule P reconciliation in future analyses, as required in Paragraph 7 of the Actuarial Opinion section of the NAIC’s Annual Statement Instructions.

### **Actuarial Report Summary Exhibit**

For examination purposes, the examining actuary recommends that the actuary add the required summary exhibit to future actuarial reports, and ensure consistency between the AOS and the summarized results contained in the summary exhibit of the report.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **MedMal Direct Insurance Company** as of December 31, 2013, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's surplus as regards policyholders was \$10,450,483, which exceeded the minimum of \$4,000,000 required by Section 624.408, Florida Statutes.

In addition to the undersigned, Roshi Fekrat, CPA, CFE, CIA, MCM, Examiner In Charge, of Global Insurance Enterprises, Inc., and Patricia Casey Davis, CPA, CFE, CMA, CIA, CRMA, CICA, Examination Manager, of INS Companies, participated in the examination. George Brown, CFE, CIA, MCM and Dennis Kluk, CFE, MCM, Participating Examiners, of Global Insurance Enterprises, Inc. also participated in the examination. Additionally, Brent Sallay, FCAS MAAA, R. Glenn Taylor, ACAS, MAAA, and Solomon Frazier, ACAS, ASA, MAAA, consulting actuaries of Taylor-Walker Associates Inc. and Tom Baxter, CPA, CFE, CFF, CGMA, CISA, CITP, IT Consulting of Baxter Enterprises, LLC are recognized for participation in the examination.

Respectfully submitted,

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Lamar Downs, CPA  
Deputy Chief Examiner  
Florida Office of Insurance Regulation