

REPORT OF EXAMINATION

OF THE

MARKET CONDUCT AFFAIRS

OF

IMPERIAL FIRE AND CASUALTY INSURANCE CO

OPELOUSAS, LOUISIANA

AS OF

December 31, 2002

NAIC CODE 44369

NAIC ETS EXAM NO. LA071-M16

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February 20, 2003

Honorable Robert Wooley
Acting Commissioner of Insurance
P O Box 94214
Baton Rouge, Louisiana 70804-9214

Sir:

Pursuant to your instructions and authorization, and in compliance with statutory provisions, a limited market conduct examination has been made of the affairs of

IMPERIAL FIRE AND CASUALTY INSURANCE COMPANY

at its Home Office at

304 West Landry

Opelousas, Louisiana 70570

as of December 31, 2002. The report of examination is herewith submitted.

FOREWORD

In accordance with **LSA-R.S. 22:1301 D.**, a market conduct examination was conducted of the activities of Imperial Fire & Casualty Insurance Company from January 1, 2000 through December 31, 2002. The examination was performed by test and all tests applied are included in this report.

PURPOSE AND SCOPE OF MARKET CONDUCT EXAMINATION

The market conduct examination of Imperial Fire and Casualty Insurance Company, hereinafter referred to as ("IFAC") or ("Company"), was a limited routine market conduct examination authorized by the Louisiana Department of Insurance ("DOI") or ("Department"). Limited, in that not all examination procedures recommended by the National Association of Insurance Commissioners (NAIC) were performed.

The examination included, but was not limited to, the following areas of the Company's operation:

- Company Overview,
- Complaints and Grievances,
- Producer Appointments,
- Marketing and Sales,
- Underwriting and Rating and
- Claims.

The purpose of this examination was to review compliance by the Company with Louisiana Insurance Laws, Regulations, Directives, Bulletins and NAIC Guidelines. The NAIC Guidelines set the standard of conduct for a property and casualty insurer and promote a program of fair treatment of policyholders. Portions of the NAIC Market Conduct Examiner's Handbook, Volume II were used as a measure of compliance.

The ACL Program, a data manipulation program, provided by the Louisiana Department of Insurance was utilized in this examination. Samplings were utilized to test the Company's records and procedures for statutory compliance. The ACL Program was used when possible, to automatically generate a random sampling of data records. "Random" is a theoretical concept meaning that all items in a population or file, before selection, have an equal chance of appearing in the sampling. In instances in which ACL was not used, a systematic (sequential) sampling of certain company record listings was performed.

Generally a random or systematic sampling size of sixty (60) records was selected for review. A minimum confidence level of ninety-five percent (95%) with a maximum error rate of five percent (5%) was used for all samples. Based on a review of the sampling's error rate, additional samplings may have been required.

COMPANY OVERVIEW

COMPANY HISTORY

On April 4, 1990, IFAC was organized as a stock property and casualty insurer under the laws of the State of Louisiana. Imperial Management Corporation was

organized for the sole purpose of acquiring all rights, title and interest to the Company from Imperial Holding Corporation.

On July 13, 1990, Imperial Holding Corporation had acquired the Company's charter out of liquidation from the Commissioner of Insurance, as liquidator for the U. S. Indemnity Assurance Group. The Company's charter was obtained under the grandfather rule requiring \$1,000,000 in capital and surplus for a stock insurance company.

The Company's Certificate of Authority, dated October 18, 1990, authorizes it to transact the business of insurance for the following lines: health and accident, vehicle, liability, workers' compensation, burglary and forgery, glass, fidelity and surety, fire and extended coverage, steam boiler and sprinkler leakage, crop and livestock and inland marine, within the State of Louisiana.

On November 4, 2002, Dupre Investments Holding, L.L.C., a single member L.L.C. with Bobby Dupre as its sole member, purchased all of the outstanding shares of Gulf States Life Insurance Company from Imperial Fire and Casualty Insurance Company.

On November 4, 2002, John E. "J.E." Brignac purchased from Bobby Dupre, all of his shares in Imperial Management Corporation.

TERRITORY AND PLAN OF OPERATIONS

During the period under examination, IFAC'S primary business was private passenger automobile insurance written in the states of Louisiana and Texas. The Company is also admitted to write business in Mississippi, Alabama, Indiana, Georgia, Nevada and Arkansas.

Although small in comparison to its private automobile insurance business, the Company also writes three additional lines of insurance in Louisiana which are detailed as follows:

Inland Marine – this is security interest protection insurance, often referred to as “non-filing” insurance, to secure lenders’ liens on household goods as security for personal loans.

Credit – credit property business insuring lenders’ interest on personal property in which they have a lien holder’s interest.

Commercial Automobile Liability – this business insures taxicabs and public liveries in Louisiana.

The Texas business was written through the county mutual system. The net premium written by the Company on its Texas business appears in the statutory accounting as assumed reinsurance from Everest Reinsurance and Axa Reinsurance Company. As of June 2001, Imperial General Agency of Texas, Inc. had withdrawn from the Texas auto market.

The Company underwrites two (2) types of auto insurance programs: “monthly” and “six-months”. Monthly policies can be purchased for a term of up to three (3) months, although the majority is issued on a monthly basis.

For the period under examination, the Company’s annual statements reflected the following Louisiana premium volume:

<u>YEAR</u>	<u>PREMIUM VOLUME</u>
2000	\$ 4,347,811
2001	7,044,151
2002	15,808,623

PARENT, SUBSIDIARIES AND AFFILIATES

The following schedule shows the Company's relationship to other entities within the holding company system as of December 31, 2002:

CORPORATION	OWNERSHIP
Imperial Management Corporation	72.5% - John E. Brignac, Jr. 27.5% - Allen I. Boudreaux
ABC Agency Network, Inc.	100% - Imperial Management Corp.
Imperial Adjustment Corporation	100% - Imperial Management Corp.
Liberty Printing of Opelousas, Inc	100% - Imperial Adjustment Corp.
Target General Agency, Inc.	100% - Imperial Management Corp.
American Auto Insurance Agency, Inc.	100% - Imperial Management Corp.
Integrity Underwriters, Inc.	100% - Imperial Management Corp.
A&A Adjustment and Legal Solutions, Inc.	100% - Imperial Management Corp.
Louisiana General Agency, Inc.	50% - Imperial Management Corp. 50% - Paul Johnson
Imperial Fire & Casualty Insurance Company	99.97% - Imperial Management Corp.
Imperial General Agency of Texas, Inc.	100% - Imperial Fire & Casualty Ins. Co.

ANTIFRAUD POLICY

During this examination, the Company was reminded of **DOI Bulletin #99-01** dated June 1, 1999 referencing "Consent for Prohibited Person to engage in Insurance Business". This Bulletin was a notification to all persons and entities engaged in or contemplating being engaged in the business of insurance in this state, that the Louisiana Department of Insurance has enacted guidelines and requirements for granting written consent to engage in the business of insurance for individuals who are considered "prohibited persons" under The Violent Crime Control and Law Enforcement Act of 1994, Title 18 U.S. Code, Sections 1033 and 1034. The Company was advised that this Bulletin applied to employees as well as producers.

The Company responded that **DOI Bulletin 99-01** was provided to legal counsel for review and recommendations.

IFAC is a small company located in a small city with little employee turnover. The company president usually interviews applicants. Currently, the Company has no formal hiring procedures or employee manual.

It is recommended that the Company implement hiring procedures that are in compliance with **DOI Bulletin 99-01** and an employee manual, which also provides sufficient detail to enable employees to perform their functions in accordance with management's goals relating to fraud prevention and security of applicant/insured data.

AGREEMENTS

During the period under examination, the Company had the following agreements with affiliates:

Imperial Management Corporation (10/18/1990) is an affiliate located in Opelousas, Louisiana that functions as liaison for the Company with government agencies by regulating required filings with insurance divisions, by negotiating and executing reinsurance and other treaties and by evaluating computer operations.

The Company's former subsidiary, Gulf States Life Insurance Company, located in Louisiana, also has a similar agreement with Imperial Management Corporation.

Imperial Adjustment Corporation (01/15/1991) is an affiliate that performs the Company's auto claim functions. Imperial Adjustment Corporation's employees work in house at the Company's home office. The agreement expires on January 15, 2006.

Louisiana General Agency, Inc. (06/02/1997) is an affiliate located in Shreveport, Louisiana that markets the Company's six-month private passenger automobile policies through its network of producers.

Target General Agency, Inc. (09/01/1997) is an affiliate located in Opelousas, Louisiana that markets the Company's six-month private passenger automobile policies through several employees who work in house at the Company's home office.

JEBCO Management Corporation (01/01/2001) is an affiliate located in Opelousas, Louisiana that acts as liaison with insurance regulatory and/or federal, state and municipal government agencies primarily relating to the Company's Taxicab Program.

RECOMMENDATIONS FROM PRIOR EXAMINATION REPORTS

A Louisiana market conduct examination report as of December 31, 1997 indicated that approximately one hundred forty-nine (149) of its active producers or producer agencies, to which it paid commissions, were not appointed in 1997.

During the course of this examination, the Company demonstrated a practice of properly appointing its producers. However, a review of its current producers revealed that some active producers were still not appointed and some producer agencies were operating under an agency name that was not recorded with the Secretary of State and consequently, the Department of Insurance.

COMPLAINT REVIEW

This review was conducted in accordance with the provisions of Louisiana Revised Statute **22:1214(17)** which states as follows:

"The following are declared to be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance...."Failure to maintain adequate complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints that is received since the date of the last examination. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of

each complaint, and the time it took to process each complaint. For purposes of this Paragraph, "complaint" shall mean any written communication primarily expressing a grievance received by the insurer from the Department of Insurance."

A judgmental sampling of thirty-five (35) complaints filed in 2001 and 2002 were selected for review, which represented approximately twenty-five percent (25%) of the total complaints.

A review of the Company's responses to the Department indicated that responses generally were timely and provided adequate detail to explain the Company's position.

The complaint register was not in compliance with **LSA-R. S. 22:1214(17)**, as not all complaints received from the Department were recorded. Also, the complaint register did not reflect the total number of complaints received.

When the non-compliance was brought to the attention of the Company, the Company acknowledged that complaints were missed due to clerical oversight. It is recommended that the Company implement complaint procedures to insure that all complaints received will be properly recorded on the complaint register and revise its current complaint register format to reflect the total number of complaints received.

It should be noted that the Company had a small number of complaints during the period under examination.

PRODUCER REVIEW

The Company has no formal contracts with any of its producers that have been approved to write business. However, Louisiana General Agency, Inc. ("LGA"), a general producer for the Company located in Shreveport, Louisiana, did offer a producer agreement.

Due to the nature of the Company's marketing, it considers all producers as independent brokers who represent the insured. No sales or training material is provided to the active producers.

A systematic sampling of one hundred (100) producers was selected from active producer listings provided by the Company and LGA. From this review ten (10) producers were operating under producer agency names that apparently were not filed with the Secretary of State. Also, seven (7) producers did not have current appointments with the Company and received commissions from 2000 through 2002. These findings are not in compliance with **LSA-R.S 22:1144 A. (1) or 22:1144 D.** that state in pertinent part as follows:

A. (1) "An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of the insurer..."

D. "If any producer is operating or intends to operate its business affairs as a partnership, corporation, or other business entity, the appointments herein may be issued by an insurer in the name of such partnership, corporation, or other business entity, upon application, to be licensed as an insurance producer under this Part, provided all persons in said partnership, corporation, or other business entity actively engaged in soliciting, negotiating, or effecting contracts of insurance or renewals thereof also hold an unexpired producer's license issued in accordance with the provisions of this Part."

The Company was advised of these findings.

Based on these findings, it is recommended that the Company review its active producers in order to determine if all have current appointments with the Department. Also, it is recommended that the Company add the Department's producer license number to its producer database in order to expedite this review in future examinations.

MARKETING AND SALES REVIEW

The Company only advertises in a trade newspaper for name recognition. The Company's website is www.imperialmanagement.com. Currently the website provides only information on how to contact the Company. The Company is in the process of upgrading its website to include information for use by the Company's producers.

No sales material is provided to the Company's independent producers.

UNDERWRITING AND RATING REVIEW

A random sampling of sixty (60) new business policies was selected from new business listings for 2000 and 2001 in order to determine how the Company treats the consumer and whether that treatment is in compliance with applicable statutes, rules and regulations.

This review indicated that all applications and all Uninsured/Underinsured Motorist Bodily Injury Coverage Forms were properly completed and signed by the applicant and writing producer. Also, all applications were date stamped when received and it was determined that new policies were issued on an average of eight (8) days after the application was received by Underwriting.

The Company began rejecting applications for prohibited conditions, such as reconstructed automobiles, driving while intoxicated, license suspension and type (cost) of automobile, approximately April 2002. Prior this time, when rejecting applications, the Company's practice was to issue the policy with prohibited conditions and then cancel the policy within thirty (30) days. The Company deemed the practice of rejecting the applications necessary when its reinsurer indicated it would not share in the exposure on these policies from the issue date to date of cancellation.

A random sampling of thirty (30) rejected application files were randomly pulled from underwriting files for the period April to December 2002. The sampling revealed that the applications were rejected for prohibited reasons such as reconstructed automobile, driving while intoxicated, license suspension and type (cost) of automobile. No discrepancies were noted during this review.

It was noted that approximately fifty percent (50%) of the sampled rejected applications were rejected due to the prohibited condition, reconstructed automobile. Although this condition was addressed in the Company's Underwriting Guidelines provided to the producers, this prohibited condition was generally overlooked. This finding was provided to the Company.

CLAIMS REVIEW

A claims walk through was conducted at the Company's home office in Opelousas. It was observed that the mailroom uses an electric stamp machine to date stamp incoming claim forms and faxes. Also, a form was completed that included the date of any telephonic claim. Once the claim is received, coverage is verified and a claim number is assigned.

The Company utilizes a claim system that was implemented in the 1980s. The Company has several programmers on staff for maintenance of the system. While the claim records provided by the Company were not readily compatible with the ACL Program, the records were able to be sorted by ACL.

A sampling of sixty (60) claims from 2002 were generated by the ACL Program to determine compliance with applicable statutes, rules and regulations. The sampling generated thirty-seven (37) paid claims and twenty-three (23) claims without payment. It

should be noted that the Company does not maintain a listing of denied claims or claims closed without payment.

The thirty-seven (37) paid claims were handled promptly and in accordance with policy provisions and applicable statutes. Claims were paid on an average of twenty-two (22) days from the date the claim was received when adequate documentation was provided for claim payment. The twenty-three (23) claims without payment were the result of no coverage for loss, cost of damage less than deductible or pending litigation.

COMMENTS AND RECOMMENDATIONS

The Company responded promptly to examination requests during the course of this examination.

COMPLAINT REVIEW

The complaint register was not in compliance with **LSA-R. S. 22:1214 (17)** as not all complaints received from the Department were recorded. Also, the complaint register did not reflect the total number of complaints received.

It is recommended that the Company implement complaint procedures to insure that all complaints received will be properly recorded on the complaint register and revise its current complaint register format to reflect the total number of complaints received.

PRODUCER REVIEW

A review of a sampling of producers revealed that ten (10) producers were operating under agency names that apparently were not filed with the Secretary of State.

Also, seven (7) producers did not have current appointments with the Company and received commissions from 2000 through 2002. These findings are not in compliance with **LSA-R.S 22:1144 A. (1) or 22:1144 D.**

It is recommended that the Company review its active producers in order to determine that all have current appointments with the Department. Also, it is recommended that the Company add the Department's producer license number to its producer database in order to expedite this review in future examinations.

Finally, it is recommended that the Company implement hiring procedures that are in compliance with **DOI Bulletin 99-01** and an employee manual, which also provides sufficient detail to enable employees to perform their functions in accordance with management's goals relating to fraud prevention and security of applicant/insured data.

CONCLUSION

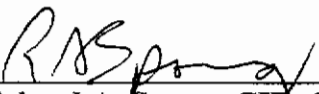
I, Richard A. Spong, do solemnly swear and affirm that I am an examiner for the Commissioner of Insurance of the State of Louisiana and that as such, I was assigned to examine the market conduct activities of

**IMPERIAL FIRE AND CASUALTY INSURANCE COMPANY
OPELOUSAS, LOUISIANA**

That I made such examination and the above and foregoing is a true and correct copy of my report of such company and the same is true and correct to the best of my knowledge, information and belief.

Mr. Don Ewing, IS Specialist/Automated Exam Specialist, with the Louisiana Department of Insurance also participated in this examination and joined the undersigned in acknowledging the courteous cooperation of the Company's Officers and Employees.

Respectfully submitted,


Richard A. Spong, CIP, CFE
Louisiana Department of Insurance