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# REPORT OF EXAMINATION

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OF THE  
MARKET CONDUCT AFFAIRS  
of  
T.H.E. INSURANCE COMPANY

NAIC # 12866

as of

December 31, 2004

(Property and Casualty)

By a Representative of the  
Louisiana Department of Insurance

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February 18, 2005

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

Sir:

Pursuant to your instructions and authorization, and in compliance with statutory provisions and the procedures established by the National Association of Insurance Commissioners, a routine examination of the market conduct activities has been conducted of the affairs of:

**T.H.E. INSURANCE COMPANY**

at its administrative Office  
10451 Gulf Boulevard  
Treasure Island, Florida 33706  
NAIC Company Code: 12866

The report as of December 31, 2004, is hereby respectfully submitted.

## **FOREWORD**

This examination report, as of December 31, 2004, reflects the Louisiana insurance activities of T.H.E. Insurance Company, herein after referred to as the "Company" or "T.H.E.". The examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures or files that manifested no improprieties were omitted.

## **SCOPE OF EXAMINATION**

The on site examination commenced on January 24, 2005 and covers the period from January 1, 2002 to December 31, 2004. The examination was conducted in the Company's administrative office located at 10451 Gulf Boulevard, Treasure Island, Florida.

The purpose of the examination was to examine compliance by the Company with Louisiana Insurance Laws and Louisiana Department of Insurance regulations and to determine if the Company's operations were consistent with the public interest.

The examination was conducted in accordance with **LSA-R.S. 22:1301 D.** and the Commissioner's letter of authority issued thereunder. The market conduct guidelines and procedures adopted by the National Association of Insurance Commissioners (NAIC) were employed to thoroughly inspect and examine the Company's market conduct procedures to determine compliance with the provisions of the law, and any other facts relative to its business methods, management or equity dealings with its policyholders.

File sampling was based on a review of systematically selected, except as otherwise indicated, samples of claim files by category. Populations were too small for random sampling.

During the course of this examination, the company's operations were reviewed including, but not limited to, the following:

- Company operations and management
- Complaint handling
- Marketing and Sales
- Producer Licensing
- Underwriting and Rating
- Claims

Some unacceptable or non-complying practices may not have been discovered in the course of this examination. Failure to identify or criticize specific company practices does not constitute acceptance of such practices by the Louisiana Department of Insurance. This report should not be construed to endorse or discredit any insurance company or insurance product.

## **HISTORY AND PROFILE**

T.H.E Insurance Company was incorporated under the laws of the Commonwealth of Massachusetts on April 10, 1969 and re-domesticated under the laws of the State of Louisiana on January 13, 1987. The Company is authorized to conduct the business of Property and Casualty Insurance in Canada, the U.S. Virgin Islands, Puerto Rico, and the

District of Columbia and in all states except California on an admitted basis, and is authorized for surplus lines in California.

T.H.E. specializes in underwriting commercial multi-peril, fire, general liability, auto and inland marine coverages for the specialty entertainment industry on both an admitted and surplus lines basis. During 2001, the Company began writing a limited amount of workers' compensation insurance, primarily to existing clients in need of this coverage. In 2003, they terminated a small artisans program they had started in 2001.

The Company's home office address is 3200 Energy Centre, 1100 Poydras Street, New Orleans, LA, but the administrative office is as shown in Treasure Island, Florida. Although Louisiana is the state of domicile, twenty-five (25) other states have more direct premiums written than Louisiana. Just over one per cent (1%) of the direct premiums written is Louisiana business while more than twenty-two per cent (22%) is Florida business.

#### **Parent, Subsidiaries and affiliates**

Allied International Holdings, Incorporated owns ninety-nine point six per cent (99.6%) of the outstanding shares of common stock of T.H.E. Insurance Company. AIH is also the organizational parent of the insurance agency, Allied Specialty Insurance, Incorporated.

#### **Certificate of Authority**

The Company's Certificate of Authority for Louisiana was reviewed during the examination. It was originally issued January 1, 1987 and amended July 14, 2000. Operations conformed to their Certificate of Authority as issued.

## Direct Written Premiums

For the period under review, the Company's major lines of business and reported direct written premium were as follows: (2004 not yet available)

	<b>Total</b>	<b>Louisiana</b>	<b>Total</b>	<b>Louisiana</b>
	<b>2002</b>	<b>2002</b>	<b>2003</b>	<b>2003</b>
Commercial Multi-Peril	\$24,891,294	\$253,489	\$27,670,703	\$241,301
Worker's Compensation	2,683,454	37,352	3,903,547	46,094
Other Liability	17,969,303	251,220	23,708,339	237,248
Commercial Auto	7,240,698	226,317	8,665,017	166,247
Surety	7,501	2,350	17,125	0
Fire	332,690	298	596,791	644
Inland Marine	429,874	0	675,793	0
<b>Totals</b>	<b>\$53,554,814</b>	<b>\$771,026</b>	<b>\$65,237,315</b>	<b>\$691,534</b>

## COMPANY OPERATIONS AND MANAGEMENT REVIEW

Company operations and management were reviewed according to the standards outlined in the NAIC Market Conduct Examiners Handbook.

- The Company does not have an internal audit program.
- The Company has an over all anti-fraud program, not specific to Louisiana.
- The Company has a Louisiana Certificate of Authority appropriate for the lines of business written, issued in 1987 and amended July 14, 2000.
- Records were complete, in good order and easy to review.

The Company's "Catastrophe Manual" is geared more toward personal safety and property security than it is to disaster recovery. The information systems manager indicated

that he sends a weekly back up to a secure storage facility in Tampa, Florida for use, if needed.

## **POLICYHOLDER COMPLAINTS REVIEW**

The Company's complaint records were reviewed for the period beginning January 1, 2002 through December 31, 2004. The review indicated that there were no complaints filed on Louisiana business during the period under examination. The complaint registers listing complaints for other jurisdictions were in good order and contained all of the information that is required by LSA-R.S. 22:1214 (17).

## **MARKETING AND SALES REVIEW**

### **Marketing Structure**

The solicitation of Company products in Louisiana is done through brokers, licensed producers selling through six (6) licensed and appointed producer agencies, five (5) licensed and appointed resident producers and four (4) licensed and appointed non-resident producers. Allied Specialty Insurance, Inc., an agency that is also a subsidiary of T.H.E.'s parent company, Allied International Holdings, Inc., is involved only in marketing and does not perform any other functions for T.H.E which might cause Allied Specialty to be classified as a managing general agent. In addition to the Allied Specialty operations housed in the same facility as T.H.E.'s administrative offices, there is also an Allied Specialty Insurance of Louisiana and an Allied Specialty Insurance of Texas. Allied Specialty of Louisiana is a subsidiary of AIH, but Allied Specialty of Texas is a separate entity not owned by AIH. Of the three (3), only Allied Specialty Insurance of Louisiana is licensed and authorized to market in Louisiana. As reflected in the producer licensing review section of this report,

sixty-six per cent (66%) of the policies issued during the scope period of this examination were written by producers who do not hold a Louisiana license and who present their applications through Allied Specialty Insurance (Florida) and Allied Specialty Insurance of Texas.

### **Advertising**

A review of the Company's web site and printed advertising materials used during the period under examination showed full compliance with Louisiana Department of Insurance statutes and regulations regarding advertising. The advertising is directed toward brokers who might need a market to cover entertainment industry risks as well as toward the target market.

## **PRODUCER LICENSING REVIEW**

The Company's licensing procedures were reviewed to determine compliance with Louisiana statutes and regulations.

### **Terminations**

Terminations were in accordance with the provisions of **LSA-R.S. 22:1145**.

### **Appointments**

Records for all new business written during the scope period were sorted by name of writing producer and all producer names were checked against the listing provided by the Louisiana Department of Insurance. Of the one hundred eighty-nine (189) policies issued during the scope period, one hundred twenty-five (125) were written by producers who were neither licensed nor appointed in Louisiana and were placed through a producer agency that

is not licensed in Louisiana. This represents one hundred twenty-five (125) violations of **LSA-R.S. 22:1133 A. & B.** and **LSA-R.S. 22:1144 A. & D.**

The Company responded to these findings by submitting application to the Louisiana Department of Insurance for licensing all of the currently active producers and producer agencies identified in this review.

## **UNDERWRITING AND RATING REVIEW**

The Company's underwriting and rating practices were reviewed, including an in depth look at the approval status of forms in use during the scope period of the examination.

### **Forms and Filings**

The Company's contract forms, applications and endorsements were reviewed to determine compliance with filing approval. There were no exceptions noted.

### **Underwriting**

The examination of underwriting practices revealed no statutory or regulatory exceptions in this area.

Underwriting and Rating Samples

	<b>Population</b>	<b>Sample</b>
Issued	189	50
Declined	19	19

The cases declined presented significant loss potential and/or loss history. All large cases were reviewed at the highest levels of the Company.

## CLAIMS REVIEW

The claims practices were examined for efficiency of handling, accuracy of payment, compliance with Louisiana statutes and regulations and adherence to contract provisions.

A claim is taken to be a demand for payment by an insured or third party claimant under coverage against the insurer, which claim is;

Paid by the Insurer as:

1. Full recompense or
2. Partial recompense

Closed without Payment by Reason of no:

1. Relevant coverage or
2. Liability

Systematic samples were selected for review as noted below:

	<b>Population</b>	<b>Sample Size</b>
Paid	179	50
Denied	13	13

Most third party claims were presented to the Company only after litigation against the policyholder had begun and resulted in negotiated settlements. First party claims for property damage were paid or denied timely and in accordance with policy provisions. All claims appear to have been handled properly and in compliance with Louisiana statutes and rules and according to policy provisions.

## **UNIFORM DISPOSITION OF PROPERTY ACT REVIEW**

Effective July 10, 1997, Act 809 of the 1997 Regular Legislative Session requires all companies, including life insurance companies, to file a report by November 1<sup>st</sup> each year of unclaimed property in its possession.

The Company filed a report for 2003, but failed to file for either 2002 or 2004 because they did not have any unclaimed property to report. This represents two (2) violations of **LSA-R.S. 9:151-181**. It is recommended that the Company make this filing by November 1 of each year as required by statute. The instructions in this statute require that the Company file a report even if it does not have any unclaimed property.

The Company concurred with the critique regarding this violation and stated that they will begin filing the annual report each November 1, and filed belated reports for 2002 and 2004.

## **CONSUMER PRIVACY POLICY REVIEW**

A review of the Company's Privacy Procedures, which govern the privacy of consumer financial information, is in compliance with the Louisiana Department of Insurance **Regulation 76/ PRIVACY OF CONSUMER FINANCIAL INFORMATION**.

## SUMMARY OF IMPORTANT POINTS

<u>COMMENTS</u>	<u>PAGE</u>
One hundred twenty-five (125) policies issued were written by unlicensed and un-appointed producers who were working through an unlicensed and un-appointed producer agency, resulting in one hundred twenty-five (125) violations of <b>LSA-R.S. 22:1133 A. &amp; B.</b> and <b>LSA-R.S. 22:1144 A. &amp; D.</b>	<b>8</b>
The Company failed to file unclaimed property reports for 2002 and 2004, resulting in two (2) violations of <b>LSA-R.S. 9:151-181.</b>	<b>10</b>

## CONCLUSION

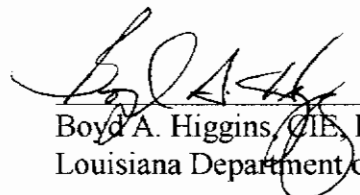
I, Boyd A. Higgins, do solemnly swear and affirm that I am an examiner for the Commissioner of Insurance of the State of Louisiana and that as such I was assigned to conduct an examination of the market conduct activities of

T.H.E. INSURANCE COMPANY  
HOME OFFICE: NEW ORLEANS, LOUISIANA  
ADMINISTRATIVE OFFICE: TREASURE ISLAND, FLORIDA

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.

I would like to acknowledge the courteous cooperation of the Company's officers and employees.

Respectfully submitted,

  
Boyd A. Higgins, CIE, FLMI, CLU  
Louisiana Department of Insurance