

# INSOLVENCY REPORT

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COMMERCIAL INSURANCE ALLIANCE, A  
RECIPROCAL INSURANCE COMPANY.

June 26, 2015

Prepared by  
Jamila G. Gooden, Senior Attorney  
Florida Department of Financial Services, Division of Rehabilitation and Liquidation

<b>Name of Receivership</b>	Commercial Insurance Alliance, a Reciprocal Insurance Company
Receivership Number	529
Date of Conservation	N/A
Date of Rehabilitation	N/A
Date of Liquidation	January 26, 2011

**Scope:** Pursuant to section 631.398(3), Florida Statutes, the Division is required to prepare a summary report "containing such information as is in its possession relating to the history and causes of such insolvency, including a statement of the business practices of such insurer which led to such insolvency." Such a report is called an Insolvency Report and must be prepared prior to the discharge of a domestic insurer's estate.

The authority under which the insolvency report is written is section 631.398, Florida Statutes which states as follows:

Title XXXVII    Chapter 631  
INSURANCE    INSURER INSOLVENCY; GUARANTY OF  
PAYMENT

[View Entire Chapter](#)

**631.398 Prevention of insolvencies.**—To aid in the detection and prevention of insurer insolvencies or impairments:

(1) Any member insurer; agent, employee, or member of the board of directors; or representative of any insurance guaranty association may make reports and recommendations to the department or office upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations are confidential and exempt from the provisions of s. 119.07(1) until the termination of a delinquency proceeding.

(2) The office shall:

(a) Report to the board of directors of the appropriate insurance guaranty association when it has reasonable cause to believe from any examination, whether completed or in process, of any member insurer that such insurer may be an impaired or insolvent insurer.

(b) Seek the advice and recommendations of the board of directors of the appropriate insurance guaranty association concerning any matter affecting the duties and responsibilities of the office in relation to the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(3) The department shall, no later than the conclusion of any domestic insurer insolvency proceeding, prepare a summary report containing such information as is in its possession relating to the history and causes of such insolvency, including a statement of the business practices of such insurer which led to such insolvency.

**History.**—ss. 28, 39, ch. 83-38; ss. 187, 188, ch. 91-108; s. 4, ch. 91-429; ss. 2, 6, ch. 93-118; s. 385, ch. 96-406; s. 1351, ch. 2003-261.

## **BUSINESS**

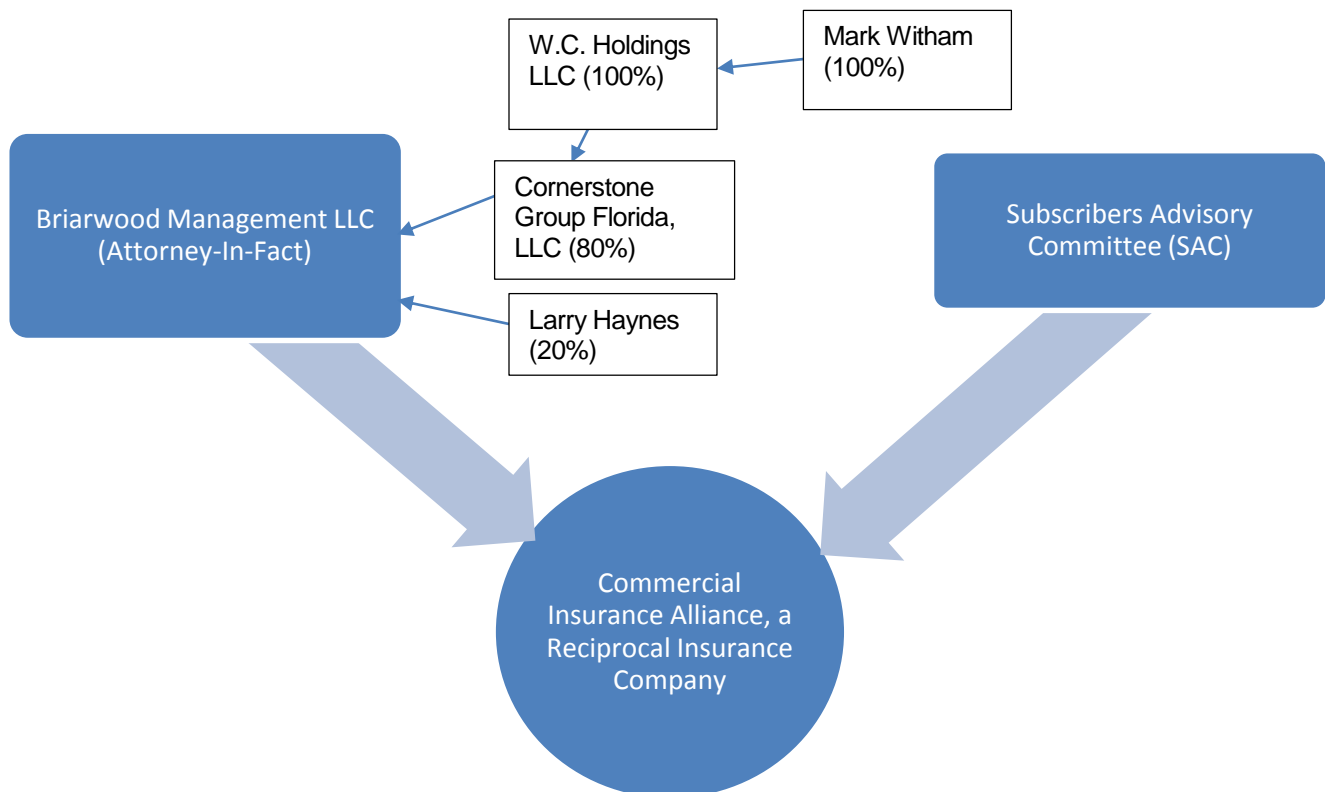
Commercial Insurance Alliance (“CIA”) was licensed on May 4, 2006, by the Florida Office of Insurance Regulation (“OIR”) as a reciprocal insurer pursuant to chapter 629, Florida Statutes.<sup>1</sup> CIA was an assessable, unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide insurance policies to its subscribers. CIA provided commercial multi-peril liability, commercial auto liability, and surety policies.

## **OWNERSHIP, AFFILIATES, MANAGEMENT**

Briarwood Management LLC (“Briarwood”), a special purpose Florida limited liability company, served as CIA’s attorney-in-fact (“AIF”) and operated as the management company of CIA.<sup>2</sup> Briarwood was owned by Larry Haynes and Mark Witham,<sup>3</sup> who were both members of the CIA’s Subscribers’ Advisory Committee (“SAC”) as of December 31, 2007, and who served as the President and Secretary of CIA, respectively.<sup>4</sup>

During 2006, Briarwood contributed \$1.5 million to CIA in exchange for a surplus note,<sup>5</sup> and Briarwood subsequently assigned rights in the surplus note to Cornerstone Group Florida, LLC (“Cornerstone”).<sup>6</sup> Cornerstone is a Florida domiciled limited liability company. Mark Witham, the majority owner of Briarwood and the Secretary of CIA, served as the president of Cornerstone.<sup>7</sup>

### **ORGANIZATIONAL CHART**



Briarwood Management, LLC (AIF):

Larry Eugene Haynes, President & Director  
Mark Brewster Witham, Secretary & Director  
Bradley Erik Taman, CFO

Commercial Insurance Alliance

Larry Eugene Haynes, President  
Mark Brewster Witham, Secretary  
Michael Webb Whatley, Vice President  
Bradley Erik Taman, Treasurer

Subscribers' Advisory Committee:

Edward W. Buttner, IV, Chairman  
Larry Eugene Haynes  
Mark Brewster Witham  
William E. Duff  
Frank H. Furman, Jr.  
Dane Griffin  
Thomas A. Hazel  
Theodore Richard Ostrander

Under the AIF agreement, CIA paid Briarwood a management fee of 15% of written premium on the liability and property business and 20% on the surety business. During 2009, 2008, and 2007, CIA incurred \$283,159, \$360,043, and \$203,344, respectively for services under the AIF agreement.

CIA entered into an agreement with Compass Solutions Group, LLC. ("CSG") to perform accounting services. During 2009, 2008, and 2007, CIA incurred \$117,952, \$30,000, and \$47,000, respectively, for these services. CSG, CIA, the SAC, and Briarwood shared certain officers and directors, namely Bradley Taman and Edward Buttner.

**BACKGROUND/EVENTS OF IMPACT**

On May 4, 2006, pursuant to the Consent Order issued in Case No. 85640-06-CO, OIR approved an application submitted by CIA to obtain a Certificate of Authority ("COA") to transact insurance business in the State of Florida.<sup>8</sup> Pursuant to the Consent Order, CIA was required, *inter alia*, to fully describe to OIR all transactions, agreements, and understandings regarding the formation and operation of CIA; to submit all future administrative service contracts, management contracts and contracts between CIA and any affiliated or related entities to OIR for approval prior to the execution and/or consummation of said contracts; and to maintain sufficient and adequate controls and supervision over its external contractors.

According to the findings of an examination conducted by OIR, in 2005, 2006, and 2007, CIA entered into agreements or arrangements with Mark Witham and/or Witham & Associates, Isabella Holdings, and Maple Technologies LLC (herein after collectively referred to as "Third Parties") that were not approved by OIR or CIA's SAC.<sup>9</sup> The examination also found that as a matter of course CIA paid fees and expenses to the Third Parties without requiring the Third Parties to submit invoices or receipts identifying the services provided to CIA in return for those payments. Additionally, the examination found that Mark Witham added a certain individual as a signatory to CIA's operating account, without approval of CIA's SAC or the President of CIA. Mark Witham and the individual, Mr. Joe Cappuccio, subsequently withdrew \$40,000 from CIA's operating account and paid said funds to Isabella Holdings without prior approval from CIA's SAC or the President of CIA.

According to OIR, between 2006 and 2009, CIA paid \$469,881 in fees and expenses under affiliated agreements which had not been submitted for prior approval by OIR. These expenses were extremely high in relation to CIA's premium income and claims activity. In addition to paying monthly fees to its consultants and other affiliates, CIA also made substantial payments for the travel and entertainment expenses of the consultants. In response to questions raised by OIR's examination team, Briarwood provided explanations for these expenses which indicated that payment of the majority of the questioned



expenses were the ultimate responsibility of Briarwood and were not to be paid out of policyholder funds.

The funds paid to consultants under affiliated agreements were subsequently returned to CIA at the request of OIR. Although CIA made representations to the contrary, the returned funds were obtained from Genesis 7 Capital Management, LLC ("Genesis") in exchange for a secured promissory note issued to Genesis. The satisfaction of the note was secured by the total diluted issued and outstanding membership in Briarwood. The secured promissory note, which contemplates the membership interest in Briarwood, contained provisions which would have required OIR to approve Genesis prior to CIA entering into certain transactions with Genesis. Such prior approval was not sought.

On August 19, 2009, OIR issued an Order suspending CIA's certificate of authority ("Suspension Order")<sup>10</sup> to write new or renewal business for thirty days based on OIR's determination that CIA willfully violated the conditions of the Consent Order; that CIA was retaining risks in amounts exceeding 10% of its surplus to policyholders in violation of section 624.609, Florida Statutes; and that without the inclusion of the funds from GENESIS, CIA would be in an impaired state, with only \$182,687 in surplus as of June 30, 2009.<sup>11</sup> The Suspension Order specified that CIA's COA would be reinstated at the end of thirty days unless OIR found that CIA was still in violation of the Insurance Code. As of September 18, 2009, CIA had not corrected all of the violations identified in the Suspension Order. Therefore, on September 25, 2009, OIR issued a letter to CIA notifying it of the expiration of its COA. On February 25, 2010, CIA surrendered its COA to OIR and entered into run-off mode which lasted until the expiration of CIA's last in-force policy in October 2010.

On September 2, 2010, CIA filed a Complaint in the Circuit Court of Fourth Judicial Circuit, in and for Duval County, Florida against The Underwriters Group, Inc., Larry J. Wright, and First Mountain Bancorp.<sup>12</sup> The circumstances underpinning the Complaint are related to a Letter Agreement entered in 2006 between CIA and The Underwriters Group ("TUG"), under which CIA granted TUG exclusive underwriting and collateralization rights for all bonds issued by CIA within the State of Florida.<sup>13</sup> TUG agreed to arrange the issuance of an Irrevocable Trust Receipt ("ITR") from First Mountain Bancorp in an amount necessary to secure the performance of each bond. In the Complaint, CIA alleged that First Mountain Bancorp refused to release funds that were legally due and payable to CIA which were owed under various ITRs and that as a result, CIA suffered from frozen bank accounts and had judgments entered against it. The action was dismissed on April 17, 2013, for lack of prosecution.

On November 29, 2010, CIA informed OIR that there were approximately \$141,418.95 in loss and loss adjustment expenses due by December 22, 2010, that CIA would not be able to pay. Additionally, OIR received multiple reports indicating that CIA was not capable of paying its debts as they became due in the ordinary course of business. Based on the foregoing, OIR determined that CIA (1) was or was about to become insolvent; (2) had been the victim of embezzlement, wrongful sequestration, conversion, diversion, or encumbering of its assets, which if established, would threaten CIA's solvency; and (3) was in such a condition or was using or had been subject to such methods or practices in the conduct of its business, as to render its further transaction of insurance presently or prospectively hazardous to its policyholders, creditors, stockholders, or the public.

On January 19, 2011, OIR sent a referral to the Florida Department of Financial Services indicating that one or more grounds existed for the initiation of delinquency proceedings against CIA.<sup>14</sup> On January 26, 2011, CIA consented to and this Court entered an Order appointing the Florida Department of Financial Services as Receiver of CIA for purposes of liquidation, injunction, and notice of automatic stay ("Liquidation Order").<sup>15</sup>

## **FINANCIAL ANALYSIS AND UNDERWRITING RESULTS**

Selected financial data from CIA's Annual Statements for years ended 2007, 2008, 2009; CIA's Quarterly Statements as of June 30, 2009, and June 2010; and the Audited Financial Statements for years ended 2007, 2008, and 2009 are presented below.

<b>Assets</b>	<b>30-Jun-10</b>	<b>2009</b>	<b>30-Jun-09</b>	<b>2008</b>
Cash	769,649	1,294,385	1,393,469	967,185
Other Receivables	78,195	194,896	691,234	550,084
<b>Total assets</b>	<b>\$ 847,844</b>	<b>\$ 1,489,281</b>	<b>\$ 2,084,703</b>	<b>\$ 1,517,269</b>

<b>Liabilities</b>	<b>30-Jun-10</b>	<b>2009</b>	<b>30-Jun-09</b>	<b>2008</b>
Reserves for Loss and LAE	536,413	509,485	461,600	365,556
Unearned Premiums	30,642	234,382	444,936	423,850
Ceded Premiums Payable	20,122	170,512	259,834	75,790
Other Expenses Payable	10,345	35,314	58,646	87,857
Taxes, licenses, and fees payable	980	12,240	13,606	11,712
Commission Payable	-	17,276	70,512	43,007
Due to Affiliate	-	58,911	123,000	69,197
<b>Total liabilities</b>	<b>\$ 598,502</b>	<b>\$ 1,038,120</b>	<b>\$ 1,432,134</b>	<b>\$ 1,076,969</b>

<b>Capital and Surplus (Deficit)</b>	<b>30-Jun-10</b>	<b>2009</b>	<b>30-Jun-09</b>	<b>2008</b>
Surplus Note	1,500,000	1,500,000	1,500,000	1,500,000
Paid-in and contributed surplus	565,052	563,734	501,568	379,322
Unassigned deficit	(1,815,709)	(1,612,573)	(1,348,999)	(1,439,022)
<b>Total capital and surplus (deficit)</b>	<b>\$ 249,343</b>	<b>\$ 451,161</b>	<b>\$ 652,569</b>	<b>\$ 440,300</b>

<b>Total Liabilities and Capital and Surplus</b>	<b>\$847,845</b>	<b>\$1,489,281</b>	<b>\$2,084,703</b>	<b>\$1,517,269</b>
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## Operating Results

	<i>Premiums Earned</i>	<i>Underwriting Deductions</i>	<i>Net Underwriting Gain (Loss)</i>	<i>Net Income (Loss)</i>
2006	14,580	430,473	(415,893)	(467,032)
2007	396,382	977,147	(580,765)	(529,455)
2008	881,321	1,167,391	(286,070)	(257,172)
2009	856,732	1,491,222	(634,490)	(584,693)
June 30, 2010	140,209	216,708	(76,499)	(72,301)

## Ratio Analysis

	2009	2008	2007	2006
Net Losses Incurred	\$ 164,669	\$ 253,914	\$ 56,451	\$ 19,700
LAE	\$ 175,543	\$ 47,627	\$ 30,127	\$ 11,136
Net Premiums Earned	\$ 856,732	\$ 881,321	\$ 396,382	\$ 14,580
<b>Loss Ratio</b>	<b>39.71%</b>	<b>34.21%</b>	<b>21.84%</b>	<b>211.50%</b>
Other UW Expenses	\$ 1,151,010.00	\$ 865,850.00	\$ 890,569.00	\$ 399,637
Net Premiums Written	\$ 667,264.00	\$ 1,037,337.00	\$ 661,366.00	\$ 17,431
<b>Expense Ratio</b>	<b>172.50%</b>	<b>83.47%</b>	<b>134.66%</b>	<b>2292.68%</b>
<b>Combined Ratio</b>	<b>212.21%</b>	<b>117.68%</b>	<b>156.50%</b>	<b>2504.17%</b>

The **Loss Ratio** ((Net Losses Incurred + LAE)/Net Premiums Earned) measures an insurer's loss experience, while the **Expense Ratio** ((Other Underwriting Expenses Incurred + Aggregate Write-Ins for U/W Deductions)/Net Premiums Written) measures operating efficiency. The Expense Ratio represents the percentage of an insurer's net premiums written that went toward underwriting expenses such as commissions to agents and brokers, taxes, salaries, employee benefits, and other operating costs. According to the National Association of Insurance Commissioners ("NAIC") Property/Casualty & Title Insurance Industry Report, the Loss Ratio for the industry rose from approximately 65% in 2006 to approximately 72% in 2009, while the Expense Ratio rose from approximately 26% to approximately 28% in 2009. CIA's results are extremely far from the averages for the years it wrote policies.

The ultimate measure of an insurer's overall underwriting profitability is illustrated by the **Combined Ratio** (Loss Ratio + Dividend Ratio + Expense Ratio). The Combined Ratio reflects both the cost of protection and the cost of generating and maintaining an insurer's business. A Combined Ratio under 100% reflects profitable underwriting results; a Combined Ratio above 100% reflects unprofitable underwriting results. A high Combined Ratio is normally associated with poor operating performance. CIA's Combined Ratio was consistently well over 100% for every year that it wrote policies. According to the NAIC's Property/Casualty & Title Insurance Industry Report, the average Combined Ratio for the industry fluctuated between 93% and 105% between 2006 and 2009. This range is well below the results experienced by CIA for the same time period.

## REINSURANCE:

For its property risks, the CIA had three separate reinsurance agreements placed with various reinsurers and Lloyds of London syndicates. The first agreement is an 80% quota share treaty that contains a variable ceding

commission based on ceded losses and provides protection on losses up to \$1,000,000 of total insured value per location. The second agreement, per risk excess of loss reinsurance provides \$2,000,000 excess of \$1,000,000 of total insured value per location. This contract has a fixed ceding commission. The third agreement provides property catastrophe protection at 175% of gross net written premium income, but not more than \$3,000,000, in excess of \$1,250,000 per occurrence.

For its auto liability and general liability risks, CIA had excess of loss reinsurance with various reinsurers at Lloyds that provided coverage for \$900,000 in excess of the first \$100,000 per occurrence. The reinsurance premium under the agreement is based on a provisional rate adjusted based on actual ceded losses incurred.

The Receiver ultimately collected \$50,861.57 on outstanding reinsurance claims.

## **CONCLUSION:**

Based on a review of CIA's history and business practices the causes of the CIA's insolvency appear to stem from mismanagement that resulted in operating losses, underwriting expenses which were highly disproportionate to the amount of business written, self-dealing on the part of management, and fraud perpetrated against CIA by outside entities.

## **REFERENCES:**

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- <sup>1</sup> Certificate of Authority, issued on May 4, 2006.
  - <sup>2</sup> Attorney-in-Fact Agreement by and between CIA and Briarwood, effective May 3, 2006.
  - <sup>3</sup> Management Information Form for Briarwood
  - <sup>4</sup> OIR's Report on Examination of Commercial Insurance Alliance, a Reciprocal Insurance Company, as of December 31, 2007
  - <sup>5</sup> Subordinated Surplus Debenture by and between CIA and Briarwood, executed on May 3, 2006
  - <sup>6</sup> Assignment of Subordinated Surplus Debenture, May 1, 2006
  - <sup>7</sup> Management Information Form for Cornerstone
  - <sup>8</sup> Consent Order, Case No. 85640-06-CO, entered on May 4, 2006
  - <sup>9</sup> OIR's Report on Examination of Commercial Insurance Alliance, a Reciprocal Insurance Company, as of December 31, 2007
  - <sup>10</sup> Order, Case No. 105772-09, entered on August 19, 2009
  - <sup>11</sup> Affidavit of Stephen J. Szypula
  - <sup>12</sup> Complaint
  - <sup>13</sup> Letter Agreement between CIA and TUG
  - <sup>14</sup> Letter from OIR to DFS ("Referral") dated January 19, 2011
  - <sup>15</sup> Order Appointing the Florida Department of Financial Services as Receiver for Purposes of Liquidation, Injunction, and Notice of Automatic Stay



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER

FINANCIAL SERVICES  
COMMISSION

JEB BUSH  
GOVERNOR

TOM GALLAGHER  
CHIEF FINANCIAL OFFICER

CHARLIE CRIST  
ATTORNEY GENERAL

CHARLES BRONSON  
COMMISSIONER OF  
AGRICULTURE

May 4, 2006

Mr. Edward W. Buttner IV, Chairman  
Subscribers' Advisory Committee  
Commercial Insurance Alliance, a Reciprocal Insurance Company  
7800 Belfort Parkway, Suite 165  
Jacksonville, Florida 32256

Re: Application for Certificate of Authority  
Commercial Insurance Alliance, a Reciprocal Insurance Company

Dear Mr. Buttner:

Enclosed is Commercial Insurance Alliance, a Reciprocal Insurance Company's Certificate of Authority issued by the Florida Office of Insurance Regulation ("Office") to transact insurance. This approval is granted contingent upon the conditions set forth in the attached Consent Order.

A summary of the Office's required filings for new insurers authorized to do business in Florida may be obtained from our website at [www.florir.com](http://www.florir.com).

Our Office staff will continue to be available to offer any assistance to you and your company. If you have any questions, you may call the Property & Casualty Financial Oversight Unit at 850/413-3148.

Sincerely,

Kevin M. McCarty

Enclosures

# COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY

Is hereby authorized to transact insurance  
in the State of Florida.

This certificate signifies that the company  
has satisfied all requirements of the  
Florida Insurance Code for the issuance  
of a Reciprocal Certificate of Authority and  
remains subject to all applicable laws of  
Florida.

Date of Issuance: May 04, 2006

No. 06-841669425



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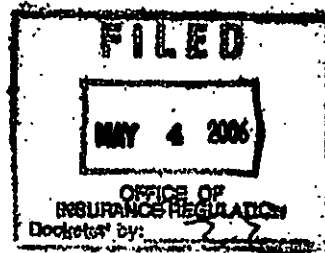
Kevin M. McCarty  
Commissioner  
Office of Insurance Regulation



Florida  
Office  
of Insurance  
Regulation



OFFICE OF INSURANCE REGULATION



KEVIN M. MCCARTY  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 85640-06-CO

COMMERCIAL INSURANCE ALLIANCE, A  
RECIPROCAL INSURANCE COMPANY  
An Assessable Reciprocal

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CONSENT ORDER

THIS CAUSE came on for consideration upon the filing with the OFFICE OF INSURANCE REGULATION (hereinafter referred to as "OFFICE") by COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY (hereinafter referred to as "APPLICANT"), of an application for the issuance of a Certificate of Authority to APPLICANT as an authorized domestic assessable reciprocal insurer, pursuant to Chapter 629, Florida Statutes, to write Commercial Multi Peril (0050), Inland Marine (0090), Commercial Auto Liability (0194), Commercial Auto Physical Damage (0212), and Surety (0240) insurance in this state. Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds, as follows:

1. The OFFICE has jurisdiction over the subject matter and of the parties herein.

2. **APPLICANT** is an unincorporated aggregation of subscribers who will be operating individually and collectively through an attorney in fact to provide Commercial Multi Peril, Inland Marine, Commercial Auto No Fault, Commercial Auto Liability, Commercial Auto Physical Damage, and Surety insurance among themselves. **APPLICANT's** attorney in fact, **BRIARWOOD MANAGEMENT LLC** (hereinafter referred to as "**AIF**"), is a Florida limited liability company which is owned twenty percent (20%) by Larry Eugene Haynes and eighty percent (80%) by The Cornerstone Group Florida LLC (hereinafter referred to as "**Cornerstone**"), a Florida limited liability company which in turn, is owned one hundred percent (100%) by W. C. Holdings, LLC, a Florida limited liability company, which is owned one hundred percent (100%) by Mark B. Witham, an individual who is also an officer and director of **AIF**.

3. **APPLICANT** has represented and disclosed in its application for a certificate of authority (hereinafter referred to as "**Application**") the members of the advisory committee who will supervise the finances and operation of **APPLICANT** in conformity with the Subscribers' Agreement, Powers of the Subscribers' Advisory Committee, and the Attorney In Fact Agreement (hereinafter referred to as "**AIF Agreement**") pursuant to Sections 629.081 and 629.201, Florida Statutes.

4. **APPLICANT** has represented and disclosed in the Application the names and addresses of the original twenty-five (25) subscribers required for the purpose of making application for a Certificate of Authority to transact insurance pursuant to Section 629.081, Florida Statutes.

5. Except as disclosed in the Application, **APPLICANT** and **AIF** have made material representations that none of **AIF's** officers and directors, and none of the



officers and/or members of **APPLICANT's** advisory committee, have been found guilty of, or have pleaded guilty or nolo contendere to, a felony or a misdemeanor other than a minor traffic violation, without regard to whether a judgment of conviction was entered by the court.

6. **APPLICANT** and **AIF** have further represented that they have submitted to the **OFFICE** complete information on each of the above-referenced individuals and that if material information has not been provided to the **OFFICE**, any such individual(s) shall be removed within thirty (30) days of receipt of notification from the **OFFICE**.

7. **APPLICANT** and **AIF** agree that upon receipt of such notification from the **OFFICE**, pursuant to paragraph six (6) above, if **APPLICANT** or **AIF** does not timely take the required corrective action, such failure to act would constitute an immediate danger to the public and the **OFFICE** may immediately suspend or revoke the Certificate of Authority of **APPLICANT** without further proceedings, pursuant to Sections 120.569(2) (n) and 120.60(6), Florida Statutes.

8. **APPLICANT** and **AIF** affirm that all explanations, representations, and documents provided to the **OFFICE** in connection with **APPLICANT's** application for the issuance of a Certificate of Authority, including all attachments and supplements thereto, are material to the issuance of this Consent Order and fully describe all transactions, agreements, and understandings regarding the formation and operation of **APPLICANT**.

9. **APPLICANT** and **AIF** have filed, and the **OFFICE** has relied upon the representations in the Plan of Operation and supporting documents and subsequent amendments that **APPLICANT** and **AIF** have submitted with the Application. Prior

written approval must be secured from the **OFFICE** prior to any material deviation from said Plan of Operation.

10. **APPLICANT** and **AIF** have represented that **APPLICANT** will be issuing assessable policies and that, in addition to the insurance premium for the policies, each subscriber will be required to make a surplus contribution in an amount equal to ten percent (10%) of the subscriber's policy premium for the first full three years, which amount is payable on the effective date of the inception of each new policy period. **APPLICANT** and **AIF** have represented that the foregoing surplus contribution will be deposited by **AIF** as policyholder surplus of **APPLICANT**, and such surplus shall be for the benefit and protection of all subscribers. Return of said surplus contribution is subject to the conditions set forth in the Subscribers' Agreement.

11. **APPLICANT** and **AIF** have further represented that its initial capital will be one million five hundred thousand U.S. dollars (\$1,500,000) in unencumbered cash which will be funded by **AIF** in exchange for a surplus debenture for the same amount to be issued by **APPLICANT** in favor of **AIF**. **APPLICANT** and **AIF** have represented that subsequently, the surplus debenture will be assigned by **AIF** to Cornerstone. **APPLICANT** and **AIF** materially represent that such assignment of said surplus debenture to Cornerstone will not create any negative impact to **APPLICANT**'s financial stability or prejudice the interest of its subscribers/policyholders. Notwithstanding the terms and conditions of the surplus debenture, pursuant to Section 629.161, Florida Statutes, withdrawal or repayment of said surplus debenture shall only be made from **APPLICANT**'s realized earned surplus in excess of its minimum required surplus and only after the prior written approval of the **OFFICE**.

12. Final approval and issuance of **APPLICANT's** Certificate of Authority shall be granted in writing by the **OFFICE** at such time as the **OFFICE** is satisfied that **APPLICANT** has complied with all provisions of this Consent Order and the **OFFICE** has received the following documents within ten (10) days of the execution of this Consent Order, provided, however, the **OFFICE** is satisfied that the documents meet the requisite statutory and rule requirements:

a.) Proof of a seven hundred fifty thousand U.S. dollar (\$750,000) deposit placed with the Bureau of Collateral Management, as required by Section 624.411, Florida Statutes;

b.) Proof of deposit of one million five hundred thousand U.S. dollars (\$1,500,000), including the deposit stated in paragraph twelve (12) (a) above, in **APPLICANT's** account representing its initial capital funding, along with a written certification from the bank, signed by an officer of the bank, that such deposit, has not been pledged as collateral or otherwise encumbered and that no such encumbrance or agreement to encumber exists;

c.) Copy of the fully executed AIF Agreement;

d.) Copy of the fully executed surplus debenture as stated in paragraph eleven (11) above;

e.) Copy of the \$100,000 attorney's bond as required by Section 629.121, Florida Statutes;

f.) Anti-fraud plan that will comply with Section 626.9891, Florida Statutes;

g.) Copy of specimen marketing and solicitation materials, including full disclosure regarding subscribers' contingent several liability, contingent assessment liability, and the time limit for assessments as per Sections 629.101, 629.211(2) and (3), and 629.241, Florida Statutes;

h.) Copy of executed reinsurance agreements or cover notes that represent the reinsurance proposal submitted in the Application;

i.) Completed and executed NAIC Company Code Application and subsequent NAIC Company Code assignment;

j.) The Federal Employers Identification Number (FEIN);

k.) An Application for License to Conduct Business in the State of Florida (Form DJ4-911) executed by the Chairman of the subscribers' advisory committee; and

l.) Executed copies of all other agreements, if any, relating to the operations and management of APPLICANT.

13. APPLICANT and AIF acknowledge and agree that, if the OFFICE determines that the documentation specified in paragraph twelve (12) above is not submitted as required, is incomplete, or does not meet the requisite statutory or rule requirements, the OFFICE has the right not to issue, for cause, a Certificate of Authority.

14. If the OFFICE issues the Certificate of Authority to APPLICANT, APPLICANT shall further comply with the following:

a.) APPLICANT shall comply with the requirements of Section 624.424, Florida Statutes, including, but not limited to, the filing of the annual statement, quarterly statements, and the annual independent audited financial report.

b.) **APPLICANT** shall maintain its principal place of business in Florida and shall make available to the **OFFICE** complete records of its affairs. **APPLICANT** shall also maintain its office, records, and assets in Florida pursuant to Section 628.271, Florida Statutes. The physical form, if any, of the assets shall also be maintained in Florida, or in compliance with Section 628.511, Florida Statutes.

c.) **APPLICANT** shall maintain sufficient and adequate internal controls and supervision of any external contractor(s) providing services in connection with the insurance transactions of **APPLICANT**, and shall further assume responsibility for the actions of said contractor(s) as they relate to any performance under the service agreements.

d.) **APPLICANT** shall not pay dividends without the prior written approval by the **OFFICE**.

e.) **APPLICANT** and **AIF** shall not make any material change to the **AIF Agreement**, **Subscribers' Agreement**, and the **Powers of the Subscribers' Advisory Committee**, without the prior written approval of the **OFFICE**.

f.) **APPLICANT** shall maintain a deposit of no less than seven hundred fifty thousand U.S. dollars (\$750,000) with the Bureau of Collateral Management, pursuant to Section 624.411, Florida Statutes.

g.) **APPLICANT** shall not transact business until **APPLICANT's** forms and rates have been approved in writing by the **OFFICE**.

h.) Any arrangement or agreement with an affiliated party for the provision of administrative services shall be evidenced by a written contract. Any such contract shall comply with the following requirements:

(1) **APPLICANT** must have the right to terminate the contract for cause;

(2) The contract shall contain a provision with respect to the underwriting or other standards pertaining to the business underwritten by **APPLICANT**;

(3) The contract shall be retained as part of the official records of both the affiliate and **APPLICANT** for the term of the contract and five (5) years afterward;

(4) Payment to the affiliate of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by **APPLICANT**, and return premiums or claims payments forwarded by **APPLICANT** to the affiliate shall not be deemed to have been paid to the insured or claimant until such payments are received by the insured or claimant;

(5) The affiliate shall hold all funds collected on behalf of or for **APPLICANT** as well as all return premiums received from **APPLICANT** in a fiduciary capacity in trust accounts;

(6) The affiliate shall adhere to underwriting standards, rules, procedures and manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks as determined by **APPLICANT**;

(7) All fees and charges must be specified in the contract and they must be comparable to fees charged to any other insurer for which similar contracted services are provided by the affiliate; or, if the affiliate does not perform such services for other insurers, the fees charged must be reasonable in relation to the services provided;

(8) All claims paid by the affiliate from funds collected on behalf of **APPLICANT** shall be paid only on drafts of, and as authorized by, **APPLICANT**;

(9) **APPLICANT** shall retain the right of continuing access to books and records maintained by the affiliate sufficient to permit **APPLICANT** to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between **APPLICANT** and the affiliate on the proprietary rights of the parties in such books and records;

(10) The affiliate shall provide written notice approved by **APPLICANT** to insured individuals advising them of the identity of, and relationship among, the affiliate, the policyholder, and **APPLICANT**; and

(11) Any policies, certificates, booklets, termination notices, or other written communications delivered by **APPLICANT** to the affiliate for delivery to its policyholders shall be delivered by the affiliate promptly after receipt of instructions from **APPLICANT** to deliver them.

i.) Effective January 1, 2007, **APPLICANT** shall not exceed a writing ratio of gross premium written to policyholder surplus of 6 to 1, and a net premium written to policyholder surplus of 3.5 to 1, except as otherwise approved in writing by the **OFFICE**.

15. All future administrative service contracts, management contracts and contracts between **APPLICANT** and any affiliated or related entities shall be submitted to the **OFFICE** for approval prior to the execution and/or consummation or amendment of such contracts.

16. **APPLICANT** and **AIF** shall take the necessary steps to effectuate membership of **APPLICANT** in the associations and/or funds, as required by the following statutes, and to comply with the conditions contained in such entities' Plan of Operation. Further, **APPLICANT** agrees to pay any and all assessments levied by such entities and/or applicable laws. **APPLICANT** and **AIF** acknowledge full responsibility for determining the associations and/or funds **APPLICANT** is required to join pursuant to, but not limited to, Sections 215.555, 627.311(4), 627.351(1), 627.351(4), 627.351(6), 627.3515, 627.6488, 631.55, 631.715, and 631.911, Florida Statutes. **APPLICANT** further acknowledges its statutory obligations pursuant to, but not limited to, the aforementioned statutes and **APPLICANT** and/or **AIF** will regularly monitor the various associations and/or funds that **APPLICANT** is required to join as determined by the lines of business on the Certificate of Authority of **APPLICANT**. Further, **APPLICANT** and **AIF** shall, based upon the lines of business on the **APPLICANT's** Certificate of Authority, continually monitor and comply with statutory requirements regarding **APPLICANT's** membership in the associations and funds which are identified herein or which may be established in the future.

17. **APPLICANT** shall submit to the **OFFICE**, no less than annually, all required filings, pursuant to Section 627.0645, Florida Statutes, and Rule 690-170.007, Florida Administrative Code.

18. Executive Order 13224, signed by President George W. Bush on September 23, 2001, blocks the assets of terrorist and terrorist support organizations identified by the Office of Foreign Assets Control of the Treasury Department. The Executive Order also prohibits any transactions by U.S. persons involved in the blocked



assets and interests. The list of identified terrorists and terrorist support organizations is periodically updated at the Treasury Department's website, [www.treas.gov/ofac](http://www.treas.gov/ofac). **APPLICANT** and **AIF** shall maintain and adhere to procedures necessary to detect and prevent prohibited transactions with individuals and entities which have been identified at the Office of Foreign Assets Control website of the Treasury Department.

19. If the **OFFICE** does not issue **APPLICANT** a Certificate of Authority this Consent Order shall no longer be valid.

20. **APPLICANT** and **AIF** agree that, if a Certificate of Authority has been issued to **APPLICANT**, failure to adhere to one or more of the terms and conditions contained herein may result in the revocation of **APPLICANT's** Certificate of Authority in this state in accordance with Sections 120.569(2) (a) and 120.60(6), Florida Statutes.

21. **APPLICANT** shall report to the **OFFICE**, Bureau of Property & Casualty Financial Oversight, any time that it is named as a party defendant in a class action lawsuit, within fifteen (15) days after the class is certified, and **APPLICANT** shall include a copy of the complaint at the time it reports the class action lawsuit to the **OFFICE**.

22. The **OFFICE**, **APPLICANT**, and **AIF** expressly waive a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the **OFFICE**, and all further and other proceedings herein to which the parties may be entitled by law or rules of the **OFFICE**. **APPLICANT** and **AIF** hereby knowingly and voluntarily waive all rights to challenge or to contest this order, in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

23. Each party to this action shall bear its own costs and fees.

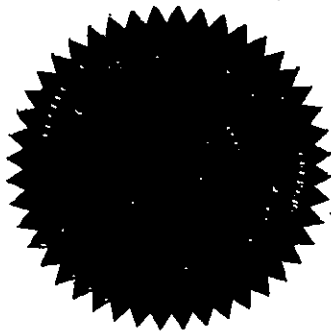
24. **APPLICANT** and **AIF** further affirm that all representations and requirements set forth herein are material to the issuance of this Consent Order.

25. The parties agree that this Consent Order shall be deemed to be executed when the **OFFICE** has executed a copy of this Consent Order bearing the signature of **APPLICANT** or its authorized representative, and **AIF** or its authorized representative, notwithstanding the fact that the copy may have been transmitted to the **OFFICE** electronically. Further, **APPLICANT** and **AIF** agree that their signatures as affixed to this Consent Order shall be under the seal of a notary public.

WHEREFORE, the agreement between **COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, BRIARWOOD MANAGEMENT LLC**, and the **OFFICE**, the terms and conditions of which are set forth above, is **APPROVED**, and the application of **COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY**, pursuant to Chapter 629, Florida Statutes, is **APPROVED**, and upon satisfaction of all said terms and conditions the Certificate of Authority will be issued.

FURTHER, all terms and conditions contained herein are hereby **ORDERED**.

DONE and ORDERED this 4<sup>th</sup> day of may, 2006.



  
KEVIN M. McCarty  
Commissioner  
Office of Insurance Regulation

By execution hereof, Larry E. Haynes, as President of BRIARWOOD MANAGEMENT LLC, attorney in fact, on behalf of the proposed insurer, COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, to the terms and conditions of this Consent Order.

COMMERCIAL INSURANCE ALLIANCE, A  
RECIPROCAL INSURANCE COMPANY

By: *Larry E. Haynes*

[Corporate Seal]

Print Name: Larry Eugene Haynes  
President, Briarwood Management LLC  
Title: Attorney-in-Fact

Date: May 3, 2006

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledge before me this 3rd day of May, 2006

by Larry Eugene Haynes as Attorney-in-Fact  
(Name of Person) (Type of Authority - e.g. officer, trustee, attorney in fact)

for Commercial Insurance Alliance, a reciprocal insurance company.  
(Company Name)



*N. Richene Oliver*  
(Signature of the Notary)

N. Richene Oliver  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

By execution hereof, BRIARWOOD MANAGEMENT LLC consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind BRIARWOOD MANAGEMENT LLC to the terms and conditions of this Consent Order.

BRIARWOOD MANAGEMENT LLC

By: *Larry E. Haynes*

[Corporate Seal]

Print Name: Larry Eugene Haynes

Title: President

Date: May 3, 2006

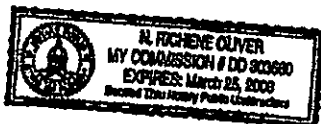
STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledge before me this 3rd day of May, 2006

by Larry Eugene Haynes as President  
(Name of Person) (Type of Authority - e.g. officer, trustee, attorney in fact)

for Briarwood Management LLC  
(Company Name)



*N. Richene Oliver*  
(Signature of the Notary)

N. Richene Oliver  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

**COPIES FURNISHED TO:**

**EDWARD W. BUTTNER IV, CHAIRMAN**  
Subscribers' Advisory Committee  
Commercial Insurance Alliance, a Reciprocal Insurance Company  
7800 Belfort Parkway, Suite 165  
Jacksonville, Florida 32256

**LARRY E. HAYNES, PRESIDENT**  
Briarwood Management LLC  
7800 Belfort Parkway, Suite 165  
Jacksonville, Florida 32256

**TIMOTHY W. VOLPE, ESQ.**  
Volpe, Bajalla, Wickes, Rogerson, Galloway, & Wachs  
Suite 1700, Riverplace Tower  
1301 Riverplace Boulevard  
Jacksonville, Florida 32207  
Phone: (850) 425-4742  
Fax: (850) 425-4758  
Email: [tvolpe@rvbw.com](mailto:tvolpe@rvbw.com)

**CLAUDE MUELLER, DIRECTOR**  
Bureau of P&C Financial Oversight  
Office of Insurance Regulation  
200 East Gaines Street  
216B, Larson Building  
Tallahassee, Florida 32399-0329

**CARL B. MORSTADT III, ASSISTANT GENERAL COUNSEL**  
Office of Legal Services  
200 East Gaines Street  
612 Larson Building  
Tallahassee, Florida 32399-0426  
Phone: (850) 413-4168  
Fax: (850) 922-2543  
Email: [carl.morstadt@fdfs.com](mailto:carl.morstadt@fdfs.com)

**BARBARA CARTER, INSURANCE EXAMINER**  
Bureau of P&C Financial Oversight  
Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399-0329

## **ATTORNEY-IN-FACT AGREEMENT**

ATTORNEY-IN-FACT AGREEMENT (this "Agreement") made effective as of the 3rd day of May, 2006, between Commercial Insurance Alliance, a Reciprocal Insurance Company ("Insurer"), with its principal place of business in Jacksonville, Florida, and Briarwood Management L.L.C. ("Management" or "Attorney-in-Fact"), with its principal office in Jacksonville, Florida.

### **WITNESSETH:**

WHEREAS, as part of applications for insurance by subscribers to Insurer, the subscribers will, pursuant to subscribers agreements, appoint Management to act as their Attorney-in-Fact with power to exchange reciprocal insurance contracts among the subscribers to Insurer and to manage and conduct the business of Insurer, and

WHEREAS, Insurer and Management desire to set forth the terms and conditions upon which Management will accept its appointment as Attorney-in-Fact for the subscribers to exchange their reciprocal insurance contracts and to manage and conduct the business of Insurer;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, Insurer and Management agree as follows:

1. Acceptance of Appointment as Attorney-in-Fact. Management hereby accepts its appointment as Attorney-in-Fact pursuant to subscriber's agreements to be executed by subscribers to Insurer and agrees, as Attorney-in-Fact to exchange reciprocal insurance contracts among the subscribers as provided in the subscribers agreements.

2. Management Services. Management agrees to provide sufficient personnel and supplies so that it can perform or provide for the performance of all necessary and appropriate management services to Insurer, including, without limitation by reason of specification, for the following functions:

2.1 The administration and management of the day-to-day insurance business of Insurer including, without limitation, the underwriting and insurance of claims and the provision of all senior management;

2.2 The solicitation, receipt and acceptance or rejection of applications for insurance and the investigation and determination of the desirability of risks involved with applications for insurance in accordance with the underwriting policies and standards established from time to time by the Attorney-in-Fact;

2.3 The underwriting, classification, rating and issuance of policies and binders of insurance for Insurer in accordance with sound insurance practices and such policies and standards as may be established from time to time by the Attorney-in-Fact;

2.4 The establishment and maintenance for Insurer of complete and accurate records of all reciprocal insurance contracts exchanged by Insurer in accordance with such policies and standards as may be established from time to time by the Attorney-in-Fact;

2.5 The collection, receipt and accounting for all funds received as payments of insurance premiums, contributions to surplus and other receipts of Insurer, and the timely deposit of all such funds in a Federal Reserve System member bank or banks in the name of Insurer in accordance with such policies and standards as may be established from time to time by the Attorney-in-Fact; the establishment and monitoring of loss reserves in accordance with sound insurance and actuarial practices and procedures; the maintenance of all funds of Insurer in accordance with applicable law and the investment of Insurer's investable assets in accordance with applicable legal requirements and the advice or instructions of any investment advisors retained from time to time by the Attorney-in-Fact on behalf of Insurer;

2.6 The establishment and maintenance for Insurer of all financial and business records required by applicable laws, regulations, generally accepted insurance and accounting practices and in accordance with such policies and standards as maybe established from time to time by the Attorney-in-Fact; and the preparation for and on behalf of Insurer of all reports required by governmental and nongovernmental regulatory and supervisory authorities;

2.7 The placement of such reinsurance as is required by law or by sound and accepted insurance and business practices, the payment of premiums therefore at the expense of Insurer, and the maintenance for Insurer of all necessary records in connection with such reinsurance, and the taking of all actions or the making of any claims required or permitted by such reinsurance;

2.8 The provision and maintenance, directly or indirectly through a third party claims administrator, of adequate claims supervision and facilities for the timely processing of all claims, notice and proofs of loss against Insurer and for the timely payment of claims on behalf of and at the expense of Insurer, including the employment of claims adjusters, attorneys and such other professional and other personnel to handle claims on behalf of Insurer, it being understood that claims expenses shall be borne by Insurer;

2.9 The retention of investment advisors and other necessary consultants for and on behalf of Insurer at the expense of Insurer;

2.10 The preparation of mailings, advertisements, newsletters and other promotional material for and on behalf of Insurer in accordance with such policies and standards as may be established from time to time by the Attorney-in-Fact;

2.11 The monitoring of the legal affairs of Insurer, including compliance with applicable legal requirements and the making of required filings with the Department of Financial Services of the State of Florida and all other governmental authorities having jurisdiction over Insurer;

2.12 The appointment, supervision and termination of agents on behalf of Insurer;

2.13 The establishment and maintenance of all systems and procedures necessary to comply with any insurer anti-fraud requirements pursuant to Section 626.9891(1)(a), Florida Statutes;

2.14 The commencement and defense, at the expense of Insurer, of legal and administrative proceedings brought by or against Insurer including acceptance of service of process on behalf of Insurer, entering legal appearances on behalf of Insurer and the compromise, prosecution, defense and settlement of losses and claims; and

2.15 The taking of all such other actions and things as the Attorney-in Fact shall determine to be necessary, convenient, advisable or proper in order to discharge properly and in good faith the responsibilities and duties of the Attorney-in-Fact under the Declaration of Organization of Insurer and this Attorney-in-Fact Agreement.

3. Management Fee. As compensation for the management services to be performed by Management as Attorney-in-Fact on behalf of Insurer as set forth in Section 2 Insurer agrees that Management shall retain a percentage of Insurer's gross written premiums, less return premiums, not to exceed 22% (the "Retention Percentage"), and that, in consideration thereof, Management shall pay all costs of senior management services including, without limitation by reason of specification, the salaries and benefit expenses of senior management. The initial Retention Percentage shall be 20%. The Attorney-in-Fact may adjust the Retention Percentage to an amount greater or less than 20% subject to the 22% maximum, based on what is fair and reasonable to both Insurer and Management.

4. Payment of Expenses of Insurer. Management, on behalf of Insurer, shall utilize the funds of Insurer to pay all of the expenses of Insurer including, without limitation by reason of specification, losses, loss adjustment expenses, investment expenses, damages, legal expenses, appropriate commissions to agents and brokers [producer costs], court costs, taxes, assessments, license fees, membership fees, the fees of attorneys, actuaries, accountants and investment and other advisors, governmental fines and penalties, the establishment and maintenance of loss and unearned premium reserves and surplus, reinsurance premiums and costs, audit fees, guaranty fund assessments and such other costs as may be necessary for the proper and efficient operation of Insurer.

5. Records: Right to Audit. Insurer shall keep sufficient records for the express purpose of recording therein the nature and details of the management services and financial transactions undertaken for Insurer pursuant to this Attorney-in-Fact Agreement. All books and records maintained by Management that pertain to the management services performed by Management as Attorney-in Fact for the subscribers to Insurer pursuant to this Agreement shall be owned by Insurer, but such books and records shall be maintained by the Attorney-in-Fact in a fiduciary capacity for Insurer. Insurer, and any regulatory authority having jurisdiction over Insurer, shall have the right to examine and audit, at the offices of Insurer, at all reasonable times, all books and records of Insurer that pertain to the management services performed by Management as Attorney-in-Fact for the subscribers to Insurer pursuant to this Agreement. This right of examination and audit shall survive the termination of this Agreement and shall remain in effect for so long as either, Insurer or Management has any rights or obligations under this Agreement.

6. Subscribers Advisory Committee Grievance Procedure. After Insurer has been in operation for one year, the senior management of Management shall meet on a quarterly basis



with the Subscribers Advisory Committee of Insurer (the "Committee") to discuss any issues of concern made known by the insureds of Insurer to the Committee. Not later than the next quarterly meeting, the senior management of Management shall provide the Committee with a written response to the issues of concern presented at the prior meeting, including a description of the actions Management has undertaken to address the issues of concern in accordance with sound and commercially reasonable insurance practices. At the next meeting, the Committee shall advise the senior management of Management if the actions undertaken by Management are reasonably addressing the issues of concern as originally presented. If the Committee is not satisfied with the results of the actions undertaken, Management shall present the issues of concern and Management's response to the Florida Office of Insurance Regulation for its guidance as to whether Management should undertake further action with respect to the issues of concern.

7. Term and Termination. This Agreement shall become effective as of the effective date of the approval of the Declaration of Organization of Insurer and shall continue in effect for a 5 year term thereafter, subject only to the right of termination set forth in this Section. This Agreement shall continuously renew for additional one (1) year terms, subject to the right of termination set forth below.

(a) Mutual Termination. Insurer and Management may terminate this agreement at any time by mutual agreement in writing.

(b) Termination by Subscribers Advisory Committee. Insurer, acting through the Subscribers Advisory Committee, may terminate this Agreement at any time if the Florida Office of Insurance Regulation or a court of competent jurisdiction has determined by a final order that an act or event has occurred that constitutes a material breach of this Agreement or that would allow the Florida Office of Insurance Regulation to (i) suspend or revoke the license of Insurer or (ii) place Insurer in rehabilitation.

8. Arbitration.

(a) In the event of any dispute or difference of opinion hereafter arising with respect to this Agreement Insurer and Management agree that any dispute or difference of opinion shall be submitted to arbitration before a panel of three arbitrators, each of whom shall be an active or retired disinterested officer of a property and casualty insurance company. One such arbitrator shall be chosen by Insurer, one such arbitrator shall be chosen by Management and the third arbitrator shall be chosen by the other two arbitrators. In the event any party hereto refuses or neglects to appoint an arbitrator within 60 days after the other party requests it to do so, or if the two arbitrators selected by Insurer and Management fail to agree upon a third arbitrator within 30 days of the appointment of the second arbitrator to be appointed, such arbitrator or arbitrators, as the case may be, shall, upon the application of any party, be appointed by the American Arbitration Association and the arbitrators shall thereupon proceed. The arbitrators shall consider this Agreement as an honorable engagement rather than merely as a legal obligation and they are relieved of all judicial formalities and may abstain from following the strict rules of law. The decision of the majority of the arbitrators shall be final and binding on all parties. Each party

shall bear the expense of its own arbitrator and shall bear one-half of the expenses of the third arbitrator and of the arbitration. Any such arbitration shall take place in Jacksonville, Florida unless otherwise agreed by the parties hereto.

(b) Notwithstanding any dispute or difference of opinion arising with respect to this Agreement, Insurer and Management must fulfill any obligations under policy contracts.

9. Indemnification.

(a) Insurer shall indemnify, defend and hold harmless Management and each member, officer, employee and agent thereof (each an "Indemnified Party"), from and against all claims, losses, damages, liabilities and expenses including, without limitation, settlement costs and any reasonable legal fees and expenses or other expenses for investigating and defending any actions or threatened actions incurred by such Indemnified Party as a result of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of Insurer, relating to or arising out of the services provided by Management hereunder, except to the extent the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted the willful misconduct or recklessness of the Indemnified Party. The foregoing indemnification right shall be in addition to the indemnification provided for in Insurer's Declaration of Organization as filed with the Florida Office of Insurance Regulation and such Indemnification provision is hereby made a part of and incorporated into this Agreement and can be enforced hereunder.

(b) Insurer shall pay expenses incurred by an Indemnified Party in defending any action or proceeding referred to in this Section 9 in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by Insurer.

(c) As soon as practicable after receipt by any Indemnified Party of notice of the commencement of any action, suit or proceeding specified in Section 9(a) such person shall, if a claim with respect thereto may be made against Insurer under this Section 9, notify Insurer in writing of the commencement or the threat thereof; however, the omission so to notify Insurer shall not relieve Insurer of any liability under this Section 9 unless Insurer shall have been prejudiced thereby or from any other liability which it may have to such person other than under this Section 9. With respect to any such action as to which such person notifies Insurer of the commencement or threat thereof, Insurer may participate therein at its own expense and, except as otherwise provided herein to the extent that it desires, Insurer jointly with any other indemnifying party similarly notified, shall be entitled to assume the defense thereof, with counsel selected by Insurer to the reasonable satisfaction of such person. After notice from Insurer to such person of its election to assume the defense, Insurer shall not be liable to such person under this Section 9 for any legal or other expenses subsequently incurred by such person in connection with the defense thereof otherwise than as provided herein. Such person shall have the right to employ his own counsel in such action, but the fees and of such counsel incurred after notice from Insurer of its assumption of the defense thereof shall be at the expense of such person unless: (i) the employment of counsel by such person shall have been authorized by

Insurer, (ii) such person shall have reasonably concluded that there may be a conflict of interest between Insurer and such person in the conduct of the defense of such proceeding or (iii) Insurer shall not in fact have employed counsel to assume the defense of any proceeding brought by or on behalf of Insurer or as to which such person shall have reasonably concluded that there may be a conflict of interest if indemnification under this Section 9 is not paid or made by Insurer, or on its behalf, within 90 days after a written claim for indemnification has been received by Insurer, such person may, at any time thereafter, bring suit against Insurer to recover the unpaid amount of the claim. The right to indemnification and the right to advancement of expenses provided hereunder shall be enforceable by such person in any court of competent jurisdiction. The burden of proving that indemnification is not appropriate shall be on Insurer. Expenses reasonably incurred by such person in connection with successfully establishing the right to indemnification or advancement of expenses, in whole or in part, shall also be indemnified by Insurer.

10. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

(b) Management is authorized, at Management's expense, from time to time in its discretion to contract with others for the performance of the management services Management has agreed to provide to Insurer under this Agreement, provided, however, that Management shall remain responsible to Insurer for the proper and timely performance of all management services contemplated by this Agreement.

IN WITNESS WHEREOF, the parties hereto gave executed this Attorney-in-Fact Agreement on the day and year first above written by the undersigned thereunto duly authorized.

COMMERCIAL INSURANCE  
ALLIANCE, A RECIPROCAL  
INSURANCE COMPANY

BRIARWOOD MANAGEMENT LLC

By: Edward W. Buttner, IV  
Name: Edward W. Buttner, IV  
Its: Chairman, Subscriber's Advisory  
Committee

By: Larry Eugene Haynes  
Name: Larry Eugene Haynes  
Its: President

DEPARTMENT OF FINANCIAL SERVICES  
MANAGEMENT INFORMATION  
COMPLETE LISTING OF ALL ATTORNEY-IN-FACT OFFICERS,  
DIRECTORS AND SHAREHOLDERS

COMPANY NAME: Commercial Insurance Alliance, a reciprocal insurance company

Attorney-in-Fact: Briarwood Management, LLC

OFFICERS:

TITLES:

Larry Eugene Haynes

President

Bradley Erik Taman

Chief Financial Officer

Mark Brewster Witham

Secretary

DIRECTORS:

Larry Eugene Haynes

Director

Mark Brewster Witham

Director

SHAREHOLDERS:

Larry Eugene Haynes

20%

The Cornerstone Group, LLC

80%

**REPORT ON EXAMINATION**  
**OF**  
**COMMERCIAL INSURANCE ALLIANCE,**  
**A RECIPROCAL INSURANCE COMPANY**

**JACKSONVILLE, FLORIDA**

**AS OF**  
**DECEMBER 31, 2007**

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

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Tallahassee, Florida

January 29, 2009

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, 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, 2007, of the financial condition and corporate affairs of:

**COMMERCIAL INSURANCE ALLIANCE,  
A RECIPROCAL INSURANCE COMPANY  
9309 OLD KINGS ROAD SOUTH  
JACKSONVILLE, FLORIDA 32257**

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, 2007, through December 31, 2007. This was the first examination of the Company by representatives of the Florida Office of Insurance Regulation (Office). This examination commenced, with planning at the Office, on November 17, 2008, to November 20, 2008. The fieldwork commenced on December 1, 2008, and was concluded as of January 29, 2009.

This financial examination was a statutory 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 Company's size and its very limited control environment were taken into consideration as regards the NAIC risk-focused surveillance examination approach. It was determined that a comprehensive assessment of the Company's corporate governance, internal controls and risk management environment would not be an effective use of examination resources. Therefore, a modified risk focused surveillance approach was utilized. A reduced evaluation of the Company's enterprise risk management structure and control environment was performed.

In this examination, emphasis was directed to the quality, value and integrity of the statement of assets and the determination of liabilities, as those balances indicate the financial solvency of the Company as of December 31, 2007. Transactions subsequent to year-end 2007 were reviewed where relevant and deemed significant to the Company's financial condition.

The examination included a review of the reciprocal's records and other selected records deemed pertinent to the Company's operations and practices. In addition, the NAIC IRIS ratio reports, the Company's independent audit reports and certain work papers prepared by the Company's independent certified public accountant (CPA) and other reports as considered necessary were reviewed and utilized where applicable within the scope of this examination.

This report of examination was confined to financial statements and comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special explanation or description.

Based on the review of the Company's control environment and the materiality level set for this examination, reliance was placed on work performed by the Company's CPAs, after verifying the statutory requirements, for the following accounts:

- Other invested assets
- Other expenses
- Taxes, licenses and fees
- Funds held by Company under reinsurance treaties

### **Status of Adverse Findings from Prior Examination**

This was the first examination performed on the Company.

## **HISTORY**

### **General**

Commercial Insurance Alliance (Company) was licensed on May 4, 2006, by the Florida Office of Insurance Regulation (Office) for the purposes of exchanging contracts of indemnity or insurance with individuals, partnerships, corporations and other entities through the facilities of an attorney-in-fact pursuant to Chapter 629, Florida Statute, et al.

The Company was formed to provide commercial property, liability and surety coverage to businesses operating in Florida. The Company is an assessable, unincorporated aggregation of subscribers authorized to issue insurance policies under Florida insurance statutes.

Briarwood Management LLC (AIF), a special purpose Florida limited liability company, serves as the Company's attorney-in-fact and operates as the management company of the Company pursuant to a formal agreement entered into as of May 3, 2006. Management is vested with the powers and authority to exchange insurance contracts among the Company's subscribers and to manage and conduct the business of the Company.

The AIF is a Florida limited liability company which is owned twenty percent (20%) by Larry Haynes and eighty percent (80%) ultimately by Mark Witham. These two principals of Briarwood are members of the Subscribers' Advisory Committee of the Company and Mark Witham is Secretary and Larry Haynes is President of the Company.

During 2006, Briarwood contributed \$1.5 million to the Company in exchange for a surplus note and then assigned rights in the surplus note to Cornerstone Group Florida, LLC (Cornerstone). Cornerstone is a Florida domiciled limited liability company. The ultimate controlling person of Cornerstone, as stated by the Company, is Mark Witham and he serves as the President of Cornerstone.

The Company was party to Consent Order 85640-06-CO filed May 4, 2006, with the Office regarding the application for the issuance of a Certificate of Authority. The Company failed to comply with several provisions of this consent order as described in the following paragraphs.

Consent Order 85640-06-CO Section 14(h) (7) states:

“If the OFFICE issues the Certificate of Authority to APPLICANT, APPLICANT shall further comply with the following:

h.) Any arrangement or agreement with an affiliated party for the provision of administrative services shall be evidenced by a written contract. Any such contract shall comply with the following requirements.

(7) All fees and charges must be specified in the contract and they must be comparable to fees charged to any other insurer for which similar contracted services are provided by the affiliate; or, if the affiliate does not perform such services for other insurers, the fees charged must be reasonable in relation to the services provided;

The Company had two arrangements or agreements with affiliated parties for the provision of administrative services that were not evidenced by a written contract during a substantial period in which the Company was making payments.

- Consulting arrangement with Mark Witham, who serves as the Company Secretary and/or Witham & Associates since the Company's formation:

No disclosure of this arrangement has been filed with the Office and because it was a verbal agreement, no filings with the Office were made. Payments under this arrangement started at the Company's inception.

- Consulting arrangement with Isabella Holdings (Isabella):

It was disclosed by the Company that Joe Cappuccio is the President of Isabella. The Company reported that Mr. Cappuccio is also the business partner of and legal counsel to Mr. Witham, making Isabella a related party under SSAP 25.

Documentation indicated that, after repeated requests by the Company, a copy of a written consulting agreement with Isabella was provided to the Company President on January 11, 2008. The agreement states that it was made February 25, 2007, with an effective date of May 20, 2005. The agreement is signed by Mr. Witham for the Company and Mr. Cappuccio for Isabella. This agreement has never been filed with the Office.

The examiners reviewed the Company's general expense payments and noted that funds have been paid by the Company to these entities for consulting services in relation to these consulting arrangements. The fees and expenses that were paid by the Company since its inception were generally not supported by invoices or receipts disclosing the services provided the Company in return for the payments. In several instances, payments were made without

any invoices.

Payments made under these arrangements were as follows:

Payments made to Mark Witham and/or Witham & Associates from 2006 to January 20, 2009:

- \$21,239 was paid to Mark Witham directly
- \$100,081 was paid to Witham & Associates

Payments totaling \$344,723.56 have been paid to Isabella from 2006 to January 20, 2009.

Consent Order 85640-06-CO, Section 14c states

"APPLICANT shall maintain sufficient and adequate internal controls and supervision of any external contractor(s) providing services in connection with the insurance transactions of the APPLICANT, and shall further assume responsibility for the actions of said contractor(s) as they relate to any performance under the service agreements."

The Company does not maintain sufficient and adequate controls and supervision of the external contractors (Mark Witham, Witham and Associates, Isabella Holdings LLC, and Maple Technologies LLC). This was evidenced by issues such as:

- In 2005, 2006 and 2007, the Company had agreements or arrangements with Mark Witham and Witham and Associates and Isabella that were not approved by the Office or the Subscribers' Advisory Committee.
- Fees and expenses paid by the Company under these agreements since its inception were generally not supported by invoices or receipts disclosing the services provided the Company in return for the payments. In several instances, payments were made with no invoices.
- After the effective date and after funds had been paid for over two years, in January 2008, the Company first received a signed agreement with Isabella. The Isabella agreement states that the agreement was made February 25, 2007, with an effective date of May 20, 2005.
- According to correspondence supplied by the Company, in early January 2008, Mark Witham, without approval from the Subscribers' Advisory Committee and the President of the Company, added Joe Cappuccio as an authorized signatory in regards to the Company's operating account at a bank.

- On January 11, 2008, Mark Witham and Joe Cappuccio withdrew money out the Company by wiring \$40,000 to Isabella without approval from the Subscribers' Advisory Committee or the President of the Company.
- According to correspondence from Mark Witham, the fee charges for the withdrawal and the withdrawal itself were made under an agreement between Isabella and the Company that was not approved by the Company's President or the Subscribers' Advisory Committee.
- The policy administration system installed by Maple Technologies LLC has never been fully operational and the Company states that it plans to replace the entire system in the near future.

Consent Order 85640-06-CO, Sections 8, 12 and 15 of the Consent Order state:

"APPLICANT and AIF affirm that all explanations, representations, and documents provided to the OFFICE in connection with APPLICANT's application for the issuance of a Certificate of Authority, including all attachments and supplements thereto, are material to the issuance of this Consent Order and fully describe all transactions, agreements, and understandings regarding the formation and operation of APPLICANT."

Section 12 of the Consent Order goes on to say that final approval is subject to the Office receiving:

"Executed copies of all other agreements, if any, relating to the operations and management of APPLICANT."

In addition, Section 15 of the Consent Order states:

"All future administrative service contracts, management contracts and contracts between APPLICANT and any affiliated or related entities shall be submitted to the OFFICE for approval prior to the execution and/or consummation or amendment of such contracts."

The Company did not fully describe all transactions, agreements, and understandings regarding the formation and operation of the Company or file executed agreements during their application process for a Certificate of Authority with the Office. The Company had two consulting arrangements in place that were not disclosed to or filed with the Office while applying for a Certificate of Authority or subsequent to that time:

- Consulting agreement with Mark Witham and/or Witham & Associates since the Company's formation
- Consulting agreement with Isabella Holdings. As previously discussed, a copy of the consulting agreement with Isabella Holdings and CIA was provided by Mr. Witham to

the Company President on January 11, 2008.

Consent Order 85640-06-CO, Section 15 states:

“All future administrative service contracts, management contracts and contracts between APPLICANT and any affiliated or related entities shall be submitted to the OFFICE for approval prior to the execution and/or consummation or amendment of such contracts.”

- Initial Claims Administrative Agreement with Allied Adjusters, Inc.  
The Company provided a letter agreement with Allied Adjusters, Inc dated September 13, 2006, regarding claim service for Commercial Insurance Alliance. However, the Company did not have a signed agreement and the agreement had not been submitted to the Office for approval as required by the Consent Order.
- Current Claims Administrative Agreement with Allied American Adjusters Company, LLC.  
The Company provided a Memorandum of Understanding between Allied American Adjusting Company, LLC and the Company. The Memorandum of Understanding set forth the guiding principles by which Allied will assist the Company in the handling of claims. The agreement had not been submitted to the Office for approval as required by the Consent Order.

The Company was authorized to transact the following insurance coverage in Florida on December 31, 2007:

Commercial Multi Peril  
Inland Marine  
Commercial Auto Liability  
Commercial Auto Physical Damage  
Surety  
Other Liability  
Credit

The Company has not written inland marine and credit insurance within the 2007 calendar year. Therefore, in accordance with Section 624.430, Florida Statutes, the Company should have those lines of insurance removed from its Certificate of Authority. **Subsequent event:** The Company submitted a plan for writing Inland Marine and Credit business, both active but previously unwritten lines of business on their Certificate of Authority.

Being organized as a reciprocal, the Company has no articles of incorporation and was subject to and governed by the provisions of the Subscribers' Agreement which designated the Attorney-in-

Fact (AIF). Under the Attorney-in-Fact Agreement, AIF served as the management company of the Company pursuant to a formal agreement entered into as of May 3, 2006. These agreements were submitted to the Office and have not been amended during the period covered by this examination.

### **Capital Stock**

Being organized as a reciprocal, the Company had no capital stock and was owned and controlled by its subscribers.

### **Profitability of Company**

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

	<b>2007</b>	<b>2006</b>
Premiums Earned	396,382	14,580
Net Underwriting Gain/(Loss)	(580,765)	(415,893)
Net Income	(443,606)	(467,032)
Total Assets	1,352,739	1,233,315
Total Liabilities	627,637	193,983
Surplus As Regards Policyholders	725,104	1,039,332

### **Dividends to Subscribers**

The Company has not declared and/or paid dividends or distributions to any of its subscribers since inception.



## **Management**

In the document entitled “The Powers of the Subscribers’ Advisory Committee” it is stated that “The Committee shall have a regular meeting once during each calendar quarter to review the financial statements of the Reciprocal for such quarter and such other matters as the Committee shall determine”.

Review of the minutes of the Subscribers’ Advisory Committee indicated that the body has held only two meetings since the formation of the Company. Therefore, it is not in accordance with the “Powers of the Subscribers’ Advisory Committee” document filed with the Florida Office of Insurance Regulation.

Subscribers’ Advisory Committee Members serving as of December 31, 2007, were:

### **Advisory Committee Members**

<b>Name and Location</b>	<b>Principal Occupation</b>
Edward Walter Buttner, IV, Chairman Jacksonville, Florida	Buttner Hammock & Company, P.A.
Larry Eugene Haynes Jacksonville, Florida	President of the Company
Theodore Richard Ostrander, Jr. Leesburg, Florida	Agent, Lassiter-Ware Insurance
William Eugene Duff DeLand, Florida	Agent, Page Insurance Agency
Mark Brewster Witham New York, New York	Witham and Associates
Frank Hays Furman Jr. Pompano Beach, Florida	Insurance Broker, Frank H. Furman, Inc.
Thomas Andrew Hazel Jacksonville, Florida	Agent, Greene-Hazel and Associates

Dane Clark Griffin  
Ocala, Florida

Agent, Griffin Insurance Agency

The Company's senior officers were:

**Senior Officers**

<b>Name</b>	<b>Title</b>
Larry Eugene Haynes	President
Mark Brewster Witham	Secretary
Michael Webb Whatley	Vice President
Bradley Erik Taman	Treasurer

The Company's Subscribers' Advisory Committee has not designated any internal committees, including an audit committee.

Section 629.201, Florida Statutes, requires that the Board of Directors shall procure an audit of the accounts and records of the insurer and of the attorney-in-fact at the expense of the insurer. While the Subscribers' Advisory Committee is not expressly subject to that Section, it is a corporate governance best practice for that committee to act as an oversight and governing body in accordance with that Section. Also, the Company's "Powers of the Subscribers' Advisory Committee" document filed with the Office requires the Subscribers' Advisory Committee to procure the audit of the accounts and records of the Company and of the AIF. It further states that it should recommend to the AIF the selection of independent certified public accountants, and review the scope and results of the annual independent audit and any internal audit of the Reciprocal's financial statements. During interviews with Company officers, it was disclosed that the Company's Subscribers' Advisory Committee Chairman made the selection of the independent certified public accountants.

### **Conflict of Interest Procedure**

The Company has not adopted a policy statement requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook and Section 607.0832(2), Florida Statute.

### **Corporate Records**

The recorded minutes of the Subscribers' Advisory Committee were reviewed for the period under examination. Issues noted during that review have been discussed in this report.

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

There were no acquisitions, mergers, disposals, dissolutions, or purchases or sales through reinsurance during the period under examination

### **Surplus Debentures**

The Company, in relation to its initial surplus requirements, has one surplus debenture in the amount of \$1,500,000 issued by the Company to the AIF, then subsequently assigned to the Cornerstone Group, LLC (Florida). No violations of the surplus note restrictions were noted during the examination.

## **AFFILIATED COMPANIES**

The Company, being a reciprocal owned by its subscribers, was not a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code. The

AIF is part of a holding company system and also responsible for all management and administrative services required for the operation of the Company. Therefore, under the provisions of Statement on Statutory Accounting Principles 25, Paragraph 2 (i), the AIF and its affiliates were considered related parties to the Company.

The AIF was owned twenty percent (20%) by Larry Haynes and eighty percent (80%) by Cornerstone Group Florida, LLC (Cornerstone). The ultimate parent and controlling person of Cornerstone was Mark Witham and he serves as the President of Cornerstone.

The two principals of the AIF were also officers and members of the Subscribers' Advisory Committee of the Company. Mark Witham is Secretary and Larry Haynes is President of the Company.

As indicated earlier in this report, Mark Witham has received consulting fees from the Company.

Also as indicated earlier in this report, payments have been made under a consulting arrangement with Isabella Holdings (Isabella). Joe Cappuccio, President of Isabella, is also the business partner of and legal counsel to Mark Witham, making Isabella a related party under SSAP 25. These arrangements and payments have been discussed previously in this report.

During 2006, the AIF contributed \$1.5 million to the Company in exchange for a surplus note and then assigned rights in the surplus note to Cornerstone.

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

## **Management Agreement**

As previously discussed, the Company had an attorney-in-fact agreement in place with Briarwood Management LLC (AIF) wherein the AIF agreed, in return for management fees, to provide all necessary and appropriate management services, including the day-to-day administration and management of the Company's insurance business which consists of the underwriting of new business, claims adjustment, appropriate record production and the provision of all senior management.

## **Consulting Agreements**

As discussed earlier in this report, the Company had two consulting agreements with Isabella and Witham and Associates.

## **FIDELITY BOND AND OTHER INSURANCE**

The Company stated that it does not have any fidelity insurance coverage. Rule 69O-142.011(11)(b)16, Florida Administrative Code, requires the Company to obtain a fidelity bond in accordance with and in an amount determined by the method provided in the NAIC Financial Examiners Handbook. The examiners determined, using that calculation method, the Company's minimum bond should be \$50,000.

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

The Company had only one employee, and had no pension, stock ownership or insurance plans.

## STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes:

STATE	Description	Market Value
FL	Cash	<u>\$ 752,883</u>
TOTAL SPECIAL DEPOSITS		<u>\$ 752,883</u>

## INSURANCE PRODUCTS AND RELATED PRACTICES

### Territory

At December 31, 2007, the Company was authorized to transact insurance only in the State of Florida.

### Insurance Products

The Company has developed and marketed commercial insurance and ancillary products to Florida based commercial interests.

### Treatment of Policyholders

During the examination, the Company stated that it has had inquiries but no complaints since the formation of the Company and, therefore, no complaint control log has been initiated. The Company must have in place formalized and documented procedures for handling complaints against the Company in accordance with Section 626.9541 (1) (j), Florida Statutes.

## **REINSURANCE**

### **Assumed**

The Company did not assume any reinsurance risk for the period covered by this examination.

### **Ceded**

At December 31, 2007, the Company had two reinsurance contracts in effect which resulted in the following:

- Covers Company's General Liability written under Commercial Package Policies and Commercial Auto Liability excess of loss reinsurance for \$900,000 xs \$100,000 per occurrence.
- Covers Company's Commercial Package Policies, Property only, quota share reinsurance of 80%, subject to a maximum recovery of 50% of gross ceded premium, but no less than \$1,250,000 or greater than \$2,500,000 as respects one event. As respects hurricane events, maximum recovery was 100% of gross ceded premium subject to a maximum of \$4,500,000.

It was determined that the Company did not have a formal contract with its reinsurance broker as required by Section 626.7492(4), Florida Administrative Code, which states that..." a transaction between a reinsurance intermediary broker and the insurer it represents in the capacity of a reinsurance intermediary broker may be entered into only pursuant to a written authorization specifying the responsibilities of each party."

### **Subsequent Event:**

Prior to completion of this exam, the Company provided the examiners a copy of a contract enacted between the Company and its reinsurance broker.

## **ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in Jacksonville, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements for the year 2007, 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. This work was reviewed and utilized where appropriate by the examiners.

The Company's accounting records were maintained on a computerized system. The Company's balance sheet accounts were verified with the line items of the Annual Statement submitted to the Office.

It was determined during examination that general expenses paid in 2008 that were incurred in 2007 were \$40,000 above the \$62,075 reported by the Company. As a result, this liability has been increased by that amount with a corresponding adjustment to surplus as regards policyholders. A substantial amount of the increase in this liability was the result of consultant fees withdrawn in January of 2008 for bills presented the Company during 2007.

The Company and non-affiliates had the following agreements in effect at December 31, 2007:

### **Subscribers Agreements**

The Company maintained an agreement with each subscriber during the period covered by this examination. The subscriber or policyholder agreed to pay their premiums, compensate the AIF for its services and make a one-time surplus contribution to the Company.



**Claims Agreement**

The Company provided the examiners a Memorandum of Understanding between Allied American Adjusting Company, LLC and the Company. The Memorandum set forth the guiding principles by which Allied will assist the Company in the handling of claims. The agreement had not been submitted to the Office for approval as required in the Consent Order. Further details concerning this agreement have been discussed previously in this report.

**FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Company's financial position as of December 31, 2007, and the results of its operations for the year then ended as determined by this examination. There was one financial adjustment made as a result of the examination.

**COMMERCIAL INSURANCE ALLIANCE**  
**ASSETS**  
**DECEMBER 31, 2007**

	<u>Per Company</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Cash	\$ 1,226,057	\$ -	\$ 1,226,057
Investment income due and accrued	12,062		12,062
Premiums and considerations: Uncollected premium	108,306		108,306
Reinsurance: Amounts Recoverable	<u>6,315</u>		<u>6,315</u>
Totals	<u>\$ 1,352,740</u>	<u>\$ -</u>	<u>\$ 1,352,740</u>

**COMMERCIAL INSURANCE ALLIANCE  
LIABILITIES, SURPLUS AND OTHER FUNDS  
DECEMBER 31, 2007**

	<u>Per Company</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Losses	\$ 68,000		\$ 68,000
Loss adjustment expenses	33,600		33,600
Other expenses	62,075	40,000	102,075
Taxes, licenses and fees	12,412		12,412
Unearned premium	267,835		267,835
Ceded Reinsurance Payable	<u>183,715</u>		<u>183,715</u>
Total Liabilities	<u>\$ 627,637</u>	<u>\$ 40,000</u>	<u>\$ 667,637</u>
Aggregate write-ins for other than special surplus funds:			
Subscriber Surplus Contributions	\$ 152,206		\$ 152,206
Surplus Note	1,500,000		1,500,000
Unassigned funds (surplus)	<u>(927,102)</u>	<u>(40,000)</u>	<u>(967,102)</u>
Surplus as regards policyholders	<u>\$ 725,104</u>	<u>(40,000)</u>	<u>\$ 685,104</u>
Total liabilities, surplus and other funds	<u><u>\$ 1,352,741</u></u>		<u><u>\$ 1,352,741</u></u>

# COMMERCIAL INSURANCE ALLIANCE STATEMENT OF INCOME

DECEMBER 31, 2007

## Underwriting Income

Premiums earned	\$ 396,382
<b>Deductions:</b>	
Losses incurred	56,451
Loss expenses incurred	30,127
Other underwriting expenses incurred	890,569
Total underwriting deductions	<u>\$ 977,147</u>
Net underwriting gain or (loss)	\$ (580,765)

## Investment Income

Net investment income earned	\$ 137,082
Net realized capital gains or (losses)	0
Net investment gain or (loss)	<u>\$ 137,082</u>

## Other Income

Finance and service charges not included in premiums	\$ 78
Total other income	<u>\$ 78</u>
Net income before dividends to policyholders and before federal and foreign income taxes	<u>\$ (443,606)</u>
Net Income, after dividends to policyholders, but before all other federal and foreign income taxes	\$ (443,606)
Federal and foreign income taxes incurred	0
Net Income	<u>\$ (443,606)</u>

## Capital and Surplus Account

Surplus as regards policyholders, December 31 prior year	\$ 1,039,332
Net Income	\$ (443,606)
Change in net deferred income tax	0
Change in non-admitted assets	4,581
Change in surplus notes	0
Aggregate write-ins for gains and losses in surplus	124,796
Change in surplus as regards policyholders for the year	(314,229)
Examination adjustment	(40,000)
Surplus as regards policyholders, December 31 current year	<u>\$ 685,103</u>

## **COMMENTS ON FINANCIAL STATEMENTS**

### **Losses and Loss Adjustment Expenses**

**\$101,600**

The Company's actuary rendered an opinion that the amounts carried in the balance sheet as of December 31, 2007, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements. INS Consultants, Inc. provided the examination actuary, who reviewed work papers provided by the Company and was in concurrence with this opinion.

### **Other Expenses**

General expenses paid in 2008 that were incurred in 2007 were found to be \$40,000 above the \$62,075 reported by the Company. As a result, this liability has been increased by that amount with a corresponding adjustment to surplus as regards policyholders. A substantial amount of the increase in this liability was the result of consultant fees withdrawn in January, 2008, for bills presented the Company during 2007.

### **Capital and Surplus**

The amount reported by the Company of \$725,104, which was adjusted to \$685,104, exceeds the minimum of \$250,000 required by Section 624.408, Florida Statutes.

A comparative analysis of changes in surplus follows.

**COMMERCIAL INSURANCE ALLIANCE**  
**COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS**  
**DECEMBER 31, 2007**

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, 2007, per Annual Statement	\$725,103
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		<u>PER COMPANY</u>		<u>PER EXAM</u>		<u>INCREASE (DECREASE) IN SURPLUS</u>
<b>ASSETS:</b>						
No Adjustment	\$	1,352,739	\$	1,352,739	\$	-
<b>LIABILITIES:</b>						
Other Expenses	\$	627,636	\$	667,636	\$	(40,000)
Net Change in Surplus:					(40,000)	
Surplus as Regards Policyholders December 31, 2007, Per Examination					\$ 685,103	

## **SUMMARY OF FINDINGS**

### **Compliance with previous directives**

This is the first examination of the Company performed by the Office.

### **Current examination comments and corrective action**

The following is a brief summary of items of interest and corrective action to be taken by the Company regarding findings in the examination as of December 31, 2007.

#### **Subscribers' Advisory Committee – Meetings**

The "Powers of the Subscribers' Advisory Committee" document requires that the Subscribers' Advisory Committee meet quarterly. It was determined that the Company has held only two Subscribers' Advisory Committee meetings since the formation of the Company. **We recommend the Subscribers' Advisory Committee have a regular meeting once during each calendar quarter to review the financial statements of the Reciprocal for such quarter and such other matters as the Committee shall determine as stated in the "Powers of the Subscribers' Advisory Committee" document.**

#### **Selection of and Approval of Findings of Independent Auditor**

It was determined that the Company was not in compliance with Section 629.201, Florida Statutes, which requires that the Subscribers' Advisory Committee shall procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer. **We recommend the Company comply with Section 629.201, Florida Statutes, and the "Powers of the Subscribers' Advisory Committee" document and have the Advisory**

**Committee make recommendations concerning the selection of the Company's independent auditor and formally review their findings.**

#### **Consent Order 85640-06-CO Violation - Fees and Charges**

The Company had two arrangement or agreements with affiliated parties for the provision of administrative services that were not evidenced by a written contract which was a violation of Consent Order 85640-06-CO. **We recommend the Company comply with Consent Order 85640-06-CO and require written contracts with all affiliated parties or related parties for administrative services and, as described in the Consent Order, pay only fees and charges as reasonable in relation to services rendered as specified in the contract.**

#### **Consent Order 85640-06-CO Violation - Controls and Supervision of External Contractors**

The Company failed to maintain sufficient and adequate internal controls and supervision of its external contractors which was a violation of Consent Order 85640-06-CO. **We recommend that the Company comply with Section 14.c of the Consent Order by maintaining sufficient and adequate controls and supervision of its external contractors.**

#### **Consent Order 85640-06-CO Violation - Related Party Administrative or Consulting Agreements**

The Company did not fully describe all transactions, agreements, and understandings regarding the formation and operation of the Company or file executed agreements during their application process for a Certificate of Authority with the Office which was a violation of Consent Order 85640-06-CO. **We recommend that the Company comply with Consent Order 85640-06-CO and fully describe all transactions, agreements, and understandings regarding the formation and operation of the Company and make the required filings of agreements.**



### **Consent Order 85640-06-CO Violation - Administrative Agreements**

Consent Order 85640-06-CO required that all future administrative service contracts and management contracts be submitted to the Office for approval prior to the execution and/or consummation or amendment of such contracts. Since 2006, the Company has had two agreements with an unrelated third party regarding claims adjustment services. Those agreements have not been submitted to the Office. **We recommend the Company comply with Section 15 of Consent Order 85640-06-CO and submit the claims administrative contract to the Office for approval prior to the execution and/or consummation or amendment of such contracts.**

### **Fidelity Insurance Coverage**

The Company does not have fidelity insurance coverage to protect against loss due to Company officers or employees acting dishonestly in the Company's name. **We recommend the Company obtain fidelity insurance coverage pursuant to Rule 69O-142.011(11) (b) 16, Florida Administrative Code.**

### **Other Expenses**

General expenses paid in 2008 that were incurred in 2007 were found to be \$40,000 above the \$62,075 reported by the Company. As a result, the liability for General Expenses has been increased by that amount. **We recommend the Company establish and report an adequate amount for its other expenses liability.**

### Conflict of Interest Procedure

The company has not adopted a policy requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook and Section 607.0832(2), Florida Statutes. **We recommend the company comply with Florida Statutes and NAIC guidelines and establish a policy requiring annual disclosure statements of any potential conflict of interest.**

### Treatment of Policyholders

The Company has no established consumer complaint log in violation of Section 626.9541 (1) (j), Florida Statutes. **We recommend that the Company document policies and procedures for handling complaints against the company in accordance with Section 626.9541 (1) (j), Florida Statutes.**

## SUBSEQUENT EVENTS

During the review of the Company's general expenses, the examiners noted that funds have been paid by the Company to various entities for what was termed consulting services. The examiners determined that, in some cases, the expenses being paid were not just the additional cost of starting a new company, but some questionable consulting fees and expenses.

As requested by the Office, the examiners have reviewed all amounts paid during 2008 and in 2009 up to the completion date of this examination. Also, we have performed additional review on related party expenses to determine the full extent of funds being withdrawn from the Company and the documentation available related to those payments.

The Company has reported and continues to report, extremely high expenses in relation to its premium income and claims activity, so the examiners focused on the Company's payment of funds to related and unrelated parties to determine if the payments were appropriate and the agreements covering the payments were in accordance with Consent Order 85640-06-CO. These agreements or arrangements were not properly disclosed to the Office in accordance with the Consent Order and, therefore, all of the payments made were not proper. These payments have been paid since the inception of the Company under unwritten agreements and continued under an agreement provided to the Company President during 2008.

In addition to the monthly fees being paid by the Company, a substantial amount of travel and entertainment expenses of these consultants was paid out of Company funds. A detailed review by the examiners of these payments indicated that proper authorization and documentation was not filed with the Company regarding these payments. In response to examiner questions, a letter dated February 11, 2009, was provided to the examiners from Briarwood Management LLC (the Attorney-in-Fact) regarding these expenses. Examiner review of explanations provided in the letter indicated that substantially all of the expenses discussed should have been the responsibility of Briarwood Management LLC and not paid out of policyholder funds.

Correspondence was supplied by the Company documenting attempts to obtain proper invoices and justification of charges.

Mark Witham and Isabella Holdings have agreed to repay all funds withdrawn by them or paid to them as consulting fees. The Office was notified of this statement.

Also, in a letter dated February 25, 2009, the Office notified the Company that it had failed to request the Office's approval prior to entering into affiliated agreements with Mark Witham and

Witham Associates. Payments were also made to Isabella Holdings which were not substantiated by the proper documentation of services rendered. The Office further stated that these agreements should be canceled immediately and no further payments made without the Office's prior approval. Additionally, the Company should seek the return of all fees and expenses incurred by the Company associated with the aforementioned agreements and should provide evidence of such to the Office no later than Friday, March 6, 2009. Evidence of repayment on March 6, 2009, was provided to the Office.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Commercial Insurance Alliance** as of December 31, 2007, consistent with the insurance laws of the State of Florida.

Per examination findings, the Reciprocal's Surplus as Regards Policyholders was \$685,104, in compliance with Section **629.071**, Florida Statutes.

In addition to the undersigned, Patricia Casey Davis, CFE, CPA; Hails W. Taylor, CFE; and Donald Gaskill, CFE of INS Regulatory Insurance Services, Inc. participated in the examination. We also recognize INS Consultants, Inc. and INS Services, Inc.'s participations in this examination.

Respectfully submitted,

---

Kethessa Carpenter, CPA  
Financial Examiner/Analyst Supervisor  
Florida Office of Insurance Regulation

## SUBORDINATED SURPLUS DEBENTURE

This Subordinated Surplus Debenture executed this 3<sup>rd</sup> day of May, 2006, by and between Commercial Insurance Alliance, a Reciprocal Insurance Company (hereafter "CIA"), a Florida reciprocal insurance company, and CIA's attorney-in-fact, Briarwood Management LLC (hereafter "BM"), a Florida limited liability company, the parties.

It is deemed to be in the best interest of CIA to have advanced to it sufficient surplus as to policyholders to cause CIA to be an assessable reciprocal in accord with Chapter 629, *Florida Statutes*. BM has hereby indicated its willingness to contribute to CIA acceptable funds to accomplish the purpose as set forth in this Debenture on the following terms.

Pursuant to and in compliance with Section 629.161, *Florida Statutes*, approval of the Florida Office of Insurance Regulation (the "OIR") has been obtained to the agreement for such contribution to surplus and for its repayment out of its realized earned surplus in excess of its minimum required surplus, and Board Resolutions have been issued by the Subscriber's Advisory Committee of CIA and BM, as evidenced by copies of resolutions attached.

For and in consideration of the mutual agreements as set forth, BM hereby makes a contribution to surplus of CIA in the amount of \$1,500,000.00, and CIA hereby accepts said contribution to surplus.

This Debenture is subject to the following terms and conditions:

1. Amount: the contribution to surplus in the amount of \$ 1,500,000.00 is made in the form of cash. Such cash has been approved by the OIR as found to be acceptable assets pursuant to Chapter 625, Part II, *Florida Statutes*. Legal title has been registered in the name of CIA.
2. Interest Rate: Said sum of money shall bear interest from the date of contribution at the rate of prime plus one percent per annum on the unpaid principal balance. Accrued interest shall be payable quarterly commencing on July 1, 2006, after first having been approved by the Florida Office of Insurance Regulation.
3. Repayment and Limitations: CIA shall not make any principal or interest payment in respect to this Debenture unless such payment is approved in advance by the OIR. Said approval shall not be unreasonably withheld, and shall be based on a review of the following: (i) requests for payments will be made in minimum increments of \$50,000 until this Debenture is paid in full, and (ii) CIA shall not make any principal or interest payment in respect to this Debenture except out of its realized earned surplus in excess of its minimum required surplus and only if (a) the company is in compliance with the Florida Insurance Code, (b) no financial condition exists that would present a possible financial hazard to policyholders, and (c) payment of this Debenture will not cause CIA to be in violation of any part of the Florida Insurance Code. This Debenture shall not remain unpaid after such time as the original intent

referenced above has ended unless approval for payment of the Debenture has not been granted by the OIR.

4. Financial Statement Disclosure: Said unpaid principal shall not form a part of the legal or statutory liabilities of CIA. This amount shall be reported as surplus. Accrued and unpaid interest shall be reported as a legal and statutory liability of CIA.
5. In the event of reorganization, dissolution, 100% reinsurance or liquidation of CIA after the retirement of all its outstanding obligations other than Subordinated Debentures, the holders of Subordinated Debentures remaining unpaid shall be entitled to preferential right in remaining assets of CIA equal to the unpaid principal balance, plus accrued interest, before any distribution of such assets to shareholders or other owners pursuant to Section 631.271, *Florida Statutes*.
6. No modification may be made with respect to this Debenture without the prior approval of the OIR.
7. This Debenture contains the entire agreement between the above referenced parties. There are no other addendums or agreements with any other party which form a part of this contract.

This Debenture is transferable only by assignment on the books of CIA upon surrender of this Debenture properly assigned. The reissued Debenture must be submitted to the Commissioner of Insurance for the State of Domicile and is subject to all the terms, conditions, and limitations contained herein.

IN WITNESS WHEREOF, this agreement has been executed as of the date above.

Witness:

COMMERCIAL INSURANCE  
ALLIANCE, A RECIPROCAL  
INSURANCE COMPANY

Harry M. White

By Larry Eugene Haynes  
Larry Eugene Haynes, President  
BRIARWOOD MANAGEMENT LLC  
Its Attorney-in-Fact

Witness:

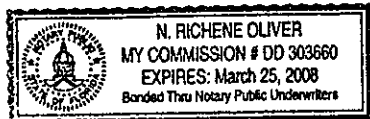
BRIARWOOD MANAGEMENT LLC

Harry M. White

By Larry Eugene Haynes  
Larry Eugene Haynes, President

STATE OF FLORIDA       }  
COUNTY OF DUVAL       }

The foregoing instrument was acknowledged before me by **Larry Eugene Haynes**, President  
BRIARWOOD MANAGEMENT LLC, Attorney-in-Fact for COMMERCIAL INSURANCE  
ALLIANCE, A RECIPROCAL INSURANCE COMPANY this 3<sup>rd</sup> day of May, 2006.



  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Personally known   X   OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

STATE OF FLORIDA       }  
COUNTY OF DUVAL       }

The foregoing instrument was acknowledged before me by **Larry Eugene Haynes**, President  
of BRIARWOOD MANAGEMENT LLC, this 3<sup>rd</sup> day of May, 2006.



  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Personally known   X   OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



## ASSIGNMENT OF SUBORDINATED SURPLUS DEBENTURE

This Assignment of Subordinated Surplus Debenture (the "Assignment") is made and entered into as of the first day of May, 2006, by BRIARWOOD MANAGEMENT, LLC, a Florida Limited Liability Company, (the "Assignor") to and for the benefit of CORNERSTONE GROUP FLORIDA LLC, a Florida Limited Liability Company (the "Assignee").

### RECITALS:

1. Assignor has contributed funds in favor of Commercial Insurance Alliance, a Reciprocal Insurance Company (the "Borrower") as evidenced by the subordinated surplus debenture (the "Surplus Debenture"), in the amount of One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000) dated 5/1/, 2006, a copy of which is attached as Exhibit A and made a part hereof by this reference.

2. Assignor is the owner and holder of the Surplus Debenture and has agreed to assign same to Assignee, without recourse and without representations or warranties of any kind, expressed or implied, except as expressly set forth herein.

NOW, THEREFORE, for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby grants, bargains, sells, assigns, transfers and sets over unto Assignee, its successors and assigns forever, without recourse, all of the right, title and interest of Assignor in and to the Surplus Debenture.

Assignor covenants and agrees that it shall, upon the reasonable request of Assignee execute and deliver to Assignee such further instruments of assignment as may be reasonably required in order to effect the assignment of the Surplus Debenture contemplated hereby. The form of such instruments shall be reasonably satisfactory to Assignor, and shall expressly provide that they are made without recourse and without representation or warranty of any kind, except as expressly provided immediately below.

Assignor hereby represents to Assignee that it owns and holds the Surplus Debenture and that the Surplus Debenture is free from all encumbrances.

Notwithstanding the foregoing to the contrary, Assignor warrants and represents the following:

(a) As of the date of this Assignment, there is an outstanding indebtedness in favor of the Assignor pursuant to the Surplus Debenture in the amount of One Million Five Hundred Thousand and No/100 dollars (\$1,500,000.00), without discount, rebate or other reduction in value.

(b) Assignor is the owner of the Surplus Debenture, free and clear of any liens, claims or demands whatsoever, and Assignor has the absolute right and lawful authority to assign the same to Assignee and true, correct and complete copies of the Surplus Debenture have been provided to Assignee.

(c) Assignor has not pledged, hypothecated, assigned or otherwise transferred all or any portion of its interest in the Surplus Debenture or the collateral encumbered by the Surplus Debenture to any other person.

(d) Neither Assignor nor Borrower is in default of any term, covenant, or agreement contained in the Surplus Debenture, and no event has occurred which with notice and the passage of time would constitute a default under the Surplus Debenture.

TO HAVE AND TO HOLD the same unto Assignee and Assignee's successors and assigns forever.

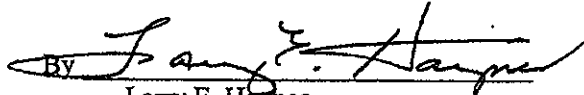
WITNESS the due execution hereof as of the date first above written.

Witness:



Joyce A. McLendon Durden

BRIARWOOD MANAGEMENT LLC


By   
Larry E. Haynes  
President

Witness:





CORNERSTONE GROUP FLORIDA LLC

By   
Mark B. Witham  
President

## SUBORDINATED SURPLUS DEBENTURE

This Subordinated Surplus Debenture executed this 3<sup>rd</sup> day of May, 2006, by and between Commercial Insurance Alliance, a Reciprocal Insurance Company (hereafter "CIA"), a Florida reciprocal insurance company, and CIA's attorney-in-fact, Briarwood Management LLC (hereafter "BM"), a Florida limited liability company, the parties.

It is deemed to be in the best interest of CIA to have advanced to it sufficient surplus as to policyholders to cause CIA to be an assessable reciprocal in accord with Chapter 629, *Florida Statutes*. BM has hereby indicated its willingness to contribute to CIA acceptable funds to accomplish the purpose as set forth in this Debenture on the following terms.

Pursuant to and in compliance with Section 629.161, *Florida Statutes*, approval of the Florida Office of Insurance Regulation (the "OIR") has been obtained to the agreement for such contribution to surplus and for its repayment out of its realized earned surplus in excess of its minimum required surplus, and Board Resolutions have been issued by the Subscriber's Advisory Committee of CIA and BM, as evidenced by copies of resolutions attached.

For and in consideration of the mutual agreements as set forth, BM hereby makes a contribution to surplus of CIA in the amount of \$1,500,000.00, and CIA hereby accepts said contribution to surplus.

This Debenture is subject to the following terms and conditions:

1. Amount: the contribution to surplus in the amount of \$ 1,500,000.00 is made in the form of cash. Such cash has been approved by the OIR as found to be acceptable assets pursuant to Chapter 625, Part II, *Florida Statutes*. Legal title has been registered in the name of CIA.
2. Interest Rate: Said sum of money shall bear interest from the date of contribution at the rate of prime plus one percent per annum on the unpaid principal balance. Accrued interest shall be payable quarterly commencing on July 1, 2006, after first having been approved by the Florida Office of Insurance Regulation.
3. Repayment and Limitations: CIA shall not make any principal or interest payment in respect to this Debenture unless such payment is approved in advance by the OIR. Said approval shall not be unreasonably withheld, and shall be based on a review of the following: (i) requests for payments will be made in minimum increments of \$50,000 until this Debenture is paid in full, and (ii) CIA shall not make any principal or interest payment in respect to this Debenture except out of its realized earned surplus in excess of its minimum required surplus and only if (a) the company is in compliance with the Florida Insurance Code, (b) no financial condition exists that would present a possible financial hazard to policyholders, and (c) payment of this Debenture will not cause CIA to be in violation of any part of the Florida Insurance Code. This Debenture shall not remain unpaid after such time as the original intent

referenced above has ended unless approval for payment of the Debenture has not been granted by the OIR.

4. Financial Statement Disclosure: Said unpaid principal shall not form a part of the legal or statutory liabilities of CIA. This amount shall be reported as surplus. Accrued and unpaid interest shall be reported as a legal and statutory liability of CIA.
5. In the event of reorganization, dissolution, 100% reinsurance or liquidation of CIA after the retirement of all its outstanding obligations other than Subordinated Debentures, the holders of Subordinated Debentures remaining unpaid shall be entitled to preferential right in remaining assets of CIA equal to the unpaid principal balance, plus accrued interest, before any distribution of such assets to shareholders or other owners pursuant to Section 631.271, *Florida Statutes*.
6. No modification may be made with respect to this Debenture without the prior approval of the OIR.
7. This Debenture contains the entire agreement between the above referenced parties. There are no other addendums or agreements with any other party which form a part of this contract.


This Debenture is transferable only by assignment on the books of CIA upon surrender of this Debenture properly assigned. The reissued Debenture must be submitted to the Commissioner of Insurance for the State of Domicile and is subject to all the terms, conditions, and limitations contained herein.

IN WITNESS WHEREOF, this agreement has been executed as of the date above.

Witness:

COMMERCIAL INSURANCE  
ALLIANCE, A RECIPROCAL  
INSURANCE COMPANY

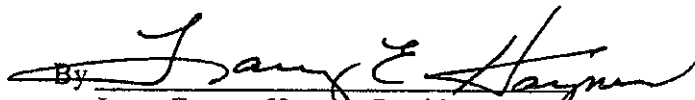


By   
Larry Eugene Haynes, President  
BRIARWOOD MANAGEMENT LLC  
Its Attorney-in-Fact

Witness:

BRIARWOOD MANAGEMENT LLC



By   
Larry Eugene Haynes, President

STATE OF FLORIDA       }  
COUNTY OF DUVAL       }

The foregoing instrument was acknowledged before me by **Larry Eugene Haynes**, President  
BRIARWOOD MANAGEMENT LLC, Attorney-in-Fact for COMMERCIAL INSURANCE  
ALLIANCE, A RECIPROCAL INSURANCE COMPANY this 3<sup>rd</sup> day of May, 2006.



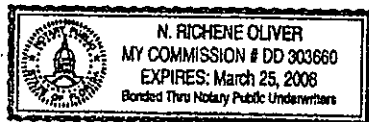
  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Personally known   X   OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

STATE OF FLORIDA       }  
COUNTY OF DUVAL       }

The foregoing instrument was acknowledged before me by **Larry Eugene Haynes**, President  
of BRIARWOOD MANAGEMENT LLC, this 3<sup>rd</sup> day of May, 2006.



  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Personally known   X   OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

DEPARTMENT OF FINANCIAL SERVICES  
MANAGEMENT INFORMATION  
COMPLETE LISTING OF ALL ATTORNEY-IN-FACT OFFICERS,  
DIRECTORS AND SHAREHOLDERS

COMPANY NAME: The Cornerstone Group, LLC

OFFICERS:

Mark B. Witham

TITLES:

President, Secretary, Treasurer

DIRECTORS:

Mark B. Witham

SHAREHOLDERS: (member)

W. C. Holdings, LLC

100%



**FILED**

**04628**

**AUG 19 2009**

OFFICE OF INSURANCE REGULATION

KEVIN MCCARTY  
COMMISSIONER

OFFICE OF  
INSURANCE REGULATION  
Declassified by: EE

IN THE MATTER OF:

CASE NO.: 105772-09

COMMERCIAL INSURANCE ALLIANCE  
\_\_\_\_\_

ORDER

To: Larry Haynes, President  
Commercial Insurance Alliance  
9309 Old Kings Rd S., Suite 3  
Jacksonville, FL 32257

THIS CAUSE came on for consideration as a result of the failure of COMMERCIAL INSURANCE ALLIANCE (hereinafter referred to as "CIA" or "APPLICANT") to comply with Consent Order 85640-06-CO (attached as exhibit "A")(hereinafter referred to as the "CONSENT ORDER") and Sections 624.609 and 628.461, Florida Statutes. The Office of Insurance Regulation, (hereinafter referred to as the "OFFICE"), having considered this matter and being fully advised in the premises, finds as follows:

1. The OFFICE has jurisdiction over the subject matter and parties to this proceeding.
2. CIA is a Florida corporation licensed as a reciprocal insurer on May 5, 2006.
3. Briarwood Management, LLC (hereinafter referred to as the "AIF") is the appointed Attorney-In-Fact for CIA.
4. Based on the most recent financial exam conducted by the OFFICE concluding January 29, 2009 (attached as exhibit "B"), information CIA has provided to the OFFICE, and related

discussions with CIA, the OFFICE has determined that CIA willfully violated the following conditions of the CONSENT ORDER, granting its Certificate of Authority:

a. Paragraph eight (8) of the CONSENT ORDER provides that “APPLICANT and AIF affirm that all explanations, representations, and documents provided to the OFFICE in connection with APPLICANT's application for the issuance of a Certificate of Authority, including all attachments and supplements thereto, are material to the issuance of this Consent Order and fully describe all transactions, agreements, and understandings regarding the formation and operation of APPLICANT.”

b. Paragraph twelve (12) of the CONSENT ORDER provides that final approval of the Certificate of Authority is subject to the OFFICE receiving “Executed copies of all other agreements, if any, relating to the operations and management of APPLICANT.”

c. In addition, Paragraph fifteen (15) of the CONSENT ORDER provides that “All future administrative service contracts, management contracts and contracts between APPLICANT and any affiliated or related entities shall be submitted to the OFFICE for approval prior to the execution and/or consummation or amendment of such contracts.”

d. Despite the affirmation provided, CIA did, in fact, fail to describe all transactions, agreements, and understandings regarding the formation and operation of CIA and file the executed agreements during their application process for a Certificate of Authority with the OFFICE.

e. CIA had two consulting arrangements in place that were not disclosed to, or filed with the OFFICE while either applying for a Certificate of Authority or subsequent to that time as follows;



i. A Consulting agreement with Mark Witham and/or Witham & Associates (hereinafter collectively referred to as "WITHAM") since CIA's formation, and

ii. A Consulting agreement with Isabella Holdings (hereinafter referred to as "ISABELLA").

f. Total compensation for these contracts from January 2006 to January 20, 2009 are as follows;

i. Twenty one thousand, two hundred and thirty-nine U.S. Dollars (\$21,239) was paid directly to Mark Witham.

ii. One hundred thousand and eighty-one U.S. Dollars (\$100,081) was paid to Witham and Associates, LLC.

iii. Three hundred forty four thousand, seven hundred and twenty-three U.S. Dollars and fifty-six Cents (\$344,723.56) was paid to ISABELLA.

g. Paragraph fourteen c (14c) of the CONSENT ORDER states that "APPLICANT shall maintain sufficient and adequate internal controls and supervision of any external contractor(s) providing services in connection with the insurance transactions of the APPLICANT, and shall further assume responsibility for the actions of said contractor(s) as they relate to any performance under the service agreements."

h. CIA has not maintained sufficient and adequate controls and supervision of the external contractors WITHAM, ISABELLA and Maple Technologies LLC (hereinafter referred to as "MAPLE"). This finding is supported by the following;

i. In 2005, 2006 and 2007, CIA had agreements or arrangements with WITHAM and ISABELLA that were not approved by the Office or the Subscribers' Advisory Committee;

ii. Fees and expenses paid by CIA under these agreements since its inception were generally not supported by invoices or receipts disclosing the services provided to CIA in return for these payments. In several instances, payments were made with no invoices;

iii. After the effective date and after the funds had been paid for over two years, in January 2008, CIA first secured a signed agreement with ISABELLA. The ISABELLA agreement states that it was executed on February 25, 2007, but had an effective date of May 20, 2005;

iv. According to correspondence supplied by CIA, in early January 2008, Mark Witham, without the approval of the Subscribers' Advisory Committee nor the President of CIA, added Joe Cappuccio as an authorized signatory to CIA's operating account;

v. On January 11, 2008, Mark Witham and Joe Cappuccio withdrew funds in the amount of forty thousand U.S. Dollars (\$40,000) which was paid to ISABELLA without prior approval of the Subscribers' Advisory Committee or the President of CIA;

vi. According to correspondence from Mark Witham, the withdrawal and the corresponding fee charges were made in accordance to an agreement between ISABELLA and CIA, that was not approved by CIA's president or the Subscribers' Advisory Committee, and

vii. The policy administration system installed by MAPLE has never been fully operational and CIA states that it plans to replace the entire system in the near future.

5. Based on the findings detailed above, CIA is in violation of the CONSENT ORDER.

6. CIA is currently retaining risks in an amount exceeding ten percent (10%) of its surplus to policyholders in violation of Section 624.609, Florida Statutes.

7. As of June 30, 2009, CIA's reported policyholder surplus was six hundred fifty-two thousand, five hundred and sixty-eight U.S. Dollars (\$652,568). This amount includes four

hundred sixty-nine thousand, eight hundred and eighty-one U.S. Dollars (\$469,881) in fees and expenses which were returned to CIA on behalf of Mark Witham, the current co-owner and Secretary for AIF, at the request of the OFFICE. The aforementioned fees and expenses were paid during 2006 – 2009 under affiliated agreements which had not been submitted for prior approval by the OFFICE in violation of Rule 69O-143.047, Florida Administrative Code.

8. Contrary to representations made to the OFFICE, the returned funds were obtained through a secured promissory note issued to Genesis 7 Capital Management, LLC (hereinafter referred to as “GENESIS”), in which the satisfaction of the note was secured by the total diluted issued and outstanding membership interest in AIF. The secured promissory note which hypothecates the membership interest of AIF contains provisions which require the approval of the pledgor, GENESIS, prior to CIA entering into certain transactions which constitutes “control” as defined by Rule 69O-143.045, Florida Administrative Code. This “control” has been granted to GENESIS in violation of Section 628.461, Florida Statutes.

9. Section 629.071, Florida Statutes, requires that reciprocal insurers maintain a minimum policyholder surplus of no less than two hundred and fifty thousand U.S. Dollars (\$250,000). Without the inclusion of the funds secured by the aforementioned promissory note, CIA would be in an impaired state, with only one hundred eighty-two thousand, six hundred and eighty-seven U.S. Dollars (\$182,687) in policyholder surplus as of June 30, 2009.

10. Because of CIA’s violation of Consent Order 85640-06-CO, Sections 624.609 and 628.461, Florida Statutes and Rule 69O-143.047, Florida Administrative Code, CIA “is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state hazardous or injurious to its policyholders or to the public.”, and has

violated a lawful order and Rule of the OFFICE and provisions of the insurance code in violation of Sections 624.418(1)(b) and 624.418(2)(a), Florida Statutes.

11. For these reasons, in accordance with Section 624.421, Florida Statutes, CIA's certificate of authority is suspended from the date of the execution of this Order for a period of thirty (30) days.

**624.421 Duration of suspension; insurer's obligations during suspension period; reinstatement.—**

(1) Suspension of an insurer's certificate of authority shall be for:

(a) A fixed period of time not to exceed 2 years; or

(b) Until the occurrence of a specific event necessary for remedying the reasons for suspension.

Such suspension may be modified, rescinded, or reversed.

(2) During the period of suspension, the insurer shall file with the OFFICE all documents and information and pay all license fees and taxes as required under this code as if the certificate had continued in full force.

(3) If the suspension of the certificate of authority is for a fixed period of time and the certificate of authority has not been otherwise terminated, upon expiration of the suspension period the insurer's certificate of authority shall be reinstated unless the OFFICE finds that the insurer is not in compliance with the requirements of this code. The OFFICE shall promptly notify the insurer of such reinstatement, and the insurer shall not consider its certificate of authority reinstated until so notified by the OFFICE. If not reinstated, the certificate of authority shall be deemed to have expired as of the end of the suspension period or upon failure of the insurer to continue the certificate during the suspension period in accordance with subsection (2), whichever event first occurs.

(4) If the suspension of the certificate of authority was until the occurrence of a specific event or events and the certificate of authority has not been otherwise terminated, upon the presentation of evidence satisfactory to the OFFICE that the specific event or events have occurred, the insurer's certificate of authority shall be reinstated unless the OFFICE finds that the insurer is otherwise not in compliance with the requirements of this code. The OFFICE shall promptly notify the insurer of such reinstatement, and the

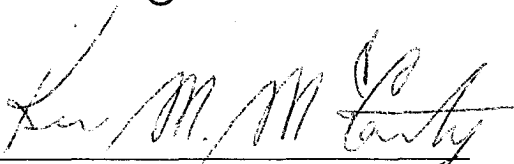
insurer shall not consider its certificate of authority reinstated until so notified by the OFFICE. If satisfactory evidence as to the occurrence of the specific event or events has not been presented to the OFFICE within 2 years of the date of such suspension, the certificate of authority shall be deemed to have expired as of 2 years from the date of suspension or upon failure of the insurer to continue the certificate during the suspension period in accordance with subsection (2), whichever first occurs.

(5) Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this state to represent the insurer shall likewise reinstate. The OFFICE shall promptly notify the insurer of such reinstatement.

12. Pursuant to Section 624.421(2), Florida Statutes, during this period of suspension, CIA shall file with the OFFICE all documents and information and pay all license fees and taxes as required under this code as if the certificate has continued in full force.

DONE and ORDERED this 19<sup>th</sup> day of August, 2009.



  
Kevin M. McCarty, Commissioner  
Office of Insurance Regulation

## NOTICE OF RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes and Rule Chapter 28-106, Florida Administrative Code (F.A.C.), you may have a right to request a proceeding to contest this action by the Office of Insurance Regulation (hereinafter the "Office"). You may request a proceeding by filing a Petition. Your Petition for a proceeding must be in writing and must be filed with the General Counsel acting as the Agency Clerk, Office of Insurance Regulation. If served by U.S. Mail the Petition should be addressed to the Florida Office of Insurance Regulation at 612 Larson Building, Tallahassee, Florida 32399-4206. If Express Mail or hand-delivery is utilized, the Petition should be delivered to 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The written Petition must be received by, and filed in the Office no later than 5:00 p.m. on the twenty-first (21) day after your receipt of this notice. Unless your Petition challenging this action is received by the Office within twenty-one (21) days from the date of the receipt of this notice, the right to a proceeding shall be deemed waived. Mailing the response on the twenty-first day will not preserve your right to a hearing.

If a proceeding is requested and there is no dispute of material fact the provisions of Section 120.57(2), Florida Statutes may apply. In this regard you may submit oral or written evidence in opposition to the action taken by this agency or a written statement challenging the grounds upon which the agency has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary one may be conducted in Tallahassee, Florida or by telephonic conference call upon your request.

If you dispute material facts which are the basis for this agency's action you may request a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. If you request this type of proceeding, the request must comply with all of the requirements of Rule Chapter 28-106.2015, F.A.C., including but not limited to:

- a) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so state; and
- b) A statement of when the respondent received notice of the agency's action.

These proceedings are held before a State Administrative Law Judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee.

In some instances, you may have additional statutory rights than the ones described herein.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. Any request for administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

COPIES FURNISHED TO:

Larry Haynes, President  
Commercial Insurance Alliance  
9309 Old Kings Rd S., Suite 3  
Jacksonville, FL 32257

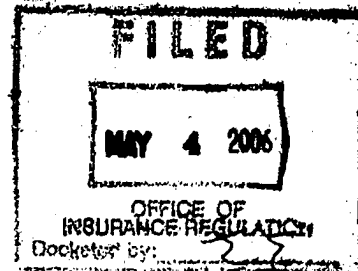
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Jacksonville, FL 32257

Robin Westcott, Director  
P&C Financial Oversight  
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Wenceslao.Troncoso@flor.com  
(850)-413-4174



OFFICE OF INSURANCE REGULATION



KEVIN M. MCCARTY  
COMMISSIONER

IN THE MATTER OF:

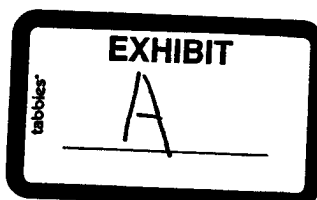
CASE NO.: 85640-06-CO

COMMERCIAL INSURANCE ALLIANCE, A  
RECIPROCAL INSURANCE COMPANY  
An Assessable Reciprocal

**CONSENT ORDER**

THIS CAUSE came on for consideration upon the filing with the OFFICE OF INSURANCE REGULATION (hereinafter referred to as "OFFICE") by COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY (hereinafter referred to as "APPLICANT"), of an application for the issuance of a Certificate of Authority to APPLICANT as an authorized domestic assessable reciprocal insurer, pursuant to Chapter 629, Florida Statutes, to write Commercial Multi Peril (0050), Inland Marine (0090), Commercial Auto Liability (0194), Commercial Auto Physical Damage (0212), and Surety (0240) insurance in this state. Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds, as follows:

1. The OFFICE has jurisdiction over the subject matter and of the parties herein.





2. **APPLICANT** is an unincorporated aggregation of subscribers who will be operating individually and collectively through an attorney in fact to provide Commercial Multi Peril, Inland Marine, Commercial Auto No Fault, Commercial Auto Liability, Commercial Auto Physical Damage, and Surety insurance among themselves. **APPLICANT's** attorney in fact, **BRIARWOOD MANAGEMENT LLC** (hereinafter referred to as "**AIF**"), is a Florida limited liability company which is owned twenty percent (20%) by Larry Eugene Haynes and eighty percent (80%) by The Cornerstone Group Florida LLC (hereinafter referred to as "**Cornerstone**"), a Florida limited liability company which in turn, is owned one hundred percent (100%) by W. C. Holdings, LLC, a Florida limited liability company, which is owned one hundred percent (100%) by Mark B. Witham, an individual who is also an officer and director of **AIF**.

3. **APPLICANT** has represented and disclosed in its application for a certificate of authority (hereinafter referred to as "**Application**") the members of the advisory committee who will supervise the finances and operation of **APPLICANT** in conformity with the Subscribers' Agreement, Powers of the Subscribers' Advisory Committee, and the Attorney In Fact Agreement (hereinafter referred to as "**AIF Agreement**") pursuant to Sections 629.081 and 629.201, Florida Statutes.

4. **APPLICANT** has represented and disclosed in the Application the names and addresses of the original twenty-five (25) subscribers required for the purpose of making application for a Certificate of Authority to transact insurance pursuant to Section 629.081, Florida Statutes.

5. Except as disclosed in the Application, **APPLICANT** and **AIF** have made material representations that none of **AIF's** officers and directors, and none of the

officers and/or members of **APPLICANT's** advisory committee, have been found guilty of, or have pleaded guilty or nolo contendere to, a felony or a misdemeanor other than a minor traffic violation, without regard to whether a judgment of conviction was entered by the court.

6. **APPLICANT** and **AIF** have further represented that they have submitted to the **OFFICE** complete information on each of the above-referenced individuals and that if material information has not been provided to the **OFFICE**, any such individual(s) shall be removed within thirty (30) days of receipt of notification from the **OFFICE**.

7. **APPLICANT** and **AIF** agree that upon receipt of such notification from the **OFFICE**, pursuant to paragraph six (6) above, if **APPLICANT** or **AIF** does not timely take the required corrective action, such failure to act would constitute an immediate danger to the public and the **OFFICE** may immediately suspend or revoke the Certificate of Authority of **APPLICANT** without further proceedings, pursuant to Sections 120.569(2) (n) and 120.60(6), Florida Statutes.

8. **APPLICANT** and **AIF** affirm that all explanations, representations, and documents provided to the **OFFICE** in connection with **APPLICANT's** application for the issuance of a Certificate of Authority, including all attachments and supplements thereto, are material to the issuance of this Consent Order and fully describe all transactions, agreements, and understandings regarding the formation and operation of **APPLICANT**.

9. **APPLICANT** and **AIF** have filed, and the **OFFICE** has relied upon the representations in the Plan of Operation and supporting documents and subsequent amendments that **APPLICANT** and **AIF** have submitted with the Application. Prior

written approval must be secured from the OFFICE prior to any material deviation from said Plan of Operation.

10. APPLICANT and AIF have represented that APPLICANT will be issuing assessable policies and that, in addition to the insurance premium for the policies, each subscriber will be required to make a surplus contribution in an amount equal to ten percent (10%) of the subscriber's policy premium for the first full three years, which amount is payable on the effective date of the inception of each new policy period. APPLICANT and AIF have represented that the foregoing surplus contribution will be deposited by AIF as policyholder surplus of APPLICANT, and such surplus shall be for the benefit and protection of all subscribers. Return of said surplus contribution is subject to the conditions set forth in the Subscribers' Agreement.

11. APPLICANT and AIF have further represented that its initial capital will be one million five hundred thousand U.S. dollars (\$1,500,000) in unencumbered cash which will be funded by AIF in exchange for a surplus debenture for the same amount to be issued by APPLICANT in favor of AIF. APPLICANT and AIF have represented that subsequently, the surplus debenture will be assigned by AIF to Cornerstone. APPLICANT and AIF materially represent that such assignment of said surplus debenture to Cornerstone will not create any negative impact to APPLICANT's financial stability or prejudice the interest of its subscribers/policyholders. Notwithstanding the terms and conditions of the surplus debenture, pursuant to Section 629.161, Florida Statutes, withdrawal or repayment of said surplus debenture shall only be made from APPLICANT's realized earned surplus in excess of its minimum required surplus and only after the prior written approval of the OFFICE.

12. Final approval and issuance of APPLICANT's Certificate of Authority shall be granted in writing by the OFFICE at such time as the OFFICE is satisfied that APPLICANT has complied with all provisions of this Consent Order and the OFFICE has received the following documents within ten (10) days of the execution of this Consent Order, provided, however, the OFFICE is satisfied that the documents meet the requisite statutory and rule requirements:

- a.) Proof of a seven hundred fifty thousand U.S. dollar (\$750,000) deposit placed with the Bureau of Collateral Management, as required by Section 624.411, Florida Statutes;
- b.) Proof of deposit of one million five hundred thousand U.S. dollars (\$1,500,000), including the deposit stated in paragraph twelve (12) (a) above, in APPLICANT's account representing its initial capital funding, along with a written certification from the bank, signed by an officer of the bank, that such deposit, has not been pledged as collateral or otherwise encumbered and that no such encumbrance or agreement to encumber exists;
- c.) Copy of the fully executed AIF Agreement;
- d.) Copy of the fully executed surplus debenture as stated in paragraph eleven (11) above;
- e.) Copy of the \$100,000 attorney's bond as required by Section 629.121, Florida Statutes;
- f.) Anti-fraud plan that will comply with Section 626.9891, Florida Statutes;

g.) Copy of specimen marketing and solicitation materials, including full disclosure regarding subscribers' contingent several liability, contingent assessment liability, and the time limit for assessments as per Sections 629.101, 629.211(2) and (3), and 629.241, Florida Statutes;

h.) Copy of executed reinsurance agreements or cover notes that represent the reinsurance proposal submitted in the Application;

i.) Completed and executed NAIC Company Code Application and subsequent NAIC Company Code assignment;

j.) The Federal Employers Identification Number (FEIN);

k.) An Application for License to Conduct Business in the State of Florida (Form DI4-911) executed by the Chairman of the subscribers' advisory committee; and

l.) Executed copies of all other agreements, if any, relating to the operations and management of **APPLICANT**.

13. **APPLICANT** and **AIF** acknowledge and agree that, if the **OFFICE** determines that the documentation specified in paragraph twelve (12) above is not submitted as required, is incomplete, or does not meet the requisite statutory or rule requirements, the **OFFICE** has the right not to issue, for cause, a Certificate of Authority.

14. If the **OFFICE** issues the Certificate of Authority to **APPLICANT**, **APPLICANT** shall further comply with the following:

a.) **APPLICANT** shall comply with the requirements of Section 624.424, Florida Statutes, including, but not limited to, the filing of the annual statement, quarterly statements, and the annual independent audited financial report.

b.) **APPLICANT** shall maintain its principal place of business in Florida and shall make available to the **OFFICE** complete records of its affairs. **APPLICANT** shall also maintain its office, records, and assets in Florida pursuant to Section 628.271, Florida Statutes. The physical form, if any, of the assets shall also be maintained in Florida, or in compliance with Section 628.511, Florida Statutes.

c.) **APPLICANT** shall maintain sufficient and adequate internal controls and supervision of any external contractor(s) providing services in connection with the insurance transactions of **APPLICANT**, and shall further assume responsibility for the actions of said contractor(s) as they relate to any performance under the service agreements.

d.) **APPLICANT** shall not pay dividends without the prior written approval by the **OFFICE**.

e.) **APPLICANT** and **AIF** shall not make any material change to the **AIF Agreement**, **Subscribers' Agreement**, and the **Powers of the Subscribers' Advisory Committee**, without the prior written approval of the **OFFICE**.

f.) **APPLICANT** shall maintain a deposit of no less than seven hundred fifty thousand U.S. dollars (\$750,000) with the **Bureau of Collateral Management**, pursuant to Section 624.411, Florida Statutes.

g.) **APPLICANT** shall not transact business until **APPLICANT's** forms and rates have been approved in writing by the **OFFICE**.

h.) Any arrangement or agreement with an affiliated party for the provision of administrative services shall be evidenced by a written contract. Any such contract shall comply with the following requirements:

(1) **APPLICANT** must have the right to terminate the contract for cause;

(2) The contract shall contain a provision with respect to the underwriting or other standards pertaining to the business underwritten by **APPLICANT**;

(3) The contract shall be retained as part of the official records of both the affiliate and **APPLICANT** for the term of the contract and five (5) years afterward;

(4) Payment to the affiliate of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by **APPLICANT**, and return premiums or claims payments forwarded by **APPLICANT** to the affiliate shall not be deemed to have been paid to the insured or claimant until such payments are received by the insured or claimant;

(5) The affiliate shall hold all funds collected on behalf of or for **APPLICANT** as well as all return premiums received from **APPLICANT** in a fiduciary capacity in trust accounts;

(6) The affiliate shall adhere to underwriting standards, rules, procedures and manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks as determined by **APPLICANT**;

(7) All fees and charges must be specified in the contract and they must be comparable to fees charged to any other insurer for which similar contracted services are provided by the affiliate; or, if the affiliate does not perform such services for other insurers, the fees charged must be reasonable in relation to the services provided;

(8) All claims paid by the affiliate from funds collected on behalf of **APPLICANT** shall be paid only on drafts of, and as authorized by, **APPLICANT**;

(9) **APPLICANT** shall retain the right of continuing access to books and records maintained by the affiliate sufficient to permit **APPLICANT** to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between **APPLICANT** and the affiliate on the proprietary rights of the parties in such books and records;

(10) The affiliate shall provide written notice approved by **APPLICANT** to insured individuals advising them of the identity of, and relationship among, the affiliate, the policyholder, and **APPLICANT**; and

(11) Any policies, certificates, booklets, termination notices, or other written communications delivered by **APPLICANT** to the affiliate for delivery to its policyholders shall be delivered by the affiliate promptly after receipt of instructions from **APPLICANT** to deliver them.

i.) Effective January 1, 2007, **APPLICANT** shall not exceed a writing ratio of gross premium written to policyholder surplus of 6 to 1, and a net premium written to policyholder surplus of 3.5 to 1, except as otherwise approved in writing by the **OFFICE**.

15. All future administrative service contracts, management contracts and contracts between **APPLICANT** and any affiliated or related entities shall be submitted to the **OFFICE** for approval prior to the execution and/or consummation or amendment of such contracts.



16. **APPLICANT** and **AIF** shall take the necessary steps to effectuate membership of **APPLICANT** in the associations and/or funds, as required by the following statutes, and to comply with the conditions contained in such entities' Plan of Operation. Further, **APPLICANT** agrees to pay any and all assessments levied by such entities and/or applicable laws. **APPLICANT** and **AIF** acknowledge full responsibility for determining the associations and/or funds **APPLICANT** is required to join pursuant to, but not limited to, Sections 215.555, 627.311(4), 627.351(1), 627.351(4), 627.351(6), 627.3515, 627.6488, 631.55, 631.715, and 631.911, Florida Statutes. **APPLICANT** further acknowledges its statutory obligations pursuant to, but not limited to, the aforementioned statutes and **APPLICANT** and/or **AIF** will regularly monitor the various associations and/or funds that **APPLICANT** is required to join as determined by the lines of business on the Certificate of Authority of **APPLICANT**. Further, **APPLICANT** and **AIF** shall, based upon the lines of business on the **APPLICANT's** Certificate of Authority, continually monitor and comply with statutory requirements regarding **APPLICANT's** membership in the associations and funds which are identified herein or which may be established in the future.

17. **APPLICANT** shall submit to the **OFFICE**, no less than annually, all required filings, pursuant to Section 627.0645, Florida Statutes, and Rule 69O-170.007, Florida Administrative Code.

18. Executive Order 13224, signed by President George W. Bush on September 23, 2001, blocks the assets of terrorist and terrorist support organizations identified by the Office of Foreign Assets Control of the Treasury Department. The Executive Order also prohibits any transactions by U.S. persons involved in the blocked

assets and interests. The list of identified terrorists and terrorist support organizations is periodically updated at the Treasury Department's website, [www.treas.gov/ofac](http://www.treas.gov/ofac). **APPLICANT** and **AIF** shall maintain and adhere to procedures necessary to detect and prevent prohibited transactions with individuals and entities which have been identified at the Office of Foreign Assets Control website of the Treasury Department.

19. If the **OFFICE** does not issue **APPLICANT** a Certificate of Authority this Consent Order shall no longer be valid.

20. **APPLICANT** and **AIF** agree that, if a Certificate of Authority has been issued to **APPLICANT**, failure to adhere to one or more of the terms and conditions contained herein may result in the revocation of **APPLICANT's** Certificate of Authority in this state in accordance with Sections 120.569(2) (n) and 120.60(6), Florida Statutes.

21. **APPLICANT** shall report to the **OFFICE**, Bureau of Property & Casualty Financial Oversight, any time that it is named as a party defendant in a class action lawsuit, within fifteen (15) days after the class is certified, and **APPLICANT** shall include a copy of the complaint at the time it reports the class action lawsuit to the **OFFICE**.

22. The **OFFICE**, **APPLICANT**, and **AIF** expressly waive a hearing in this matter, the making of Findings of Fact and Conclusions of Law by the **OFFICE**, and all further and other proceedings herein to which the parties may be entitled by law or rules of the **OFFICE**. **APPLICANT** and **AIF** hereby knowingly and voluntarily waive all rights to challenge or to contest this order, in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

23. Each party to this action shall bear its own costs and fees.

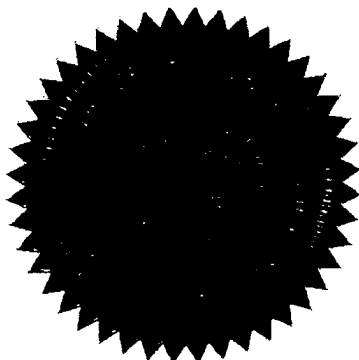
24. APPLICANT and AIF further affirm that all representations and requirements set forth herein are material to the issuance of this Consent Order.

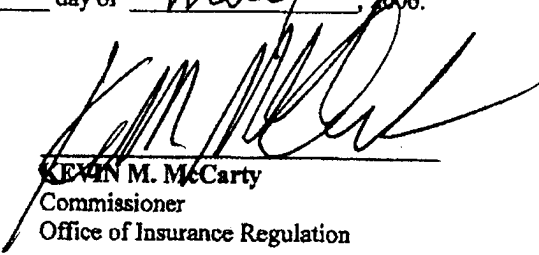
25. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has executed a copy of this Consent Order bearing the signature of APPLICANT or its authorized representative, and AIF or its authorized representative, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically. Further, APPLICANT and AIF agree that their signatures as affixed to this Consent Order shall be under the seal of a notary public.

WHEREFORE, the agreement between COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, BRIARWOOD MANAGEMENT LLC, and the OFFICE, the terms and conditions of which are set forth above, is APPROVED, and the application of COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, pursuant to Chapter 629, Florida Statutes, is APPROVED, and upon satisfaction of all said terms and conditions the Certificate of Authority will be issued.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 4<sup>th</sup> day of May, 2006.



  
KEVIN M. McCarty  
Commissioner  
Office of Insurance Regulation

By execution hereof, Larry E. Haynes, as President of BRIARWOOD MANAGEMENT LLC, attorney in fact, on behalf of the proposed insurer, COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind COMMERCIAL INSURANCE ALLIANCE, A RECIPROCAL INSURANCE COMPANY, to the terms and conditions of this Consent Order.

COMMERCIAL INSURANCE ALLIANCE, A  
RECIPROCAL INSURANCE COMPANY

By: *Larry E. Haynes*

[Corporate Seal]

Print Name: Larry Eugene Haynes  
President, Briarwood Management LLC  
Title: Attorney-in-Fact

Date: May 3, 2006

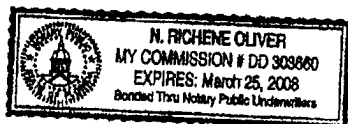
STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledge before me this 3<sup>rd</sup> day of May, 2006

by Larry Eugene Haynes as Attorney-in-Fact  
(Name of Person) (Type of Authority - e.g. officer, trustee, attorney in fact)

for Commercial Insurance Alliance, a reciprocal insurance company.  
(Company Name)



*N. Richene Oliver*  
(Signature of the Notary)

N. Richene Oliver  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

By execution hereof, BRIARWOOD MANAGEMENT LLC consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind BRIARWOOD MANAGEMENT LLC to the terms and conditions of this Consent Order.

BRIARWOOD MANAGEMENT LLC

By: *Larry E. Haynes*

[Corporate Seal]

Print Name: Larry Eugene Haynes

Title: President

Date: May 3, 2006

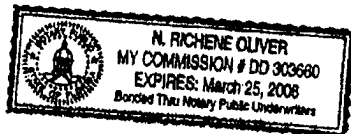
STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledge before me this 3rd day of May, 2006

by Larry Eugene Haynes as President  
(Name of Person) (Type of Authority -- e.g. officer, trustee, attorney in fact)

for Briarwood Management LLC  
(Company Name)



*N. Richene Oliver*  
(Signature of the Notary)

N. Richene Oliver  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

COPIES FURNISHED TO:

EDWARD W. BUTTNER IV, CHAIRMAN  
Subscribers' Advisory Committee  
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7800 Belfort Parkway, Suite 165  
Jacksonville, Florida 32256

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Briarwood Management LLC  
7800 Belfort Parkway, Suite 165  
Jacksonville, Florida 32256

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Volpe, Bajalia, Wickes, Rogerson, Galloway, & Wachs  
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Phone: (850) 425-4742  
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Tallahassee, Florida 32399-0426  
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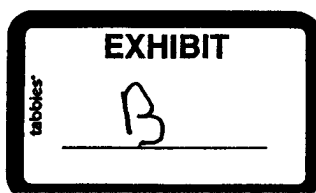
BARBARA CARTER, INSURANCE EXAMINER  
Bureau of P&C Financial Oversight  
Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, Florida 32399-0329

**REPORT ON EXAMINATION**  
**OF**  
**COMMERCIAL INSURANCE ALLIANCE,**  
**A RECIPROCAL INSURANCE COMPANY**

**JACKSONVILLE, FLORIDA**

**AS OF**  
**DECEMBER 31, 2007**

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



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Tallahassee, Florida

January 29, 2009

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, 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, 2007, of the financial condition and corporate affairs of:

**COMMERCIAL INSURANCE ALLIANCE,  
A RECIPROCAL INSURANCE COMPANY  
9309 OLD KINGS ROAD SOUTH  
JACKSONVILLE, FLORIDA 32257**

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, 2007, through December 31, 2007. This was the first examination of the Company by representatives of the Florida Office of Insurance Regulation (Office). This examination commenced, with planning at the Office, on November 17, 2008, to November 20, 2008. The fieldwork commenced on December 1, 2008, and was concluded as of January 29, 2009.

This financial examination was a statutory 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 Company's size and its very limited control environment were taken into consideration as regards the NAIC risk-focused surveillance examination approach. It was determined that a comprehensive assessment of the Company's corporate governance, internal controls and risk management environment would not be an effective use of examination resources. Therefore, a modified risk focused surveillance approach was utilized. A reduced evaluation of the Company's enterprise risk management structure and control environment was performed.

In this examination, emphasis was directed to the quality, value and integrity of the statement of assets and the determination of liabilities, as those balances indicate the financial solvency of the Company as of December 31, 2007. Transactions subsequent to year-end 2007 were reviewed where relevant and deemed significant to the Company's financial condition.

The examination included a review of the reciprocal's records and other selected records deemed pertinent to the Company's operations and practices. In addition, the NAIC IRIS ratio reports, the Company's independent audit reports and certain work papers prepared by the Company's independent certified public accountant (CPA) and other reports as considered necessary were reviewed and utilized where applicable within the scope of this examination.

This report of examination was confined to financial statements and comments on matters that involved departures from laws, regulations or rules, or which were deemed to require special explanation or description.

Based on the review of the Company's control environment and the materiality level set for this examination, reliance was placed on work performed by the Company's CPAs, after verifying the statutory requirements, for the following accounts:

- Other invested assets
- Other expenses
- Taxes, licenses and fees
- Funds held by Company under reinsurance treaties

### **Status of Adverse Findings from Prior Examination**

This was the first examination performed on the Company.

## **HISTORY**

### **General**

Commercial Insurance Alliance (Company) was licensed on May 4, 2006, by the Florida Office of Insurance Regulation (Office) for the purposes of exchanging contracts of indemnity or insurance with individuals, partnerships, corporations and other entities through the facilities of an attorney-in-fact pursuant to Chapter 629, Florida Statute, et al.

The Company was formed to provide commercial property, liability and surety coverage to businesses operating in Florida. The Company is an assessable, unincorporated aggregation of subscribers authorized to issue insurance policies under Florida insurance statutes.

Briarwood Management LLC (AIF), a special purpose Florida limited liability company, serves as the Company's attorney-in-fact and operates as the management company of the Company pursuant to a formal agreement entered into as of May 3, 2006. Management is vested with the powers and authority to exchange insurance contracts among the Company's subscribers and to manage and conduct the business of the Company.

The AIF is a Florida limited liability company which is owned twenty percent (20%) by Larry Haynes and eighty percent (80%) ultimately by Mark Witham. These two principals of Briarwood are members of the Subscribers' Advisory Committee of the Company and Mark Witham is Secretary and Larry Haynes is President of the Company.

During 2006, Briarwood contributed \$1.5 million to the Company in exchange for a surplus note and then assigned rights in the surplus note to Cornerstone Group Florida, LLC (Cornerstone). Cornerstone is a Florida domiciled limited liability company. The ultimate controlling person of Cornerstone, as stated by the Company, is Mark Witham and he serves as the President of Cornerstone.

The Company was party to Consent Order 85640-06-CO filed May 4, 2006, with the Office regarding the application for the issuance of a Certificate of Authority. The Company failed to comply with several provisions of this consent order as described in the following paragraphs.

Consent Order 85640-06-CO Section 14(h) (7) states:

"If the OFFICE issues the Certificate of Authority to APPLICANT, APPLICANT shall further comply with the following:

h.) Any arrangement or agreement with an affiliated party for the provision of administrative services shall be evidenced by a written contract. Any such contract shall comply with the following requirements.

(7) All fees and charges must be specified in the contract and they must be comparable to fees charged to any other insurer for which similar contracted services are provided by the affiliate; or, if the affiliate does not perform such services for other insurers, the fees charged must be reasonable in relation to the services provided;

The Company had two arrangements or agreements with affiliated parties for the provision of administrative services that were not evidenced by a written contract during a substantial period in which the Company was making payments.

- Consulting arrangement with Mark Witham, who serves as the Company Secretary and/or Witham & Associates since the Company's formation:

No disclosure of this arrangement has been filed with the Office and because it was a verbal agreement, no filings with the Office were made. Payments under this arrangement started at the Company's inception.

- Consulting arrangement with Isabella Holdings (Isabella):

It was disclosed by the Company that Joe Cappuccio is the President of Isabella. The Company reported that Mr. Cappuccio is also the business partner of and legal counsel to Mr. Witham, making Isabella a related party under SSAP 25.

Documentation indicated that, after repeated requests by the Company, a copy of a written consulting agreement with Isabella was provided to the Company President on January 11, 2008. The agreement states that it was made February 25, 2007, with an effective date of May 20, 2005. The agreement is signed by Mr. Witham for the Company and Mr. Cappuccio for Isabella. This agreement has never been filed with the Office.

The examiners reviewed the Company's general expense payments and noted that funds have been paid by the Company to these entities for consulting services in relation to these consulting arrangements. The fees and expenses that were paid by the Company since its inception were generally not supported by invoices or receipts disclosing the services provided the Company in return for the payments. In several instances, payments were made without

any invoices.

Payments made under these arrangements were as follows:

Payments made to Mark Witham and/or Witham & Associates from 2006 to January 20, 2009:

- \$21,239 was paid to Mark Witham directly
- \$100,081 was paid to Witham & Associates

Payments totaling \$344,723.56 have been paid to Isabella from 2006 to January 20, 2009.

Consent Order 85640-06-CO, Section 14c states

"APPLICANT shall maintain sufficient and adequate internal controls and supervision of any external contractor(s) providing services in connection with the insurance transactions of the APPLICANT, and shall further assume responsibility for the actions of said contractor(s) as they relate to any performance under the service agreements."

The Company does not maintain sufficient and adequate controls and supervision of the external contractors (Mark Witham, Witham and Associates, Isabella Holdings LLC, and Maple Technologies LLC). This was evidenced by issues such as:

- In 2005, 2006 and 2007, the Company had agreements or arrangements with Mark Witham and Witham and Associates and Isabella that were not approved by the Office or the Subscribers' Advisory Committee.
- Fees and expenses paid by the Company under these agreements since its inception were generally not supported by invoices or receipts disclosing the services provided the Company in return for the payments. In several instances, payments were made with no invoices.
- After the effective date and after funds had been paid for over two years, in January 2008, the Company first received a signed agreement with Isabella. The Isabella agreement states that the agreement was made February 25, 2007, with an effective date of May 20, 2005.
- According to correspondence supplied by the Company, in early January 2008, Mark Witham, without approval from the Subscribers' Advisory Committee and the President of the Company, added Joe Cappuccio as an authorized signatory in regards to the Company's operating account at a bank.

- On January 11, 2008, Mark Witham and Joe Cappuccio withdrew money out the Company by wiring \$40,000 to Isabella without approval from the Subscribers' Advisory Committee or the President of the Company.
- According to correspondence from Mark Witham, the fee charges for the withdrawal and the withdrawal itself were made under an agreement between Isabella and the Company that was not approved by the Company's President or the Subscribers' Advisory Committee.
- The policy administration system installed by Maple Technologies LLC has never been fully operational and the Company states that it plans to replace the entire system in the near future.

Consent Order 85640-06-CO, Sections 8, 12 and 15 of the Consent Order state:

"APPLICANT and AIF affirm that all explanations, representations, and documents provided to the OFFICE in connection with APPLICANT's application for the issuance of a Certificate of Authority, including all attachments and supplements thereto, are material to the issuance of this Consent Order and fully describe all transactions, agreements, and understandings regarding the formation and operation of APPLICANT."

Section 12 of the Consent Order goes on to say that final approval is subject to the Office receiving:

"Executed copies of all other agreements, if any, relating to the operations and management of APPLICANT."

In addition, Section 15 of the Consent Order states:

"All future administrative service contracts, management contracts and contracts between APPLICANT and any affiliated or related entities shall be submitted to the OFFICE for approval prior to the execution and/or consummation or amendment of such contracts."

The Company did not fully describe all transactions, agreements, and understandings regarding the formation and operation of the Company or file executed agreements during their application process for a Certificate of Authority with the Office. The Company had two consulting arrangements in place that were not disclosed to or filed with the Office while applying for a Certificate of Authority or subsequent to that time:

- Consulting agreement with Mark Witham and/or Witham & Associates since the Company's formation
- Consulting agreement with Isabella Holdings. As previously discussed, a copy of the consulting agreement with Isabella Holdings and CIA was provided by Mr. Witham to



the Company President on January 11, 2008.

Consent Order 85640-06-CO, Section 15 states:

"All future administrative service contracts, management contracts and contracts between APPLICANT and any affiliated or related entities shall be submitted to the OFFICE for approval prior to the execution and/or consummation or amendment of such contracts."

- Initial Claims Administrative Agreement with Allied Adjusters, Inc.  
The Company provided a letter agreement with Allied Adjusters, Inc dated September 13, 2006, regarding claim service for Commercial Insurance Alliance. However, the Company did not have a signed agreement and the agreement had not been submitted to the Office for approval as required by the Consent Order.
- Current Claims Administrative Agreement with Allied American Adjusters Company, LLC.  
The Company provided a Memorandum of Understanding between Allied American Adjusting Company, LLC and the Company. The Memorandum of Understanding set forth the guiding principles by which Allied will assist the Company in the handling of claims. The agreement had not been submitted to the Office for approval as required by the Consent Order.

The Company was authorized to transact the following insurance coverage in Florida on December 31, 2007:

Commercial Multi Peril  
Inland Marine  
Commercial Auto Liability  
Commercial Auto Physical Damage  
Surety  
Other Liability  
Credit

The Company has not written inland marine and credit insurance within the 2007 calendar year. Therefore, in accordance with Section 624.430, Florida Statutes, the Company should have those lines of insurance removed from its Certificate of Authority. **Subsequent event:** The Company submitted a plan for writing Inland Marine and Credit business, both active but previously unwritten lines of business on their Certificate of Authority.

Being organized as a reciprocal, the Company has no articles of incorporation and was subject to and governed by the provisions of the Subscribers' Agreement which designated the Attorney-in-

Fact (AIF). Under the Attorney-in-Fact Agreement, AIF served as the management company of the Company pursuant to a formal agreement entered into as of May 3, 2006. These agreements were submitted to the Office and have not been amended during the period covered by this examination.

### **Capital Stock**

Being organized as a reciprocal, the Company had no capital stock and was owned and controlled by its subscribers.

### **Profitability of Company**

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

	<b>2007</b>	<b>2006</b>
Premiums Earned	396,382	14,580
Net Underwriting Gain/(Loss)	(580,765)	(415,893)
Net Income	(443,606)	(467,032)
Total Assets	1,352,739	1,233,315
Total Liabilities	627,637	193,983
Surplus As Regards Policyholders	725,104	1,039,332

### **Dividends to Subscribers**

The Company has not declared and/or paid dividends or distributions to any of its subscribers since inception.

## **Management**

In the document entitled "The Powers of the Subscribers' Advisory Committee" it is stated that "The Committee shall have a regular meeting once during each calendar quarter to review the financial statements of the Reciprocal for such quarter and such other matters as the Committee shall determine".

Review of the minutes of the Subscribers' Advisory Committee indicated that the body has held only two meetings since the formation of the Company. Therefore, it is not in accordance with the "Powers of the Subscribers' Advisory Committee" document filed with the Florida Office of Insurance Regulation.

Subscribers' Advisory Committee Members serving as of December 31, 2007, were:

### **Advisory Committee Members**

<b>Name and Location</b>	<b>Principal Occupation</b>
Edward Walter Buttner, IV, Chairman Jacksonville, Florida	Buttner Hammock & Company, P.A.
Larry Eugene Haynes Jacksonville, Florida	President of the Company
Theodore Richard Ostrander, Jr. Leesburg, Florida	Agent, Lassiter-Ware Insurance
William Eugene Duff DeLand, Florida	Agent, Page Insurance Agency
Mark Brewster Witham New York, New York	Witham and Associates
Frank Hays Furman Jr. Pompano Beach, Florida	Insurance Broker, Frank H. Furman, Inc.
Thomas Andrew Hazel Jacksonville, Florida	Agent, Greene-Hazel and Associates

Dane Clark Griffin  
Ocala, Florida

Agent, Griffin Insurance Agency

The Company's senior officers were:

**Senior Officers**

<b>Name</b>	<b>Title</b>
Larry Eugene Haynes	President
Mark Brewster Witham	Secretary
Michael Webb Whatley	Vice President
Bradley Erik Taman	Treasurer

The Company's Subscribers' Advisory Committee has not designated any internal committees, including an audit committee.

Section 629.201, Florida Statutes, requires that the Board of Directors shall procure an audit of the accounts and records of the insurer and of the attorney-in-fact at the expense of the insurer. While the Subscribers' Advisory Committee is not expressly subject to that Section, it is a corporate governance best practice for that committee to act as an oversight and governing body in accordance with that Section. Also, the Company's "Powers of the Subscribers' Advisory Committee" document filed with the Office requires the Subscribers' Advisory Committee to procure the audit of the accounts and records of the Company and of the AIF. It further states that it should recommend to the AIF the selection of independent certified public accountants, and review the scope and results of the annual independent audit and any internal audit of the Reciprocal's financial statements. During interviews with Company officers, it was disclosed that the Company's Subscribers' Advisory Committee Chairman made the selection of the independent certified public accountants.

### **Conflict of Interest Procedure**

The Company has not adopted a policy statement requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook and Section 607.0832(2), Florida Statute.

### **Corporate Records**

The recorded minutes of the Subscribers' Advisory Committee were reviewed for the period under examination. Issues noted during that review have been discussed in this report.

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

There were no acquisitions, mergers, disposals, dissolutions, or purchases or sales through reinsurance during the period under examination

### **Surplus Debentures**

The Company, in relation to its initial surplus requirements, has one surplus debenture in the amount of \$1,500,000 issued by the Company to the AIF, then subsequently assigned to the Cornerstone Group, LLC (Florida). No violations of the surplus note restrictions were noted during the examination.

## **AFFILIATED COMPANIES**

The Company, being a reciprocal owned by its subscribers, was not a member of an insurance holding company system as defined by Rule 69O-143.045(3), Florida Administrative Code. The

AIF is part of a holding company system and also responsible for all management and administrative services required for the operation of the Company. Therefore, under the provisions of Statement on Statutory Accounting Principles 25, Paragraph 2 (i), the AIF and its affiliates were considered related parties to the Company.

The AIF was owned twenty percent (20%) by Larry Haynes and eighty percent (80%) by Cornerstone Group Florida, LLC (Cornerstone). The ultimate parent and controlling person of Cornerstone was Mark Witham and he serves as the President of Cornerstone.

The two principals of the AIF were also officers and members of the Subscribers' Advisory Committee of the Company. Mark Witham is Secretary and Larry Haynes is President of the Company.

As indicated earlier in this report, Mark Witham has received consulting fees from the Company.

Also as indicated earlier in this report, payments have been made under a consulting arrangement with Isabella Holdings (Isabella). Joe Cappuccio, President of Isabella, is also the business partner of and legal counsel to Mark Witham, making Isabella a related party under SSAP 25. These arrangements and payments have been discussed previously in this report.

During 2006, the AIF contributed \$1.5 million to the Company in exchange for a surplus note and then assigned rights in the surplus note to Cornerstone.

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

### **Management Agreement**

As previously discussed, the Company had an attorney-in-fact agreement in place with Briarwood Management LLC (AIF) wherein the AIF agreed, in return for management fees, to provide all necessary and appropriate management services, including the day-to-day administration and management of the Company's insurance business which consists of the underwriting of new business, claims adjustment, appropriate record production and the provision of all senior management.

### **Consulting Agreements**

As discussed earlier in this report, the Company had two consulting agreements with Isabella and Witham and Associates.

## **FIDELITY BOND AND OTHER INSURANCE**

The Company stated that it does not have any fidelity insurance coverage. Rule 690-142.011(11)(b)16, Florida Administrative Code, requires the Company to obtain a fidelity bond in accordance with and in an amount determined by the method provided in the NAIC Financial Examiners Handbook. The examiners determined, using that calculation method, the Company's minimum bond should be \$50,000.

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

The Company had only one employee, and had no pension, stock ownership or insurance plans.

## STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes:

STATE	Description	Market Value
FL	Cash	<u>\$ 752,883</u>
TOTAL SPECIAL DEPOSITS		<u>\$ 752,883</u>

## INSURANCE PRODUCTS AND RELATED PRACTICES

### Territory

At December 31, 2007, the Company was authorized to transact insurance only in the State of Florida.

### Insurance Products

The Company has developed and marketed commercial insurance and ancillary products to Florida based commercial interests.

### Treatment of Policyholders

During the examination, the Company stated that it has had inquiries but no complaints since the formation of the Company and, therefore, no complaint control log has been initiated. The Company must have in place formalized and documented procedures for handling complaints against the Company in accordance with Section 626.9541 (1) (j), Florida Statutes.



## **REINSURANCE**

### **Assumed**

The Company did not assume any reinsurance risk for the period covered by this examination.

### **Ceded**

At December 31, 2007, the Company had two reinsurance contracts in effect which resulted in the following:

- Covers Company's General Liability written under Commercial Package Policies and Commercial Auto Liability excess of loss reinsurance for \$900,000 xs \$100,000 per occurrence.
- Covers Company's Commercial Package Policies, Property only, quota share reinsurance of 80%, subject to a maximum recovery of 50% of gross ceded premium, but no less than \$1,250,000 or greater than \$2,500,000 as respects one event. As respects hurricane events, maximum recovery was 100% of gross ceded premium subject to a maximum of \$4,500,000.

It was determined that the Company did not have a formal contract with its reinsurance broker as required by Section 626.7492(4), Florida Administrative Code, which states that..." a transaction between a reinsurance intermediary broker and the insurer it represents in the capacity of a reinsurance intermediary broker may be entered into only pursuant to a written authorization specifying the responsibilities of each party."

### **Subsequent Event:**

Prior to completion of this exam, the Company provided the examiners a copy of a contract enacted between the Company and its reinsurance broker.

## **ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in Jacksonville, Florida, where this examination was conducted.

An independent CPA audited the Company's statutory basis financial statements for the year 2007, 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. This work was reviewed and utilized where appropriate by the examiners.

The Company's accounting records were maintained on a computerized system. The Company's balance sheet accounts were verified with the line items of the Annual Statement submitted to the Office.

It was determined during examination that general expenses paid in 2008 that were incurred in 2007 were \$40,000 above the \$62,075 reported by the Company. As a result, this liability has been increased by that amount with a corresponding adjustment to surplus as regards policyholders. A substantial amount of the increase in this liability was the result of consultant fees withdrawn in January of 2008 for bills presented the Company during 2007.

The Company and non-affiliates had the following agreements in effect at December 31, 2007:

### **Subscribers Agreements**

The Company maintained an agreement with each subscriber during the period covered by this examination. The subscriber or policyholder agreed to pay their premiums, compensate the AIF for its services and make a one-time surplus contribution to the Company.

**Claims Agreement**

The Company provided the examiners a Memorandum of Understanding between Allied American Adjusting Company, LLC and the Company. The Memorandum set forth the guiding principles by which Allied will assist the Company in the handling of claims. The agreement had not been submitted to the Office for approval as required in the Consent Order. Further details concerning this agreement have been discussed previously in this report.

**FINANCIAL STATEMENTS PER EXAMINATION**

The following pages contain financial statements showing the Company's financial position as of December 31, 2007, and the results of its operations for the year then ended as determined by this examination. There was one financial adjustment made as a result of the examination.

**COMMERCIAL INSURANCE ALLIANCE**  
**ASSETS**  
**DECEMBER 31, 2007**

	<u>Per Company</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Cash	\$ 1,226,057	\$ -	\$ 1,226,057
Investment income due and accrued	12,062		12,062
Premiums and considerations:			
Uncollected premium	108,306		108,306
Reinsurance:			
Amounts Recoverable	6,315		6,315
Totals	<u>\$ 1,352,740</u>	<u>\$ -</u>	<u>\$ 1,352,740</u>

**COMMERCIAL INSURANCE ALLIANCE  
LIABILITIES, SURPLUS AND OTHER FUNDS  
DECEMBER 31, 2007**

	<u>Per Company</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
Losses	\$ 68,000		\$ 68,000
Loss adjustment expenses	33,600		33,600
Other expenses	62,075	40,000	102,075
Taxes, licenses and fees	12,412		12,412
Unearned premium	267,835		267,835
Ceded Reinsurance Payable	<u>183,715</u>		<u>183,715</u>
Total Liabilities	<u>\$ 627,637</u>	<u>\$ 40,000</u>	<u>\$ 667,637</u>
Aggregate write-ins for other than special surplus funds:			
Subscriber Surplus Contributions	\$ 152,206		\$ 152,206
Surplus Note	1,500,000		1,500,000
Unassigned funds (surplus)	<u>(927,102)</u>	<u>(40,000)</u>	<u>(967,102)</u>
Surplus as regards policyholders	<u>\$ 725,104</u>	<u>(40,000)</u>	<u>\$ 685,104</u>
Total liabilities, surplus and other funds	<u><u>\$ 1,352,741</u></u>		<u><u>\$ 1,352,741</u></u>

# COMMERCIAL INSURANCE ALLIANCE STATEMENT OF INCOME

DECEMBER 31, 2007

## Underwriting Income

Premiums earned	\$ 396,382
<b>Deductions:</b>	
Losses incurred	56,451
Loss expenses incurred	30,127
Other underwriting expenses incurred	890,569
Total underwriting deductions	<u>\$ 977,147</u>
Net underwriting gain or (loss)	\$ (580,765)

## Investment Income

Net investment income earned	\$ 137,082
Net realized capital gains or (losses)	0
Net investment gain or (loss)	<u>\$ 137,082</u>

## Other Income

Finance and service charges not included in premiums	\$ 78
Total other income	<u>\$ 78</u>
Net income before dividends to policyholders and before federal and foreign income taxes	<u>\$ (443,606)</u>
Net Income, after dividends to policyholders, but before all other federal and foreign income taxes	\$ (443,606)
Federal and foreign income taxes incurred	0
Net Income	<u>\$ (443,606)</u>

## Capital and Surplus Account

Surplus as regards policyholders, December 31 prior year	\$ 1,039,332
Net Income	\$ (443,606)
Change in net deferred income tax	0
Change in non-admitted assets	4,581
Change in surplus notes	0
Aggregate write-ins for gains and losses in surplus	124,796
Change in surplus as regards policyholders for the year	(314,229)
Examination adjustment	(40,000)
Surplus as regards policyholders, December 31 current year	<u>\$ 685,103</u>

## **COMMENTS ON FINANCIAL STATEMENTS**

### **Losses and Loss Adjustment Expenses**

**\$101,600**

The Company's actuary rendered an opinion that the amounts carried in the balance sheet as of December 31, 2007, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements. INS Consultants, Inc. provided the examination actuary, who reviewed work papers provided by the Company and was in concurrence with this opinion.

### **Other Expenses**

General expenses paid in 2008 that were incurred in 2007 were found to be \$40,000 above the \$62,075 reported by the Company. As a result, this liability has been increased by that amount with a corresponding adjustment to surplus as regards policyholders. A substantial amount of the increase in this liability was the result of consultant fees withdrawn in January, 2008, for bills presented the Company during 2007.

### **Capital and Surplus**

The amount reported by the Company of \$725,104, which was adjusted to \$685,104, exceeds the minimum of \$250,000 required by Section 624.408, Florida Statutes.

A comparative analysis of changes in surplus follows.

**COMMERCIAL INSURANCE ALLIANCE  
COMPARATIVE ANALYSIS OF CHANGES IN SURPLUS  
DECEMBER 31, 2007**

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, 2007, per Annual Statement	\$725,103
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		<u>PER COMPANY</u>		<u>PER EXAM</u>		<u>INCREASE (DECREASE) IN SURPLUS</u>
<b>ASSETS:</b>						
No Adjustment	\$	1,352,739	\$	1,352,739	\$	-
<b>LIABILITIES:</b>						
Other Expenses	\$	627,636	\$	667,636	\$	(40,000)
Net Change in Surplus:					(40,000)	
Surplus as Regards Policyholders December 31, 2007, Per Examination					\$ 685,103	



## **SUMMARY OF FINDINGS**

### **Compliance with previous directives**

This is the first examination of the Company performed by the Office.

### **Current examination comments and corrective action**

The following is a brief summary of items of interest and corrective action to be taken by the Company regarding findings in the examination as of December 31, 2007.

#### **Subscribers' Advisory Committee – Meetings**

The "Powers of the Subscribers' Advisory Committee" document requires that the Subscribers' Advisory Committee meet quarterly. It was determined that the Company has held only two Subscribers' Advisory Committee meetings since the formation of the Company. **We recommend the Subscribers' Advisory Committee have a regular meeting once during each calendar quarter to review the financial statements of the Reciprocal for such quarter and such other matters as the Committee shall determine as stated in the "Powers of the Subscribers' Advisory Committee" document.**

#### **Selection of and Approval of Findings of Independent Auditor**

It was determined that the Company was not in compliance with Section 629.201, Florida Statutes, which requires that the Subscribers' Advisory Committee shall procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer. **We recommend the Company comply with Section 629.201, Florida Statutes, and the "Powers of the Subscribers' Advisory Committee" document and have the Advisory**

**Committee make recommendations concerning the selection of the Company's independent auditor and formally review their findings.**

**Consent Order 85640-06-CO Violation - Fees and Charges**

The Company had two arrangement or agreements with affiliated parties for the provision of administrative services that were not evidenced by a written contract which was a violation of Consent Order 85640-06-CO. **We recommend the Company comply with Consent Order 85640-06-CO and require written contracts with all affiliated parties or related parties for administrative services and, as described in the Consent Order, pay only fees and charges as reasonable in relation to services rendered as specified in the contract.**

**Consent Order 85640-06-CO Violation - Controls and Supervision of External Contractors**

The Company failed to maintain sufficient and adequate internal controls and supervision of its external contractors which was a violation of Consent Order 85640-06-CO. **We recommend that the Company comply with Section 14.c of the Consent Order by maintaining sufficient and adequate controls and supervision of its external contractors.**

**Consent Order 85640-06-CO Violation - Related Party Administrative or Consulting Agreements**

The Company did not fully describe all transactions, agreements, and understandings regarding the formation and operation of the Company or file executed agreements during their application process for a Certificate of Authority with the Office which was a violation of Consent Order 85640-06-CO. **We recommend that the Company comply with Consent Order 85640-06-CO and fully describe all transactions, agreements, and understandings regarding the formation and operation of the Company and make the required filings of agreements.**

### **Consent Order 85640-06-CO Violation - Administrative Agreements**

Consent Order 85640-06-CO required that all future administrative service contracts and management contracts be submitted to the Office for approval prior to the execution and/or consummation or amendment of such contracts. Since 2006, the Company has had two agreements with an unrelated third party regarding claims adjustment services. Those agreements have not been submitted to the Office. **We recommend the Company comply with Section 15 of Consent Order 85640-06-CO and submit the claims administrative contract to the Office for approval prior to the execution and/or consummation or amendment of such contracts.**

### **Fidelity Insurance Coverage**

The Company does not have fidelity insurance coverage to protect against loss due to Company officers or employees acting dishonestly in the Company's name. **We recommend the Company obtain fidelity insurance coverage pursuant to Rule 69O-142.011(11) (b) 16, Florida Administrative Code.**

### **Other Expenses**

General expenses paid in 2008 that were incurred in 2007 were found to be \$40,000 above the \$62,075 reported by the Company. As a result, the liability for General Expenses has been increased by that amount. **We recommend the Company establish and report an adequate amount for its other expenses liability.**

### Conflict of Interest Procedure

The company has not adopted a policy requiring annual disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook and Section 607.0832(2), Florida Statutes. **We recommend the company comply with Florida Statutes and NAIC guidelines and establish a policy requiring annual disclosure statements of any potential conflict of interest.**

### Treatment of Policyholders

The Company has no established consumer complaint log in violation of Section 626.9541 (1) (j), Florida Statutes. **We recommend that the Company document policies and procedures for handling complaints against the company in accordance with Section 626.9541 (1) (j), Florida Statutes.**

## SUBSEQUENT EVENTS

During the review of the Company's general expenses, the examiners noted that funds have been paid by the Company to various entities for what was termed consulting services. The examiners determined that, in some cases, the expenses being paid were not just the additional cost of starting a new company, but some questionable consulting fees and expenses.

As requested by the Office, the examiners have reviewed all amounts paid during 2008 and in 2009 up to the completion date of this examination. Also, we have performed additional review on related party expenses to determine the full extent of funds being withdrawn from the Company and the documentation available related to those payments.

The Company has reported and continues to report, extremely high expenses in relation to its premium income and claims activity, so the examiners focused on the Company's payment of funds to related and unrelated parties to determine if the payments were appropriate and the agreements covering the payments were in accordance with Consent Order 85640-06-CO. These agreements or arrangements were not properly disclosed to the Office in accordance with the Consent Order and, therefore, all of the payments made were not proper. These payments have been paid since the inception of the Company under unwritten agreements and continued under an agreement provided to the Company President during 2008.

In addition to the monthly fees being paid by the Company, a substantial amount of travel and entertainment expenses of these consultants was paid out of Company funds. A detailed review by the examiners of these payments indicated that proper authorization and documentation was not filed with the Company regarding these payments. In response to examiner questions, a letter dated February 11, 2009, was provided to the examiners from Briarwood Management LLC (the Attorney-in-Fact) regarding these expenses. Examiner review of explanations provided in the letter indicated that substantially all of the expenses discussed should have been the responsibility of Briarwood Management LLC and not paid out of policyholder funds.

Correspondence was supplied by the Company documenting attempts to obtain proper invoices and justification of charges.

Mark Witham and Isabella Holdings have agreed to repay all funds withdrawn by them or paid to them as consulting fees. The Office was notified of this statement.

Also, in a letter dated February 25, 2009, the Office notified the Company that it had failed to request the Office's approval prior to entering into affiliated agreements with Mark Witham and

Witham Associates. Payments were also made to Isabella Holdings which were not substantiated by the proper documentation of services rendered. The Office further stated that these agreements should be canceled immediately and no further payments made without the Office's prior approval. Additionally, the Company should seek the return of all fees and expenses incurred by the Company associated with the aforementioned agreements and should provide evidence of such to the Office no later than Friday, March 6, 2009. Evidence of repayment on March 6, 2009, was provided to the Office.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Commercial Insurance Alliance** as of December 31, 2007, consistent with the insurance laws of the State of Florida.

Per examination findings, the Reciprocal's Surplus as Regards Policyholders was \$685,104, in compliance with Section **629.071**, Florida Statutes.

In addition to the undersigned, Patricia Casey Davis, CFE, CPA; Hails W. Taylor, CFE; and Donald Gaskill, CFE of INS Regulatory Insurance Services, Inc. participated in the examination. We also recognize INS Consultants, Inc. and INS Services, Inc.'s participations in this examination.

Respectfully submitted,

---

Kethessa Carpenter, CPA  
Financial Examiner/Analyst Supervisor  
Florida Office of Insurance Regulation

Affidavit of Stephen J. Szypula

State of Florida

County of Leon

BEFORE ME, the undersigned authority appeared Stephen J. Szypula, who after being sworn, deposes and says:

1. I, Stephen J. Szypula, am over the age of eighteen (18), sui juris, and I am competent to testify to and have personal knowledge of the facts contained herein.

2. I, Stephen J. Szypula, currently hold the position of Chief Analyst with the Property & Casualty Financial Oversight business unit of the Florida OFFICE of Insurance Regulation (hereinafter referred to as the "OFFICE"). I graduated from Utica College of Syracuse University in 1987 with a Bachelor's degree in Accounting. I hold four professional certifications, Certified Financial Examiner (CFE), Senior Professional in Insurance Regulation (SPIR), Certified Public Manager (CPM), and Certified Government Financial Manager (CGFM). I have been employed by the OFFICE since November 1989. My responsibilities include managing the activities regarding the compliance, operational, and solvency analysis of property and casualty insurers.

3. Commercial Insurance Alliance (hereinafter referred to as "CIA") is a Florida reciprocal insurer that was authorized to transact insurance business in the State of Florida on May 5, 2006.

4. The OFFICE has determined that one or more grounds exist for the initiation of delinquency proceedings pursuant to Section 631.051, Florida Statutes,



against CIA. As specified in Section 631.051, Florida Statutes, among the grounds that allow a petition for the appointment of a receiver include:

a. Is or is about to become Insolvent;

i. The OFFICE has received multiple reports indicating that CIA is not capable of paying its debts as they become due in the usual course of business.

ii. On November 9, 2010, the OFFICE received a letter (attached as Exhibit "A" and incorporated by reference) from an attorney David F. Tegeler stating that his client, Coastal Mechanical Special Projects, LLC had been awarded a Final Judgment (attached as Exhibit "B" and incorporated by reference) against CIA, on October 27, 2010, in the amount of sixty seven thousand, seven hundred twenty one U.S. Dollars and eighty two cents (\$67,721.82). Mr. Tegeler further stated that legal counsel representing CIA has informed him that CIA does not have the assets to pay the aforementioned Final Judgment.

iii. On January 19, 2011, the OFFICE received an affidavit (attached as Exhibit "C" and incorporated by reference) from attorney Jacqueline J. Bird indicating that she represents a client by the name of Mary Hajducek in a personal injury claim against one of CIA's insureds. In the affidavit, Ms. Bird stated that her client entered into a settlement agreement (attached as Exhibit "D" and incorporated by reference), on November 12, 2010, to resolve the aforementioned claim. Ms. Bird further stated that CIA promised to pay her client a settlement of seventy five thousand U.S. Dollars (\$75,000) by December 3, 2010 but as of the

date of her affidavit, January 12, 2011, no such payment has been received by herself or her client.

iv. On November 29, 2010, CIA informed the OFFICE that there were approximately one hundred forty one thousand, four hundred eighteen U.S. Dollars and ninety five cents (\$141,418.95) in loss and loss adjustment expenses that were due by December 22, 2010 (see attached Exhibits "E" and "F"). On November 20, 2010 CIA had cash on hand of approximately eight thousand U.S. Dollars (\$8,000) (See attached Exhibit "G"). CIA has on file with the Office a five hundred thousand U.S. Dollar (\$500,000) deposit, which could help facilitate run-off of the remaining loss and loss adjustment expenses. On August 25, 2010, CIA submitted to the OFFICE a request for the release of two hundred thousand U.S. Dollars (\$200,000) of the five hundred thousand U.S. Dollar (\$500,000) deposit in order to pay claims. The OFFICE had previously released two hundred fifty thousand U.S. Dollars (\$250,000) of the original seven hundred fifty thousand U.S. Dollar (\$750,000) deposit in order to facilitate the payment of claims. Upon reviewing the second request, the OFFICE informed CIA that it needed to raise additional funds so as to make it capable of paying claims in the normal course of business. CIA has not submitted any documentation to the OFFICE indicating that it has attempted to raise such additional funds by ordering an assessment of its subscribers or through other means.

v. The OFFICE is also in receipt of a complaint (herein after referred to as the "Complaint", attached as Exhibit "H" and incorporated by reference) filed by CIA, in The Circuit Court, Fourth Judicial Circuit, In And For Duval County,

Florida, against The Underwriters Group, Inc., a Florida corporation, Larry J. Wright, an individual, and First Mountain Bancorp, a Nevada Corporation. In the Complaint, CIA alleges that First Mountain Bancorp has refused to release funds that are legally due and payable to CIA. The Complaint further alleges that as a result of First Mountain Bancorp's failure to remit said funds, CIA has suffered from frozen bank accounts and has had judgments entered against it. Consequently, CIA cannot use the aforementioned funds to pay its debts as they become due in the normal course of business and as result CIA has alleged in the Complaint that it could be subjected to paying treble damages and attorney's fees.

vi. Based upon the multiple reports the OFFICE has received indicating that CIA is not paying its debts as they become due in the normal course of business, the OFFICE's review of CIA's financial condition and the Complaint in which CIA alleges that it is suffering from frozen bank accounts, the OFFICE has determined that CIA is or is about to become insolvent.

b. Has been the victim of embezzlement, wrongful sequestration, conversion, diversion, or encumbering of its assets, forgery or fraud affecting it, or other illegal conduct in, by, or with respect to it, which if established would threaten its solvency; or that the office has reasonable cause to so believe any of the foregoing has occurred or may occur;

i. By CIA's own admission, in the Complaint, CIA asserted that First Mountain Bancorp has wrongfully sequestered or encumbered the assets of CIA and as a result CIA has suffered from frozen bank accounts. Consequently, CIA has not been able to use the unremitted funds to pay its debts in the normal course

of business and is or is about to be insolvent as defined in Section 631.011(14), Florida Statutes.

c. Is found by the OFFICE to be in such a condition or is using or has been subject to such methods or practices in the conduct of its business, as to render its further transaction of insurance presently or prospectively hazardous to its policyholders, creditors, stockholders, or the public;

i. On May 4, 2006, pursuant to Consent Order 85640-06-CO, the OFFICE approved an application submitted by CIA to obtain a Certificate of Authority to transact insurance business in the State of Florida. CIA has subsequently violated Consent Order 85640-06-CO by failing to fully describe to the OFFICE all transactions, agreements, and understandings regarding the formation and operation of CIA. CIA further violated Consent Order 85640-06-CO by failing to submit all future administrative service contracts, management contracts and contracts between CIA and any affiliated or related entities to the OFFICE for approval prior to the execution and/or consummation of said contracts.

ii. CIA failed to maintain sufficient and adequate controls and supervision over its external contractors, as required by Consent Order 85640-06-CO. This finding is supported by the following:

(1). In 2005, 2006 and 2007, CIA entered into agreements or arrangements with Mark Witham and/or Witham & Associates, Isabella Holdings, and Maple Technologies LLC (herein after collectively referred to as "Third Parties") that were not approved by the OFFICE or CIA's Subscriber's Advisory Committee.

(2). On February 25, 2007, CIA executed an agreement with Isabella Holdings that had an effective date of May 20, 2005. CIA paid funds to Isabella Holdings for over two (2) years, for services rendered by Isabella Holdings, without entering into a written contract memorializing the arrangement.

(3). CIA generally paid fees and expenses to the Third Parties without requiring the Third Parties to submit invoices or receipts disclosing the services provided to CIA in return for these payments.

(4). According to correspondence provided to the OFFICE by CIA in early January 2008, Mark Witham added an individual by the name of Joe Cappuccio as a signatory to CIA's operating account, without approval of CIA's Subscribers' Advisory Committee or the President of CIA.

(5). Mark Witham and Joe Cappuccio withdrew a sum of forty thousand U.S. Dollars (\$40,000) from CIA's operating account and paid said funds to Isabella Holdings without prior approval from CIA's Subscribers' Advisory Committee or the President of CIA.

iii. As of August 19, 2009, CIA was retaining risks in an amount exceeding ten percent (10%) of its surplus to policyholders in violation of Section 624.609, Florida Statutes.

iv. Between 2006 and 2009 CIA paid four hundred sixty-nine thousand, eight hundred and eighty-one U.S. Dollars (\$469,881) in fees and expenses under affiliated agreements which had not been submitted for prior approval by the OFFICE in violation of Rule 69O-143.,047, Florida Administrative Code. These

funds were returned to CIA on behalf of Mark Witham, at the request of the OFFICE.

v. Contrary to representations made to the OFFICE, the returned funds were obtained through a secured promissory note issued to Genesis 7 Capital Management, LLC (hereinafter referred to as "GENESIS"), in which the satisfaction of the note was secured by the total diluted issued and outstanding membership in Briarwood Management, LLC. The secured promissory note which hypothecates the membership interest of Briarwood Management, LLC contains provisions which require the approval of the pledgor, GENESIS, prior to CIA entering into certain transactions which constitute "control" as defined by Rule 69O-143.045, Florida Administrative Code. This "control" that has been granted to GENESIS is in violation of Section 628.461, Florida Statutes.

vi. Because of CIA's violation of Consent Order 85640-06-CO, Sections 624.609 and 628.461, Florida Statutes and Rule 69O-143.047, Florida Administrative Code, CIA "is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state hazardous to its policyholders or to the public", and has violated a lawful order and Rule of the OFFICE and provisions of the insurance code in violation of Sections 624.418(1)(b) and 624.418(2)(a), Florida Statutes.

5. Thus, the OFFICE has made the determination that the grounds for issuing an Order for entry into rehabilitation exist under Section 631.051, Florida Statutes.

FURTHER AFFIANT SAYETH NAUGHT.

Stephen J. Szypula

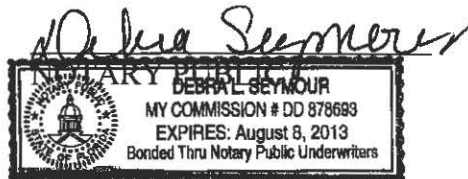
Stephen J. Szypula  
Chief Analyst  
Property & Casualty Financial Oversight  
Office of Insurance Regulation

STATE OF Florida  
COUNTY OF Leon

The foregoing affidavit was sworn to and subscribed before me this 19<sup>th</sup> day of January, 2011, by Stephen J. Szypula.  
Personally known to me ✓  
Identification Produced FLA DL

SWORN AND SUBSCRIBED, before me this 19<sup>th</sup> day of January, 2011.

My Commission Expires:  
Aug 8, 2013





**MICHAEL C. SASSO, P.A.**  
**ATTORNEYS AT LAW**

**MICHAEL C. SASSO\***  
**BARBARA B. SMITHERS\***  
**DAVID F. TEGELER\*\***

**B. KATHLEEN DEVORE\***  
**SARAH BETH LARUE\***  
**WENDY E. LEWIS\***



**1031 WEST MORSE BOULEVARD**  
**BANKFIRST BUILDING, SUITE 260**  
**WINTER PARK, FLORIDA 32789**

**(407) 644-7161 (TELEPHONE)**  
**(407) 629-6727 (FACSIMILE)**  
**MSASSO@SASSO-LAW.COM (EMAIL)**

**\*FLORIDA REGISTERED PARALEGAL**

**\*BOARD CERTIFIED IN CONSTRUCTION LAW**

**\*REGISTERED ARCHITECT**

November 5, 2010

Kevin M. McCarty  
Insurance Commissioner  
Office of Insurance Regulation  
200 East Gaines Street  
Tallahassee, FL 32399

*Via U.S. Certified Mail*

Re: Coastal Mechanical Special Projects, LLC.  
vs. Commercial Insurance Alliance, a Reciprocal Insurance Company

Dear Commissioner McCarty:

Our law firm represents Coastal Mechanical Special Projects, LLC, the Plaintiff in a lawsuit in Orange County, Florida. Enclosed is a copy of a Final Judgment against Commercial Insurance Alliance, a Reciprocal Insurance Company, dated October 27, 2010, in favor of that Plaintiff in the amount of \$67,721.82. The Plaintiff also has a claim against Commercial Insurance Alliance for attorney's fees, costs and expenses in the amount of \$198,350.00. The Defendant's counsel has told us that Commercial Insurance Alliance currently has no assets to pay these claims.

The Plaintiff wishes to collect the Final Judgment and its claim for attorney's fees, costs and expenses from funds in the possession of the State of Florida Department of Financial Services and/or the Office of Insurance Regulation. It is our understanding that Commercial Insurance Alliance paid the State of Florida \$752,883.00 in cash as a security deposit when it was first licensed in May 2006.

Please make immediate payment of the Final Judgment amount of \$67,721.82 with a check payable to "Michael C. Sasso, P.A." Thank you for your prompt attention to this request. If you have any questions or comments with regard to this matter, please do not hesitate to contact me.

Very truly yours,

*David F. Tegeler*

David F. Tegeler

**RECEIVED**

NOV 10 2010  
OFFICE OF INSURANCE  
REGULATION

Enclosure





IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT IN AND  
FOR ORANGE COUNTY, FLORIDA

COASTAL MECHANICAL  
SPECIAL PROJECTS, LLC,

CASE NO.: 2009-CA-025101-O  
DIVISION: 35

Plaintiff,

vs.

COMMERCIAL INSURANCE ALLIANCE,  
A Reciprocal Insurance Company,

Defendant.

CLERK OF COURT  
ORANGE COUNTY FL  
LMDA SUTNER  
2010 OCT 27 AM 9:15  
CLERK'S OFFICE

**FINAL JUDGMENT**

THIS CAUSE having come before the Court on a Joint Stipulation for Entry of Final Judgment dated October 26, 2010, this Court having reviewed the file, and being otherwise advised in the premises, it is hereby ORDERED AND ADJUDGED:

The Plaintiff, COASTAL MECHANICAL SPECIAL PROJECTS, LLC ("Coastal"), is hereby entitled to the relief sought in its Complaint dated August 5, 2009 against Defendant, COMMERCIAL INSURANCE ALLIANCE, a Reciprocal Insurance Company ("Commercial").

1. The Court finds that the following facts have been established and rules as follows:
  - a. The Circuit Court of Orange County has subject matter and personal jurisdiction by virtue of Section 26.012(2)(a), Florida Statutes and Article V of the Florida Constitution and Section 48.193, Florida Statutes, in that Defendant operates, conducts, engages in, or carries on business in the State of Florida and/or has breached a contract in the State of Florida and/or has breached a contract in the State of Florida by failing to perform acts required by the contract to be performed in the State of Florida and/or has contracted to insure any person, property or risk in the



State of Florida.

- b. Venue in this action is proper in Orange County, Florida pursuant to Section 47.051, Florida Statutes, because the property at issue is located in Orange County, Florida.
- c. On or about September 19, 2008, Harris as Principal and Surety executed and issued a Payment Bond in the penal sum of \$1,317,253.39 (hereinafter "the Bond"). A copy of the Bond is attached to the Plaintiff's Complaint as Exhibit "A."
- d. Pursuant to a Subcontract Agreement dated June 6, 2008, (hereinafter "the Subcontract") and in order to complete its contract with UCF, Harris subcontracted with Plaintiff to perform certain HVAC work for the Project. A copy of the Subcontract is attached to the Plaintiff's Complaint as Exhibit "B."
- e. Plaintiff has engaged its counsel of record to bring suit on its behalf, and Plaintiff is obligated to pay its attorneys a reasonable fee for their services in this case, for which Defendant is liable.
- f. Plaintiff's claim for attorney's fees, taxable costs and expenses are covered claims which arose out of and are within the coverage provisions of the Bond.

2. The Plaintiff, COASTAL MECHANICAL SPECIAL PROJECTS, LLC, whose address is 395 East Drive, Melbourne, Florida 32904, shall recover from the Defendant, COMMERCIAL INSURANCE ALLIANCE, whose address is 9309 Old Kings Road South, Suite 3, Jacksonville, Florida 32257, the sum of \$61,691.90, plus pre-judgment interest at the statutory rate of six percent (6%) from May 24, 2009 until the date of this Final Judgment in the amount of \$6,029.92, for a total Final Judgment sum of \$67,721.82, which shall bear post-judgment interest at an annual percentage rate of six percent (6%) from the date of this Final Judgment until paid, for which let multiple writs of execution issue.

3. The Court finds that Plaintiff is the prevailing party and is entitled to recover its reasonable attorney's fees, taxable costs and expenses in an amount to be later determined by the Court, for which Defendant is liable.

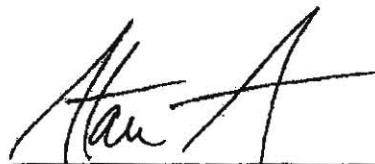
4. The Court reserves jurisdiction of this action to enter all appropriate orders to enforce this Final Judgment, including multiple writs of execution.

5. It is further ordered and adjudged that said Defendant, as the Final Judgment debtor, shall complete under oath Florida Rule of Civil Procedure Form 1.977(b) (Fact Information Sheet), including all required attachments, and serve them on the Judgment creditor's attorney within 45 days from the date of this Final Judgment, unless the Final Judgment is satisfied or post-Judgment discovery is stayed.

6. Jurisdiction of this case is retained to enter further Orders that are proper to compel the Judgment debtor to complete Form 1.977(b), including all required attachments, and serve them on the Judgment creditor's attorney.

7. This Court reserves jurisdiction to determine the amount of Plaintiff's reasonable attorney's fees, taxable costs and expenses and to enter further orders or judgments thereon.

DONE AND ORDERED at Orlando, Orange County, Florida this 27 day of October, 2010.

  
\_\_\_\_\_  
STAN STRICKLAND  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 27<sup>th</sup> day of October, 2010, a copy of the foregoing was

furnished by U.S. Mail upon the following: Michael C. Sasso, Esquire, Michael C. Sasso, P.A., 1031 West Morse Boulevard, Suite 260, Winter Park, Florida 32789; and Robert J. Stovash, Esquire, Stovash, Case & Tingley, P.A., 200 South Orange, Avenue, Suite 1220, Orlando, Florida 32801.

*David F. Tepler*

~~Judicial Assistant~~ / Attorney

STATE OF FLORIDA, COUNTY OF ORANGE I HEREBY CERTIFY  
that the above and foregoing is a true copy of the original filed in this office  
OCT 27 2010 LYNN A. GIBSON, Clerk Circuit Court  
Date \_\_\_\_\_ By *[Signature]* D.C.

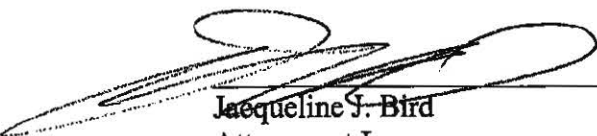


AFFIDAVIT

BEFORE ME personally appeared Attorney, Jacqueline J. Bird who being sworn by me deposes and states:

- 1) I represent Ms. Mary Hajducek in a pre suit claim for personal injuries against Caribe Deli, Inc. who is and was insured by Commercial Insurance Alliance.
- 2) On November 12, 2010, this case was resolved in mediation with a settlement of 75,000.00 to Ms. Hajducek. (see exhibit "A")
- 3) Commercial Insurance Alliance promised to pay said 75,000.00 by December 3, 2010.
- 4) Said funds have never been received by the undersigned or her client after repeated demands for payment of same.
- 5) The undersigned believes that some forty days is an unreasonable period of time to await payment as promised.
- 6) My client signed and returned the release to Commercial Insurance Alliance's Counsel well before December 3, 2010 and has done all required of her under the Settlement Agreement.

FURTHER AFFIANT SAYETH NAUGHT.

  
Jacqueline J. Bird  
Attorney at Law

1-12-11  
Date

Before me appeared Jacqueline J. Bird, who is personally known to me, and swears and affirms that the foregoing is true and correct. Dated this 12 day of January, 2011

(SEAL)

  
Notary Public





Mary Hajducek,

Plaintiff,

vs.

Case No.: Presuit

Caribe Deli Grocery, Inc.

Defendant.

---

**SETTLEMENT AGREEMENT**

Plaintiff, Mary Hajducek, and Defendant, Caribe Deli Grocery, Inc., mediated this case on November 12, 2010. The parties resolved their dispute under the following terms and conditions:

1. Defendant's insurance carrier agrees to pay and Plaintiff agrees to accept the total sum of \$75,000.00 in settlement of all claims, inclusive of attorney's fees and costs. Unless otherwise provided for herein, each side shall be responsible for the payment of their own attorney's fees and costs. Defendant's insurance carrier agrees to tender the settlement check to Plaintiff's counsel on or before December 3, 2010.

2. Plaintiff agrees to execute a mutually acceptable general release, to be prepared by defense counsel, releasing Defendant, Defendant's insurance carrier, its agents and/or employees from any and all claims filed, that could have been filed or that could be filed against Defendant, Defendant's insurance carrier, its agents and/or employees as a result of an incident which occurred on or about April 17, 2008. Plaintiff further agrees to defend and hold Defendant, Defendant's insurance carrier, its agents and/or employees harmless from any and all liens or claims of liens or subrogation claims filed, that could have been filed or that could be

EXHIBIT

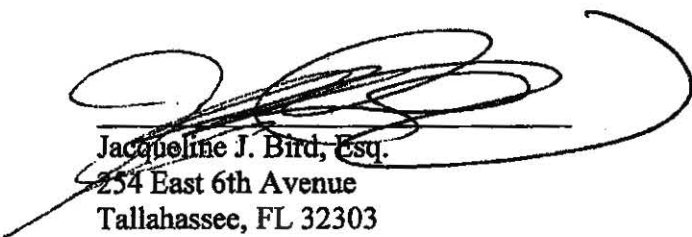
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filed as a result of persons or entities providing health care benefits to or on behalf of Plaintiff, including but not limited to workers' compensation, Medicare or CHAMPUS VA benefits.


3. Settlement of this matter and payment of the amount described in paragraph one shall not be construed as an admission of liability on the part of the Defendant.

4. Mediation costs will be paid on a pro rata basis.


DATED this 12th day of November, 2010.



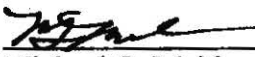
Jacqueline J. Bird, Esq.  
254 East 6th Avenue  
Tallahassee, FL 32303



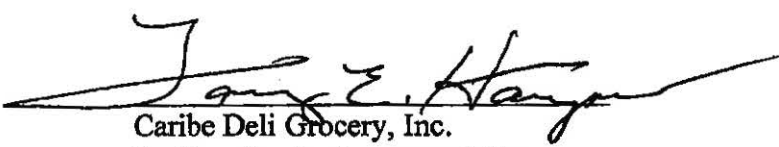
Kenneth C. Steel, III Esq  
Boyd & Jenerette  
201 N. Hogan Street, Suite 400  
Jacksonville, FL 32202




Mary Hajducek



Michael G. Maida  
Michael G. Maida, P.A.  
Post Office Box 12093  
Tallahassee, FL 32317-2093  
(850) 425-8124  
Mediator, #05537R



Caribe Deli Grocery, Inc.  
By its authorized representative



Commercial Insurance Alliance  
a reciprocal insurance company  
By its attorney in fact

**Commercial Insurance Alliance - Open Claims reported as of 9-30-2010**

CLAIMNO	INSURED	Type Loss	ACCDESC	L+LAE
20-00013-08	Caribe Deli Grocery, Inc.	CPP-Liability	Claimant tripped on rug exiting the store & dislocated shoulder	\$162,604
20-00037-09	Crystal River Seafood #4, Inc.	CPP-Liability	Claimant fell on floor and strained back & groin	\$7,000
20-00041-09	Hill's Hardware & Recycling	CPP-Liability	Claimant fell in the parking lot-tripped on a chair set out for sale	\$165,000
20-00042-09	Sparks Theatre, Inc.	CPP-Liability	Claimant fell while going out the exit door	\$12,000
20-00060-10	Community Rural Health Inc.	CPP-Liability	Plastic skeleton fell & hit claimant on side of head	\$2,000
20-00062-10	Richardson & Fitzgerald DBA Art of Hair	CPP-Liability	Claimant fell & said she broke wrist and tore tendon in foot	\$17,000
20-00063-10	St. John's Ave Baptist Church	CPP-Liability	Claimant fell & fractured wrist at roller skating event	\$0
30-00001-09	Garden World	Surety	John Deere Landscapes	\$0
30-00002-09	Garden World	Surety	John Deere Landscapes	\$0

**EXHIBIT**

E



**Commercial Insurance Alliance - Open Claims reported as of 9-30-2010**

CLAIMNO	INSURED	Type Loss	ACCDESC	L+LAE
30-00006-09	Garden World	Surety	City of Casselberry	\$15,000
30-00006-09	Garden World	Surety	Bob's Baricades & Amplex	\$36,682
30-00011-10	ELCI Construction	Surety	Dixie Landscapes	\$32,502
30-00013-10	Thunderhole Inc	Surety	A-1 Florida Sod	\$16,924
30-00014-10	Devland Site Inc	Surety	All Phase	\$0
30-00015-10	Harris Construction	Surety	Florida Fire & Sound, IDN & Coastal Mechanical	\$0
			TOTAL DIRECT LOSS + LAE CASE RESERVES	\$466,712

**From:** Edward Buttner [ewbuttner@hotmail.com]  
**Sent:** Monday, November 29, 2010 1:58 PM  
**To:** mike whatley; David Altmaier  
**Cc:** Jamezetta Horne; Robert Ballard  
**Subject:** RE: CIA

The current cash balance is \$2500 in the claims account and \$5500 in the operating account.

Edward Buttner  
 (904)281-0080 office  
 (904)394-8150 direct dial office  
 (904)607.3113 cell  
 (904)281-0518 fax  
 4237 Salisbury Road  
 Building 1 Suite 100  
 Jacksonville, Florida 32216

---

**From:** Mike.Whatley@fnf.com  
**To:** David.Altmaier@floi.com; ewbuttner@hotmail.com  
**CC:** Jamezetta.Horne@floi.com; Robert.Ballard@floi.com  
**Date:** Mon, 29 Nov 2010 12:50:55 -0600  
**Subject:** RE: CIA

Mr. Altmaier,

Per Mr. Buttner's request, here is a list of the Loss & LAE payments that are due immediately:

CLAIMNO	INSURED	Type Loss	LOSS	LAE	Comments
20-00013-08	Caribe Deli Grocery	CPP-Liability	\$75,000.00	\$5,208.00	settled at mediation for \$7 attorney bills due of \$5,20
20-00042-09	Sparks Threatre, Inc.	CPP-Liability	\$6,125.00	\$1,656.00	final settlement reached for final bill due of \$1,656.
30-00005-09	B&M Landscaping	Surety	\$0.00	\$6,720.00	attorney's fees for Ricardo
30-00006-09	Garden World	Surety	\$15,000.00	\$0.00	settlement agreement reac
30-00015-10	Harris Construction	Surety	\$24,000.00	\$7,709.95	settlement agreement reac
TOTAL LOSS + LAE PAYMENTS DUE			\$120,125.00	\$21,293.95	

The applicable settlement agreements, invoices and bills are attached.

Thank you,  
 Mike whatley

---

**From:** David Altmaier [mailto:David.Altmaier@floi.com]  
**Sent:** Monday, November 29, 2010 11:16 AM  
**To:** ewbuttner@hotmail.com; Whatley, Mike  
**Cc:** Jamezetta Horne; Robert Ballard  
**Subject:** CIA



Mr. Buttner,

Thanks for your time on the phone this morning. While reviewing CIA's request for the release of the deposit, it would be helpful for us to review the issue from a cash flow perspective. Would you please provide the following:

1. Liabilities due immediately.
2. Cash on hand to pay immediate liabilities.

Please feel free to call me with any questions. Thanks,

David Altmaier, APIR  
Financial Examiner/Analyst Supervisor  
Florida Office of Insurance Regulation  
Bureau of P&C Financial Oversight  
Tel. (850) 413-3849  
Fax (850) 488-2935

2:46 PM  
11/16/10  
Accrual Basis

Commercial Insurance Alliance, A Reciprocal Insurance Co.  
**Balance Sheet**  
As of September 30, 2010

	Sep 30, 10
<b>ASSETS</b>	
<b>Current Assets</b>	
Checking/Savings	
105030 · CIA 5992 Operating Merc	29,158.28
105050 · CIA 5860 Claims Merc	18,208.58
105100 · Florida Department of Insurance	502,833.02
<b>Total Checking/Savings</b>	<b>550,199.88</b>
<b>Other Current Assets</b>	
112000 · Int, Div, RE Inc Due & Accrued	8,200.95
113500 · Surety Recoverable	443,442.80
113501 · Surety Non Admitted Asset	-443,442.79
114000 · Reinsurance	
114010 · Amts recov. from reinsurers	24,858.13
114030 · Other Amts rcv under Reins con	46,069.38
<b>Total 114000 · Reinsurance</b>	<b>70,927.51</b>
<b>Total Other Current Assets</b>	<b>79,128.47</b>
<b>Total Current Assets</b>	<b>629,328.35</b>
<b>TOTAL ASSETS</b>	<b>629,328.35</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Other Current Liabilities</b>	
201000 · Losses	
201001 · Losses - Reported Direct	432,000.00
201003 · Losses Reported-Ceded	-110,047.83
201005 · Losses IBNR Direct	50,000.00
<b>Total 201000 · Losses</b>	<b>371,952.17</b>
203000 · LAE	
203050 · LAE DCC- IBNR Direct	24,000.00
203051 · LAE A&O- IBNR Direct	8,000.00
203100 · LAE DCC - Case Direct	27,604.00
203103 · LAE DCC- Case Ceded	-9,797.47
203110 · LAE A&O - Case Direct	13,720.00
<b>Total 203000 · LAE</b>	<b>63,526.53</b>
206000 · Taxes, licenses and fees	
206001 · Citizens Assessment	-699.28
206002 · FHCF	-211.91
206003 · FL Fire	1,843.52
206004 · FL EMPAT	1,979.00
206005 · Premium Tax	-1,931.64
<b>Total 206000 · Taxes, licenses and fees</b>	<b>979.69</b>
209000 · Unearned Premium	
209001 · Unearned Premiums	1,888.12
209021 · Unearned Premium Ceded Reins.	-982.68
<b>Total 209000 · Unearned Premium</b>	<b>905.44</b>
212000 · Ceded Reinsurance Payable	55,157.44
<b>Total Other Current Liabilities</b>	<b>492,521.27</b>
<b>Total Current Liabilities</b>	<b>492,521.27</b>
<b>Total Liabilities</b>	<b>492,521.27</b>



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11/16/10

Accrual Basis

**Commercial Insurance Alliance, A Reciprocal Insurance Co.**  
**Balance Sheet**  
**As of September 30, 2010**

	<u>Sep 30, 10</u>
<b>Equity</b>	
330010 • Subscriber's Surplus Contrib.	565,051.66
331000 • Surplus Notes	1,500,000.00
333010 • Unassigned funds (surplus)	-1,540,473.86
333020 • Change in Non Admitted Assets	-443,442.79
Net Income	55,672.07
<b>Total Equity</b>	<u>136,807.08</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>629,328.35</u></u>

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11/16/10

Accrual Basis

## Commercial Insurance Alliance, A Reciprocal Insurance Co.

## Profit &amp; Loss

January through September 2010

	Jan - Sep 10
Ordinary Income/Expense	
Income	
401000 · Premiums earned	
401100 · Premium Direct Earned	
401001 · Premium Written Direct	-2,408.88
401006 · Change In Direct Unearned Prem.	656,336.95
Total 401100 · Premium Direct Earned	653,928.07
401200 · Premium Ceded Earned	
401005 · Reinsurance Ceded to Non-Aff.	-116,280.64
401036 · Change In Ceded Unearned Prem.	-422,859.98
Total 401200 · Premium Ceded Earned	-539,140.62
Total 401000 · Premiums earned	114,787.45
Total Income	114,787.45
Expense	
520000 · Losses incurred	
520001 · Losses Direct	
521000 · Losses Paid Direct	75,516.35
521010 · Losses Paid Surety	133,974.38
521100 · Change in Reported Direct	259,500.00
521200 · Change in IBNR Direct	-242,000.00
Total 520001 · Losses Direct	226,990.73
520002 · Losses Ceded	
523000 · Losses Reins. Recovered	-51,439.30
523001 · Chg in Reported Ceded	-70,732.53
523002 · Change In IBNR Ceded	24,000.00
Total 520002 · Losses Ceded	-98,171.83
Total 520000 · Losses incurred	128,818.90
523003 · Change in Surety Recov. Losses	-384,160.30
523004 · Change in Surety Rec DCC Losses	0.00
530000 · Loss expenses	
530001 · LAE Direct	
530110 · LAE DCC Paid Direct	24,612.62
530110A · LAE DCC Paid Surety	121,648.32
530112 · Chg in LAE DCC Direct	6,604.00
530113A · Change in LAE DCC Surety	6,220.00
530114 · Chg in LAE DCC IBNR	-45,000.00
Total 530001 · LAE Direct	114,084.94
530002 · LAE Ceded	
530130 · LAE DCC - Ceded	-20,030.60
530132 · Chg in LAE DCC Ceded	8,202.53
530134 · Chg in LAE DCC IBNR Ceded	1,600.00
Total 530002 · LAE Ceded	-10,228.07
530111 · LAE A&O Paid Direct	18,783.12
530114A · Chg in A&O Paid Surety	30,644.50
530115 · Chg in LAE A&O IBNR	-30,000.00
530131 · LAE A&O Ceded	-5,227.90
530133 · Chg in LAE A&O Ceded	2,800.00
530135 · Chg in LAE A&O IBNR Ceded	4,800.00
Total 530000 · Loss expenses	125,656.59
530011 · LAE DCC Surety Paid Direct.	0.00
600000 · Other Underwriting Expenses	
602004 · Commission and brokerage	
602012 · Direct Commission-UW	3,344.32
602032 · Reinsurance ceded Commissions	3,935.96
Total 602004 · Commission and brokerage	7,280.28

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11/16/10  
Accrual Basis

**Commercial Insurance Alliance, A Reciprocal Insurance Co.**  
**Profit & Loss**  
January through September 2010

	Jan - Sep 10
604002 · Advertising - UW	92.00
605002 · Boards,bureaus and assoc.-UW	278.18
608000 · Salary and related items	
6080121 · Salaries - UW	76,871.26
608022 · Payroll Taxes-UW	6,806.64
Total 608000 · Salary and related items	83,677.90
609002 · Employee relations & welfare-UW	5,307.79
612002 · Travel and travel items-UW	2,618.60
613004 · Rent and rent item-Total	
6130021 · Rent and rent items-UW	11,359.90
Total 613004 · Rent and rent item-Total	11,359.90
614002 · Equipment-UW	2,445.90
615004 · Cost of EDP equip & soft-Total	
6150021 · Cost of EDP equip and soft.-UW	3,762.30
Total 615004 · Cost of EDP equip & soft-Total	3,762.30
616004 · Printing and Stationery-Total	
6160021 · Printing and stationery-UW	555.37
Total 616004 · Printing and Stationery-Total	555.37
617004 · Postage telephone & tele. Total	
6170021 · Postage telephone & tele.-UW	6,032.92
Total 617004 · Postage telephone & tele. Total	6,032.92
618004 · Legal and auditing-Total	
6180021 · Legal and auditing-UW	8,233.66
Total 618004 · Legal and auditing-Total	8,233.66
620052 · Taxes, licenses and fees-UW	
620014 · State & local ins taxes-Total	
6200121 · State and local insurance taxes	-33.73
Total 620014 · State & local ins taxes-Total	-33.73
6200221 · Ins. dept. licenses and fees-UW	5,269.25
Total 620052 · Taxes, licenses and fees-UW	5,235.52
624014 · Professional Fees-Total	
6240121 · Professional Fees-UW	65,995.00
Total 624014 · Professional Fees-Total	65,995.00
624034 · Mgt Fees-Briarwood Mgt -Total	
6240321 · Mgt Fees - Briarwood Mgt LLC-UW	-981.78
Total 624034 · Mgt Fees-Briarwood Mgt -Total	-981.78
Total 600000 · Other Underwriting Expenses	201,893.54
619001 · Miscellaneous	-1,367.62
624040 · Bank Service Charges	459.00
999998 · G/L on Sale of Fixed Assets	1,518.73
Total Expense	72,818.84
Net Ordinary Income	41,968.61
Other Income/Expense	
Other Income	
700000 · Net Investment Income	
706001 · Cash,cash equivalents ST Inv.	4,582.65
706002 · Cash,cash equiv. ST Inv-Accrued	8,200.95
Total 700000 · Net Investment Income	12,783.60

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11/16/10  
Accrual Basis

**Commercial Insurance Alliance, A Reciprocal Insurance Co.**  
**Profit & Loss**  
January through September 2010

	Jan - Sep 10
812020 - Agents Premium Bal Charged Off	610.86
813000 - Finance and service charges	309.00
Total Other Income	13,703.46
Net Other Income	13,703.46
Net Income	55,672.07



IN THE CIRCUIT COURT, FOURTH  
JUDICIAL CIRCUIT, IN AND FOR  
DUVAL COUNTY, FLORIDA

CASE NO.:  
DIVISION: 2010-CA-011165

XXX-MA

COMMERCIAL INSURANCE ALLIANCE,  
A Florida reciprocal insurance  
Company,

**DIVISION CV-D**

Plaintiff,

vs.

THE UNDERWRITERS GROUP, INC.,  
A Florida corporation, LARRY J.  
WRIGHT, an individual, and FIRST  
MOUNTAIN BANCORP, a Nevada  
Corporation,

**COPY**  
**ORIGINAL**  
**SEP 2 2010**  
Date \_\_\_\_\_

Defendants.

**COMPLAINT**

Commercial Insurance Alliance ("CIA"), a Florida reciprocal insurance company, by and through its undersigned counsel, hereby sues Defendants, The Underwriters Group, Inc. ("TUG"), a Florida corporation, Larry J. Wright ("Wright"), and First Mountain Bancorp ("FMB"), a Nevada corporation, and alleges:

1. CIA is a Florida reciprocal insurance company, organized under the laws of the State of Florida, with its principal place of business in Duval County, Florida.

2. TUG is a Florida corporation, organized under the laws of the State of Florida, with its principal place of business in Duval County, Florida.



3. Wright is a resident of St. Johns County, Florida, who does substantial, and not isolated work in Duval County, Florida.

4. Upon information and belief, FMB is a Nevada corporation, organized under the laws of the State of Nevada.

5. This Court has jurisdiction over FMB because FMB issued contracts for payment to CIA and because FMB breached those contracts for payment by failing to deliver payment to CIA in Duval County, Florida.

6. After CIA was organized to sell insurance products in the State of Florida, Wright, on behalf of TUG, contacted Larry Haynes ("Haynes") as attorney-in-fact for CIA regarding CIA's interest in using bonds to sell as insurance products.

7. Haynes told Wright that CIA would be interested in using bonds only if Wright could fully secure the performance of those bonds.

8. Wright told Haynes about a product issued by FMB known as an Irrevocable Trust Receipt ("ITR") and explained that an ITR is the equivalent of a Letter of Credit issued by a bank.

9. Wright explained further to Haynes that TUG would perform the underwriting services for each bond and would arrange to have FMB issue an ITR in an amount necessary to secure the performance of each bond.

10. Haynes had never heard of, nor had any experience with an ITR, but understood how a Letter of Credit worked.

11. Wright told Haynes that he was familiar with the ITR product issued by FMB and that he was satisfied with the ability of FMB and its principal, Gowen, to perform.

12. Haynes told Wright that he was willing to engage in the bond business, each fully secured by an ITR, in reliance on Wright's promises that FMB and Gowen would perform.

13. Following this discussion, TUG began underwriting bond business for CIA.

14. Each time that TUG approved underwriting on a bond, TUG obtained an ITR from FMB to fully secure the performance of each bond.

15. TUG received a fee from the bonded party for each bond it underwrote and also received a fee for each ITR it secured from FMB.

16. Wright received a portion of each fee that TUG received.

17. Each ITR issued by FMB provided that certain funds were available upon presentation of: (a) a sight draft bearing reference to the ITR; and (b) a statement reading "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Obligee."

18. Beginning in 2009, CIA began suffering bond loss and loss adjustment expenses which led to the issuance of a series of Sight Drafts to FMB requesting payment due under the respective ITR that secured each bond for which loss was suffered.

19. Each of the Sight Drafts issued by CIA to FMB was consistent with the requirements for payment set forth in the ITR.

20. Despite making various promises to pay as demanded, FMB has failed to pay any funds due from each Sight Draft to CIA, and TUG/Wright have failed to cause FMB to make the required payments.

21. As a result of the failure to perform, CIA has been damaged both by failure to receive the funds demanded and also suffers from frozen bank account, judgments entered against it, and the possibility of treble damages and attorney fees.

**COUNT I - BREACH OF CONTRACT**

22. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

23. This is a breach of contract action by CIA against FMB and is for damages of more than \$15,000.00, exclusive of interest, costs and attorney fees.

24. On or about August 12, 2008, FMB issued ITR number CIA 08122008-1 to secure the bond issued by B&M Landscaping, Inc. (the "B&M Landscaping ITR"); a copy of which is attached hereto as Exhibit "A", and is hereby adopted by reference and incorporated herein.

25. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on December 14, 2009, in the amount of \$49,282.50; (b) on February 2, 2010 in the amount of \$16,251.16; (c) on April 19, 2010, in the amount of \$3,778.30; (d) on May 26, 2010, in the amount of \$95,910.36; (e) on July 22, 2010, in the amount of \$5,818.43; and (f) on August 23, 2010, in the amount of \$5,705.11 (collectively, the "B&M Landscaping Sight Drafts"). Copies of the B&M Landscaping Sight Drafts are attached hereto as Composite Exhibit "B", and are hereby adopted by reference and incorporated herein.

26. FMB has breached the B&M Landscaping ITR by failing to pay any of the B&M Landscaping Sight Drafts to CIA.

27. As a result of FMB's breach of the B&M Landscaping ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT II - BREACH OF CONTRACT

28. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

29. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

30. On or about October 9, 2008, FMB issued ITR number CIA 10092008-1 to secure the bond issued by Garden World of Holiday, Inc. (the "Group A Garden World ITR"); a copy of which is attached hereto as Exhibit "C", and is hereby adopted by reference and incorporated herein.

31. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$2,500.77; (b) on April 19, 2010, in the amount of \$596.28; (c) on July 22, 2010, in the amount of \$1,428.88; and (d) on August 23, 2010; in the amount of \$96.97 (collectively, the "Group A Garden World Sight Drafts"). Copies of the Group A Garden World Sight Drafts are attached hereto as Composite Exhibit "D", and are hereby adopted by reference and incorporated herein.

32. FMB has breached the Group A Garden World ITR by failing to pay any of the Group A Garden World Sight Drafts to CIA.

33. As a result of FMB's breach of the Group A Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT III - BREACH OF CONTRACT

34. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

35. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

36. On or about May 7, 2008, FMB issued ITR number CIA 05072008-1 to secure the bond issued by Garden World of Holiday, Inc. (the "Group B Garden World ITR"); a copy of which is attached hereto as Exhibit "E", and is hereby adopted by reference and incorporated herein.

37. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$4,012.34; (b) on April 19, 2010, in the amount of \$894.90; (c) on July 22, 2010, in the amount of \$2,518.27; and (d) on August 23, 2010, in the amount of \$145.52 (collectively, the "Group B Garden World Sight Drafts"). Copies of the Group B Garden World Sight Drafts are attached hereto as Composite

Exhibit "F", and are hereby adopted by reference and incorporated herein.

38. FMB has breached the Group B Garden World ITR by failing to pay any of the Group B Garden World Sight Drafts to CIA.

39. As a result of FMB's breach of the Group B Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

#### COUNT IV - BREACH OF CONTRACT

40. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

41. This is a breach of contract action by CIA against FMB and is for damages of more than \$15,000.00, exclusive of interest, costs and attorney fees.

42. On or about January 9, 2008, FMB issued ITR number CIA 01092008-1 to secure the bond issued by Garden World of Holiday, Inc. (the "Group C Garden World ITR"); a copy of which is attached hereto as Exhibit "G", and is hereby adopted by reference and incorporated herein.

43. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the



amount of \$10,407.38; (b) on April 19, 2010, in the amount of \$2,499.34; (c) on July 22, 2010, in the amount of \$5,063.73; and (d) on August 23, 2010, in the amount of \$697.25 (the "Group C Garden World Sight Drafts"). Copies of the Group C Garden World Sight Drafts are attached hereto as Composite Exhibit "H", and are hereby adopted by reference and incorporated herein.

44. FMB has breached the Group C Garden World ITR by failing to pay any of the Group C Garden World Sight Drafts to CIA.

45. As a result of FMB's breach of the Group C Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

#### **COUNT V - BREACH OF CONTRACT**

46. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

47. This is a breach of contract action by CIA against FMB and is for damages of more than \$15,000.00, exclusive of interest, costs and attorney fees.

48. On or about April 15, 2008, FMB issued ITR number CIA 04152008-1 to secure the bond issued by Garden World of Holiday, Inc. (the "Group D Garden World ITR"); a copy of which is

attached hereto as Exhibit "I", and is hereby adopted by reference and incorporated herein.

49. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$14,223.78; (b) on April 19, 2010, in the amount of \$2,425.40; (c) on July 22, 2010, in the amount of \$7,941.70; and (d) on August 23, 2010, in the amount of \$856.42 (collectively, the "Group D Garden World Sight Drafts"). Copies of the Group D Garden World Sight Drafts are attached hereto as Composite Exhibit "J", and are hereby adopted by reference and incorporated herein.

50. FMB has breached the Group D Garden World ITR by failing to pay any of the Group D Garden World Sight Drafts to CIA.

51. As a result of FMB's breach of the Group D Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT VI - BREACH OF CONTRACT**

52. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

53. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

54. On or about January 9, 2008, FMB issued ITR number CIA 01092008-2 to secure the bond issued by Garden World of Holiday, Inc. (the "Group E Garden World ITR"); a copy of which is attached hereto as Exhibit "K", and is hereby adopted by reference and incorporated herein.

55. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$4,712.58; (b) on April 19, 2010, in the amount of \$1,321.86; (c) on July 22, 2010, in the amount of \$3,032.02; and (d) on August 23, 2010, in the amount of \$212.23 (collectively, the "Group E Garden World Sight Drafts"). Copies of the Group E Garden World Sight Drafts are attached hereto as Composite Exhibit "L", and are hereby adopted by reference and incorporated herein.

56. FMB has breached the Group E Garden World ITR by failing to pay any of the Group E Garden World Sight Drafts to CIA.

57. As a result of FMB's breach of the Group E Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT VII - BREACH OF CONTRACT**

58. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

59. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

60. On or about November 14, 2008, FMB issued ITR number CIA 11142008-3 to secure the bond issued by Garden World of Holiday, Inc. (the "Group F Garden World ITR"); a copy of which is attached hereto as Exhibit "M", and is hereby adopted by reference and incorporated herein.

61. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$1,477.36; (c) on April 19, 2010, in the amount of \$373.57; (d) on May 12, 2010, in the amount of \$1,822.00; (e) on July 22, 2010, in the amount of \$1,062.09; and (f) on August 23, 2010, in the amount of \$71.78 (collectively, the "Group F Garden World Sight Drafts"). Copies of the Group F Garden World Sight Drafts are attached hereto as Composite Exhibit "N", and are hereby adopted by reference and incorporated herein.

62. FMB has breached the Group F Garden World ITR by failing to pay any of the Group F Garden World Sight Drafts to CIA.

63. As a result of FMB's breach of the Group F Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT VIII - BREACH OF CONTRACT**

64. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

65. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

66. On or about January 21, 2009, FMB issued ITR number CIA 01212009-2 to secure the bond issued by Garden World of Holiday, Inc. (the "Group G Garden World ITR"); a copy of which is attached hereto as Exhibit "O", and is hereby adopted by reference and incorporated herein.

67. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2009, in the amount of \$1,809.28; (b) on April 19, 2010, in the amount of \$507.55; (c) on May 12, 2010, in the amount of \$2,249.00; (d) on

July 22, 2010, in the amount of \$1,151.49; and (e) on August 23, 2010, in the amount of \$81.49 (collectively, the "Group G Garden World Sight Drafts"). Copies of the Group G Garden World Sight Drafts are attached hereto as Composite Exhibit "P", and are hereby adopted by reference and incorporated herein.

68. FMB has breached the Group G Garden World ITR by failing to pay any of the Group G Garden World Sight Drafts to CIA.

69. As a result of FMB's breach of the Group G Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT IX - BREACH OF CONTRACT**

70. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

71. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

72. On or about January 9, 2008, FMB issued ITR number CIA 01092008-3 to secure the bond issued by Garden World of Holiday, Inc. (the "Group H Garden World ITR"); a copy of which is

attached hereto as Exhibit "Q", and is hereby adopted by reference and incorporated herein.

73. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$3,150.23; (b) on April 19, 2010, in the amount of \$884.66; (c) on July 22, 2010, in the amount of \$2,006.37; and (d) on August 23, 2010, in the amount of \$142.02 (collectively, the "Group H Garden World Sight Drafts"). Copies of the Group H Garden World Sight Drafts are attached hereto as Composite Exhibit "R", and are hereby adopted by reference and incorporated herein.

74. FMB has breached the Group H Garden World ITR by failing to pay any of the Group H Garden World Sight Drafts to CIA.

75. As a result of FMB's breach of the Group H Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT X - BREACH OF CONTRACT**

76. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

77. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

78. On or about January 21, 2009, FMB issued ITR number CIA 01212009-3 to secure the bond issued by Garden World of Holiday, Inc. (the "Group I Garden World ITR"); a copy of which is attached hereto as Exhibit "S", and is hereby adopted by reference and incorporated herein.

79. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on January 21, 2009, in the amount of \$960.12; (b) on April 19, 2010, in the amount of \$269.61; (c) on July 22, 2010, in the amount of \$611.48; and (d) on August 23, 2010, in the amount of \$43.29 (collectively, the "Group I Garden World Sight Drafts"). Copies of the Group I Garden World Sight Drafts are attached hereto as Composite Exhibit "T", and are hereby adopted by reference and incorporated herein.

80. FMB has breached the Group I Garden World ITR by failing to pay any of the Group I Garden World Sight Drafts to CIA.

81. As a result of FMB's breach of the Group I Garden World ITR, CIA has been damaged.



WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT XI - BREACH OF CONTRACT

82. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

83. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

84. On or about November 14, 2008, FMB issued ITR number CIA 11142008-4 to secure the bond issued by Garden World of Holiday, Inc. (the "Group J Garden World ITR"); a copy of which is attached hereto as Exhibit "U", and is hereby adopted by reference and incorporated herein.

85. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$5,413.71; (b) on April 19, 2010, in the amount of \$1,290.84; (c) on July 22, 2010, in the amount of \$3,093.26; and (d) on August 23, 2010, in the amount of \$209.91 (collectively, the "Group J Garden World Sight Drafts"). Copies of the Group J Garden World Sight Drafts are attached hereto as Composite Exhibit "V", and are hereby adopted by reference and incorporated herein.

86. FMB has breached the Group J Garden World ITR by failing to pay any of the Group J Garden World Sight Drafts to CIA.

87. As a result of FMB's breach of the Group J Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT XII - BREACH OF CONTRACT**

88. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

89. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

90. On or about August 26, 2008, FMB issued ITR number CIA 08252008-2 to secure the bond issued by Garden World of Holiday, Inc. (the "Group K Garden World ITR"); a copy of which is attached hereto as Exhibit "W", and is hereby adopted by reference and incorporated herein.

91. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$2,251.16; (b) on April 19, 2010, in the amount of \$631.69; (c) on July 22, 2010, in the amount of \$1,443.00; and

(d) on August 23, 2010, in the amount of \$101.42 (collectively, the "Group J Garden World Sight Drafts"). Copies of the Group K Garden World Sight Drafts are attached hereto as Composite Exhibit "X", and are hereby adopted by reference and incorporated herein.

92. FMB has breached the Group K Garden World ITR by failing to pay any of the Group K Garden World Sight Drafts to CIA.

93. As a result of FMB's breach of the Group K Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT XIII - BREACH OF CONTRACT**

94. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

95. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

96. On or about November 14, 2008, FMB issued ITR number CIA 11142008-2 to secure the bond issued by Garden World of Holiday, Inc. (the "Group L Garden World ITR"); a copy of which

is attached hereto as Exhibit "Y", and is hereby adopted by reference and incorporated herein.

97. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2009, in the amount of \$2,651.42; (b) on April 19, 2010, in the amount of \$670.59; (c) on May 12, 2010, in the amount of \$2,714.00; (d) on July 22, 2010, in the amount of \$1,906.08; and (e) on August 23, 2010, in the amount of \$128.85 (collectively, the "Group L Garden World Sight Drafts"). Copies of the Group J Garden World Sight Drafts are attached hereto as Composite Exhibit "Z", and are hereby adopted by reference and incorporated herein.

98. FMB has breached the Group L Garden World ITR by failing to pay any of the Group L Garden World Sight Drafts to CIA.

99. As a result of FMB's breach of the Group L Garden World ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT XIV - BREACH OF CONTRACT**

100. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

101. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

102. On or about September 18, 2008, FMB issued ITR number CIA 09182008-1 to secure the bond issued by Harris Construction Group, Inc. (the "Harris Construction ITR"); a copy of which is attached hereto as Exhibit "AA", and is hereby adopted by reference and incorporated herein.

103. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on February 2, 2010, in the amount of \$2,822.53; (b) on April 19, 2010, in the amount of \$602.04; (c) on July 22, 2010, in the amount of \$1,588.75; and (d) on August 23, 2010, in the amount of \$1,480.27 (collectively, the "Harris Construction Sight Drafts"). Copies of the Harris Construction Sight Drafts are attached hereto as Composite Exhibit "BB", and are hereby adopted by reference and incorporated herein.

104. FMB has breached the Harris Construction ITR by failing to pay any of the Harris Construction Sight Drafts to CIA.

105. As a result of FMB's breach of the Harris Construction ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT XV - BREACH OF CONTRACT

106. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

107. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00; exclusive of interest, costs and attorney fees.

108. On or about April 17, 2009, FMB issued ITR number CIA 04172009-1 to secure the bond issued by Scott's Professional Ground Maintenance, Inc. (the "SPGM ITR"); a copy of which is attached hereto as Exhibit "CC", and is hereby adopted by reference and incorporated herein.

109. When performance under the bond failed, CIA issued the following Sight Draft to FMB: on February 2, 2010, in the amount of \$8,640.63 (the "SPGM Sight Draft"). A copy of the SPGM Sight Draft is attached hereto as Exhibit "DD", and is hereby adopted by reference and incorporated herein.

110. FMB has breached the SPMG ITR by failing to pay any of the SPMG Sight Draft to CIA.

111. As a result of FMB's breach of the SPMG ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT XVI - BREACH OF CONTRACT

112. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

113. This is a breach of contract action by CIA against FMB and is for damages of more than \$15,000.00, exclusive of interest, costs and attorney fees.

114. On or about July 18, 2008, FMB issued ITR number CIA 07182008-1 to secure the bond issued by VMS Builders, Inc. (the "VMS ITR"); a copy of which is attached hereto as Exhibit "EE", and is hereby adopted by reference and incorporated herein.

115. When performance under the bond failed, CIA issued the following Sight Draft to FMB: on February 2, 2010, in the amount of \$25,407.49 (the "VMS Sight Draft"). A copy of the VMS Sight Draft is attached hereto as Exhibit "FF", and is hereby adopted by reference and incorporated herein.

116. FMB has breached the VMS ITR by failing to pay any of the VMS Sight Draft to CIA.

117. As a result of FMB's breach of the VMS ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT XVII - BREACH OF CONTRACT**

118. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

119. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

120. On or about April 3, 2009, FMB issued ITR number CIA 04032009-1 to secure the bond issued by Purpose One Electric Co. (the "Purpose One ITR"); a copy of which is attached hereto as Exhibit "GG", and is hereby adopted by reference and incorporated herein.

121. When performance under the bond failed, CIA issued the following Sight Draft to FMB: on April 19, 2010, in the amount of \$561.00 (the "Purpose One Sight Draft"). A copy of the Purpose One Sight Draft is attached hereto as Exhibit "HH", and is hereby adopted by reference and incorporated herein.

122. FMB has breached the Purpose One ITR by failing to pay any of the Purpose One Sight Draft to CIA.

123. As a result of FMB's breach of the Purpose One ITR, CIA has been damaged.



WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT XVIII - BREACH OF CONTRACT

124. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

125. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

126. On or about August 26, 2008, FMB issued ITR number CIA 08252008-1 to secure the bond issued by E.L.C.I. Construction Group, Inc. (the "ELCI ITR"); a copy of which is attached hereto as Exhibit "II", and is hereby adopted by reference and incorporated herein.

127. When performance under the bond failed, CIA issued the following Sight Drafts to FMB: (a) on July 22, 2010, in the amount of \$995.33; and (b) on August 23, 2010, in the amount of \$226.52 (the "ELCI Sight Drafts"). A copy of the ELCI Sight Drafts are attached hereto as Composite Exhibit "JJ", and are hereby adopted by reference and incorporated herein.

128. FMB has breached the ELCI ITR by failing to pay any of the ELCI Sight Drafts to CIA.

129. As a result of FMB's breach of the ELCI ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT XIX - BREACH OF CONTRACT**

130. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

131. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

132. On or about January 6, 2009, FMB issued ITR number CIA 01062009-1 to secure the bond issued by Lomonico Contracting, Inc. (the "Lomonico ITR"); a copy of which is attached hereto as Exhibit "KK", and is hereby adopted by reference and incorporated herein.

133. When performance under the bond failed, CIA issued the following Sight Draft to FMB: on December 14, 2009, in the amount of \$10,000.00 (the "Lomonico Sight Draft"). A copy of the SPGM Sight Draft is attached hereto as Exhibit "LL", and is hereby adopted by reference and incorporated herein.

134. FMB has breached the Lomonico ITR by failing to pay any of the Lomonico Sight Draft to CIA.

135. As a result of FMB's breach of the Lomonico ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

**COUNT XX - BREACH OF CONTRACT**

136. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 21 as if alleged herein.

137. This is a breach of contract action by CIA against FMB and is for damages of less than \$15,000.00, exclusive of interest, costs and attorney fees.

138. On or about February 11, 2009, FMB issued ITR number CIA 02112009-1 to secure the bond issued by Rogar Management & Consulting of Florida, Inc. (the "Rogar ITR"); a copy of which is attached hereto as Exhibit "MM", and is hereby adopted by reference and incorporated herein.

139. When performance under the bond failed, CIA issued the following Sight Draft to FMB: on August 23, 2010, in the amount of \$178.96 (the "Rogar Sight Draft"). A copy of the Rogar Sight Draft is attached hereto as Exhibit "NN", and is hereby adopted by reference and incorporated herein.

140. FMB has breached the Rogar ITR by failing to pay any of the Rogar Sight Draft to CIA.

141. As a result of FMB's breach of the Rogar ITR, CIA has been damaged.

WHEREFORE, CIA demands judgment against FMB for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

COUNT XXI - FRAUD IN THE INDUCEMENT

142. CIA adopts by reference and incorporates those allegations contained in paragraphs 1 through 24 as if alleged herein.

143. This is a fraud in the inducement action by CIA against TUG and Wright and is for damages of more than \$15,000.00, exclusive of interest, costs and attorney fees.

144. Wright, acting on his own behalf and on behalf of TUG, represented to Haynes, on behalf of CIA, that FMB had the ability to issue ITRs to fully secure the bond business that TUG was to generate in order to induce CIA to agree to use bonds to secure the insurance products it issued.

145. Upon information and belief, at the time of Wright's representations to CIA concerning FMB's ability to secure the bonds with ITRs, Wright and TUG knew that FMB did not have the ability to fully secure the bonds with ITRs.

146. Instead, upon information and belief, Wright and TUG made the false representations to CIA with the sole purpose to

induce CIA to generate bond business for TUG, which in turn would generate a commission for TUG and Wright.

147. Had CIA known that FMB was unable to fund each of the ITRs that CIA believed was securing the bonds obtained and underwritten by TUG, CIA would not have agreed to use bonds to secure its insurance products.

148. CIA has been damaged as a result of the false representations made by Wright, both individually and on behalf of TUG.

WHEREFORE, CIA demands judgment against Wright and TUG, jointly and severally, for damages, pre-judgment and post-judgment interest, costs, and such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

The Plaintiff demands trial by jury on all issues so triable.

HEEKIN, MALIN & WENZEL, P.A.

By: 

S. Hunter Malin

Fla. Bar No.: 0088020

P.O. Box 477

Jacksonville, FL 32201

Telephone No.: (904) 355-7000

Facsimile No.: (904) 355-0266

Attorney for Plaintiff

# COMMERCIAL INSURANCE ALLIANCE

A RECIPROCAL INSURANCE COMPANY

June 12, 2006

Underwriting and Billing Guide Lines  
The Underwriters Group, The TUG et al

The following guide lines apply to all surety risks submitted, underwritten and/or collateralized on behalf of Commercial Insurance Alliance by The Underwriters Group ("TUG").

Commercial Insurance Alliance will exclusively write the surety line of business through TUG. In turn, TUG will adhere to our filed rates and underwriting protocol as outlined below.

1. All surety risks must be within the state of Florida, without exception.
2. Our filed rates will be exclusively utilized and imposed on surety.
3. Copies of all underwriting files and indemnity agreements are to be provided by TUG to Commercial Insurance Alliance in PDF format.
4. When the Surety Bond is issued by TUG on behalf of Commercial Insurance Alliance the Surety Bond must contain or be accompanied by the following:
  - a. Face amount of the Bond
  - b. Assigned Number for the Bond. (Note, Bid Bond takes a different number series). If bid and accompanying bid bond result in project being awarded, the issued bond must contain Bid Bond Number as well as Issued Bond Number.
  - c. No Bid Bond should be issued unless all underwriting has been completed and TUG has arranged collateral for the underlying bond if awarded and subsequently issued. Such collateral will be in the form of an irrevocable trust receipt.
  - d. No Surety (Bond) will be issued unless it is accompanied by an approved Irrevocable Trust Receipt or Letter of Credit acceptable to Commercial Insurance Alliance.
  - e. Each Bond will have attached a properly executed Power of Attorney form. Bid bonds only will have affixed a generic version of the form without the boxed statement which contains statement on Securitized Bond, Premiums and Term statements. All other Bonds will have affixed Power of Attorney Form Number CIA-101 (rev 1-07) which contains the boxed statement.

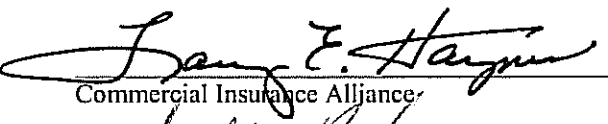
5. TUG or The TUG Trust will invoice in the following format:

- a. Commercial Insurance Alliance Bond Fee \$
- b. Commercial Insurance Alliance Surplus Contribution \$
- c. Florida Hurricane Cat Fund Assessment – (1% of Bond Fee) \$
- d. = Total Commercial Insurance Alliance Fees and Assessments
- e. TUG Underwriting and Collateral Fee \$
- f. Total of all CIA billing and TUG accumulated total \$
- g. Invoice to contain CIA agent number (regular appointed agency) or marked Broker Bond Agency. Broker Bond Agency must furnish Florida Agent license to receive a commission from Commercial Insurance Alliance.
- h. Commercial Insurance Alliance will not execute and seal a bond unless TUG confirms collection of bond fees, surplus contribution and applicable assessments and is in receipt of an acceptable ITR, and the bond contains all of the required information.
- i. No Agent will be paid a commission by Commercial Insurance Alliance unless the agency is licensed by Commercial Insurance Alliance or Proof that a Brokering Agent holds a Florida License.
- j. In no instance will Commercial Insurance Alliance pay an Agency or Agent more than 10% of the Bond Fee exclusive of the surplus contribution and required assessment charges.
- k. It is agreed that TUG can reimburse agencies or agents underwriting and collateral preparation and handling expenses.

It is understood and agreed that as long as TUG satisfies each of the conditions enumerated above with regard to bond underwriting, collateralization and issuance, and monthly bond volume is at a mutually acceptable level, Commercial Insurance Alliance hereby grants TUG an exclusive underwriting and collateralization agreement for all bonds issued by Commercial Insurance Alliance within the State of Florida. TUG further agrees to employ its best efforts and resources to generate quality and substantial bonding opportunities on behalf of Commercial Insurance Alliance within the State of Florida. TUG is to receive any and all fees directly from the bonded party or entity, exclusive of bond fees, surplus contribution and applicable assessments imposed or collected by Commercial Insurance Alliance, for all services and providing collateral to Commercial Insurance Alliance in connection with each bond issued. This exclusivity may be terminated by either party with a written notice to the other upon 120 prior to desired termination.

  
The Underwriters Group

Witness

  
Commercial Insurance Alliance

  
Witness

6-12-06  
Date

Addendum No. 1  
To  
CIA/TUG Agreement dated and signed 6/12/2006

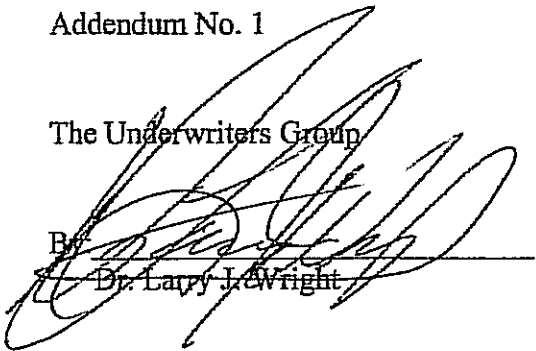
Effective this 1<sup>st</sup> day of July, 2009.

The Underwriters Group (TUG) is a Managing General Underwriter (MGU) with up front underwriting authority only as defined in the Agreement to which this Addendum is attached. TUG has no authority to adjust or approve settlement of BOND losses. TUG however has an obligation to work with and provide all necessary information to attorneys designated by CIA in defense of BOND claims even if it is ultimately determined that the claim is invalid. Any possible sources of recoupment of defense cost containment expense incurred in defending Bond claims will serve to reduce the ultimate net defense costs to be shared equally between TUG and CIA.

Final expenditures of Bond losses by CIA will be charged against the ITR dedicated to the specific Bond.

Addendum No. 1

The Underwriters Group

By:   
Dr. Larry Jewright

  
Witness

Commercial Insurance Alliance, A Reciprocal Insurance Company

By:   
Larry E. Haynes

  
Witness

Signed and acknowledged this 30<sup>th</sup> day of July, 2009.





## OFFICE OF INSURANCE REGULATION

**KEVIN M. McCARTY**  
COMMISSIONER

**FINANCIAL SERVICES  
COMMISSION**

**RICK SCOTT**  
GOVERNOR

**JEFF ATWATER**  
CHIEF FINANCIAL OFFICER

**PAM BONDI**  
ATTORNEY GENERAL

**ADAM PUTNAM**  
COMMISSIONER OF  
AGRICULTURE

January 19, 2011

The Honorable Jeff Atwater  
Chief Financial Officer  
Department of Financial Services  
The Capitol, PL-11  
Tallahassee, FL 32399

**Via Email**

**Re: Commercial Insurance Alliance, a Reciprocal Insurance Company**

Dear Chief Financial Officer Atwater:

Please be advised that the Office of Insurance Regulation (hereinafter referred to as the "Office") has determined that one or more grounds exist for the initiation of delinquency proceedings, pursuant to Chapter 631, Florida Statutes, against Commercial Insurance Alliance, a Reciprocal Insurance Company (hereinafter referred to as "CIA").

CIA is a Florida reciprocal insurer that was authorized to transact insurance business in the State of Florida on May 5, 2006. CIA's Certificate of Authority was suspended by the Office, on August 19, 2009, pursuant to Order 105772-09. CIA has not written new insurance policies in the State of Florida since its suspension on August 19, 2009. CIA has on file with the Office a five hundred thousand U.S. Dollar (\$500,000) deposit, which could help facilitate run-off of the remaining loss and loss adjustment expenses. The Office questions whether the management of CIA is capable of achieving a solvent run-off and as such it is appropriate for the Department of Financial Services (hereinafter referred to as the "Department") to be appointed as receiver.

The grounds that allow a petition for an order appointing the Department as receiver and directing it to liquidate the business of a domestic insurer are specified in Section 631.061, Florida Statutes. I am advising you of the Office's determination so that delinquency proceedings can be initiated by the Division of Rehabilitation and Liquidation. The following document is attached in support of such determination:

**Exhibit A – Affidavit of Stephen J. Szypula**

...

KEVIN M. McCARTY • COMMISSIONER  
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-0305 • (850) 413-5914 • FAX (850) 488-3334  
WEBSITE: WWW.FLOIR.COM • EMAIL: KEVIN.MCCARTY@FLOIR.COM

As always, the Office stands ready to provide any additional information or assistance the Department needs in order for this matter to proceed as expeditiously as possible. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kevin M. McCarty", written in a cursive style.

Kevin M. McCarty

cc: PK Jameson, General Counsel  
Department of Financial Services

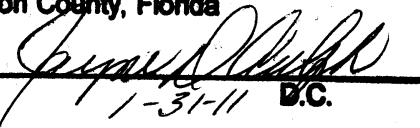
Sha'Ron James, Interim Director  
Division of Rehabilitation and Liquidation  
Department of Financial Services

A Certified Copy  
Attest:

**Bob Inzer**

Clerk Circuit Court  
Leon County, Florida

By

  
1-31-11 B.C.



IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT, IN  
AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA, ex. rel., the  
DEPARTMENT OF FINANCIAL  
SERVICES OF THE STATE OF FLORIDA,

Relator,

vs.

CASE NO.: 2011 - 191 CA

COMMERCIAL INSURANCE  
ALLIANCE,

A Florida Reciprocal Insurance  
Company,

Respondent.

\_\_\_\_\_ /

**ORDER APPOINTING THE FLORIDA DEPARTMENT OF  
FINANCIAL SERVICES AS RECEIVER FOR PURPOSES OF LIQUIDATION,  
INJUNCTION, AND NOTICE OF AUTOMATIC STAY**

THIS CAUSE was considered on the Department of Financial Services ("Department") Petition for an Order appointing the Department as Receiver for purposes of Liquidation of Commercial Insurance Alliance ("Respondent"). The Court, having reviewed the pleadings of record, and otherwise being fully informed in the premises finds that:

1. This Court has jurisdiction pursuant to Section 631.021 (1), Florida Statutes, and venue is proper pursuant to Section 631.021 (2), Florida Statutes.
2. Respondent is a Respondent is a Florida reciprocal insurer that was authorized to transact insurance business in the State of Florida. Respondent's principal place of business was previously located at 9309 Old Kings Road South, Suite 3, Jacksonville, Florida 32258. There is no current known principal place of business.

2011 JAN 27 P 4:50  
CIRCUIT COURT  
LEON COUNTY  
FLORIDA

FILED

COMPL  
J.F.

3. Section 631.021 (3), Florida Statutes, provides that a delinquency proceeding pursuant to Chapter 631, Florida Statutes, constitutes the sole and exclusive method of liquidating, rehabilitating, reorganizing, or conserving an insurer.

4. By letter dated January 19, 2011, to the Honorable Jeff Atwater, Chief Financial Officer of the State of Florida, Kevin McCarty, Commissioner of the Florida Office of Insurance Regulation, recommended that delinquency proceedings, pursuant to Chapter 631, Florida Statutes, be initiated against Respondent. Respondent, through its Attorney-in-Fact, consented to the appointment of the Department as Receiver for the purposes of rehabilitation or liquidation, at the sole discretion of the Department of Financial Services.

5. Section 631.061, Florida Statutes, authorizes the Department to apply to this Court for an order directing it to liquidate a domestic insurer upon the existence of any grounds specified in Section 631.051, Florida Statutes. Pursuant to Section 631.051(11), Respondent has consented to the appointment of the Department as Receiver for purposes of rehabilitation or liquidation without a hearing.

6. Section 631.021 (3), Florida Statutes, provides that a delinquency proceeding pursuant to Chapter 631, Florida Statutes, constitutes the sole and exclusive method of liquidating, rehabilitating, reorganizing, or conserving an insurer. Further, Section 631.025(2), Florida Statutes authorizes the Department to initiate delinquency proceedings against any "insurer" if the statutory grounds are present as to that insurer.

7. Respondent must be liquidated to protect the remaining assets of Respondent for the benefit of its policyholders, creditors and the public as well as to wind up the business of Respondent.

8. Pursuant to Section 631.051(11), Florida Statutes, the Respondent has consented to the appointment of the Department of Financial Services as Receiver for the purpose of liquidation through a majority of its directors, stockholders, members, or subscribers.

9. In light of the Respondent's consent to liquidation, pursuant to Section 631.051(11), and Section 631.061, Florida Statutes, the Court finds that it is in the best interests of Respondent, its creditors, and its members that the relief requested in the petition be granted.

**THEREFORE, IT IS ORDERED AND ADJUDGED** as follows:

10. The Department of Financial Services of the State of Florida shall be appointed Receiver of Respondent for purposes of liquidation, effective immediately upon the signing of this order.

11. The Receiver shall be authorized and directed to:

A. Take immediate possession of all the property, assets, and estate, and all other property of every kind whatsoever and wherever located belonging to Respondent pursuant to Sections 631.111 and 631.141, Florida Statutes, including but not limited to: offices maintained by Respondent, rights of action, books, papers, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, wherever situate and however titled, whether in the possession of Respondent or its officers, directors, shareholders, trustees, employees, consultants, attorneys, agents or affiliates and all real property of Respondent, wherever situate, whether in the possession of Respondent or its officers, directors, shareholders, trustees, employees, consultants, attorneys, agents or affiliates.

B. Liquidate the assets of Respondent, including but not limited to, funds

held by Respondent's agents, subagents, producing agents, brokers, solicitors, service representatives or others under agency contracts or otherwise which are due and unpaid to Respondent, including premiums, unearned commissions, agents' balances, agents' reserve funds, and subrogation recoveries.

C. Employ and authorize the compensation of legal counsel, actuaries, accountants, clerks, consultants, and such assistants as it deems necessary, purchase or lease personal or real property as it deems necessary, and authorize the payment of the expenses of these proceedings and the necessary incidents thereof, as approved by the Court, to be paid out of the funds or assets of the Respondent in the possession of the Receiver or coming into its possession.

D. Reimburse such employees, from the funds of this receivership, for their actual necessary and reasonable expenses incurred while traveling on the business of this receivership.

E. Not defend or accept service of process on legal actions wherein Respondent, the Receiver, or the insured is a party defendant, commenced either prior to or subsequent to the order, without authorization of this Court; except, however, in actions where Respondent is a nominal party, as in certain foreclosure actions, and the action does not affect a claim against or adversely affect the assets of Respondent, the Receiver may file appropriate pleadings in its discretion.

F. Commence and maintain all legal actions necessary, wherever necessary, for the proper administration of this receivership proceeding.

G. Collect all debts which are economically feasible to collect which are due and owing to Respondent.

H. Deposit funds and maintain bank accounts in accordance with Section 631.221, Florida Statutes.

I. Take possession of all of Respondent's securities and certificates of deposit on deposit with the Chief Financial Officer of Florida or any similar official of any other state, if any, and convert to cash as much as may be necessary, in its judgment, to pay the expenses of administration of this receivership.

J. Publish notice specifying the time and place fixed for the filing of claims with the Receiver once each week for three consecutive weeks in the Florida Administrative Weekly published by the Secretary of State, and at least once in the Florida Bar News and to publish notice by similar methods in all states where Respondents may have issued insurance policies.

K. Negotiate and settle subrogation claims and Final Judgments up to and including the sum of Twenty Thousand Dollars (\$20,000.00) without further order of this Court.

L. Sell any salvage recovered property having value of not more than Twenty Thousand Dollars (\$20,000.00) without further order of this Court.

M.. Give notice of this proceeding to Respondent's agents pursuant to Section 631.341, Florida Statutes, and to its insureds, if any.

N. The Receiver is granted all of the powers of the Respondent's director's, officers and managers, whose authority shall be suspended, except as such powers are re-delegated in writing by the Receiver. The Receiver has full

power to direct and manage the affairs of Respondent, to hire and discharge employees, and to deal with the property and business of the Respondent.

O. Any officer, director, manager, trustee, administrator, attorney, agent, accountant, actuary, broker, employee, adjuster, independent contractor, or affiliate of Respondent and any other person who possesses or possessed any executive authority over, or who exercises or exercised any control over, any segment of Respondent's affairs or the affairs of its affiliates shall be required to fully cooperate with the Receiver, pursuant to Section 631.391, Florida Statutes, notwithstanding the provisions of the above paragraph.

P. Title to all property, real or personal, all contracts, rights of action and all books and records of Respondent, wherever located, is vested in the Receiver pursuant to Sections 631.111 and 631.141, Florida Statutes.

Q. All attorneys employed by Respondent as of the date of the Order, within 10 days notice of the Order, are required to report to the Receiver on the name, company claim number and status of each file they are handling on behalf of the Respondent. Said report shall also include an accounting of any funds received from or on behalf of the Respondent. All attorneys employed by Respondent shall be discharged as of the date of the Order unless their services are retained by the Receiver. All attorneys employed by Respondent shall be advised that pursuant to Section 631.011(21), Florida Statutes, a claim based on mere possession does not create a secured claim and all attorneys employed by Respondent, pursuant to In Re the Receivership of Syndicate Two, Inc., 538 So.2d 945 (Fla. 1<sup>st</sup> DCA 1989), who are in possession of litigation files or other material, documents or records belonging to or relating to work performed by the attorney on



behalf of Respondent shall be required to deliver such litigation files, material, documents or records intact and without purging to the Receiver, on request, notwithstanding any claim of a retaining lien which, if otherwise valid, shall not be extinguished by the delivery of these documents.

R. All agents, brokers or other persons having sold policies of insurance and/or collected premiums on behalf of the Respondent shall be required to account for and pay all premiums and commissions unearned due to cancellation of policies by the Order or in the normal course of business owed to the Respondent directly to Receiver within 30 days of demand by the Receiver or appear before this Court to show cause, if any they may have, as to why they shall not be required to account to the Receiver or be held in contempt of Court for violation of the provisions of the Order. No agent, broker, premium finance company or other person shall use premium monies owed to the Respondent for refund of unearned premium or for any purpose other than payment to the Receiver.

S. Any premium finance company which has entered into a contract to finance a premium for a policy which has been issued by the Respondent shall be required to pay any premium owed to the Respondent directly to the Receiver.

T. Reinsurance premiums due to or payable by Respondent shall be remitted to, or disbursed by, the Receiver. Reinsurance losses recoverable or payable by Respondent shall be handled by the Receiver. All correspondence concerning reinsurance shall be between the Receiver and the reinsuring company or intermediary.

U. Upon request by the Receiver, any company providing telephonic services to Respondent shall be required to provide a reference of calls from the number presently

assigned to Respondent to any such number designated by the Receiver or perform any other services or changes necessary to the conduct of the receivership.

V. Any bank, savings and loan association, or other financial institution which has on deposit, in its possession, custody or control any funds, accounts and any other assets of Respondent, shall be required to immediately transfer title, custody and control of all such funds, accounts and other assets to the Receiver. The Receiver shall be authorized to change the name of such accounts and other assets, withdraw them from such bank, savings and loan association or other financial institution, or take any lesser action necessary for the proper conduct of this receivership. No bank, savings and loan association or other financial institution shall be permitted to exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court.

W. Any entity furnishing telephone, water, electric, sewage, garbage or trash removal services to Respondent shall be required to maintain such service and transfer any such accounts to the Receiver as of the date of the Order, unless instructed to the contrary by the Receiver.

X. Any data processing service, which has custody or control of any data processing information and records including but not limited to source documents, data processing cards, input tapes, all types of storage information, master tapes or any other recorded information relating to Respondent shall be required to transfer custody and control of such records to the Receiver. The Receiver shall be authorized to compensate any such entity for the actual use of hardware and software which the Receiver finds to be necessary to this proceeding. Compensation shall be based upon the monthly rate

provided for in contracts or leases with Respondent which was in effect when this proceeding was instituted, or based upon such contract as may be negotiated by the Receiver, for the actual time such equipment and software is used by the Receiver.

Y. The United States Postal Service shall be directed to provide any information requested by the Receiver regarding Respondent and to handle future deliveries of Respondent's mail as directed by the Receiver.

Z. All claims shall be filed with the Receiver on or before 11:59 p.m. three hundred sixty five (365) days from the effective date of this order, or be forever barred, and all such claims shall be filed on proof of claim forms prepared by the Receiver.

AA. Except for contracts of insurance, if the Receiver does not assume or reject an executory contract, in whole or in part, to which Respondent was a party within ninety (90) days of the date of this Order or from the date of Receiver's actual knowledge of such contract, whichever is later, then such contract shall be deemed rejected. "Actual Knowledge" means the Receiver has in its possession the original of a written contract to which the Respondent is a party, and the Receiver has notified the vendor in writing acknowledging the existence of the contract. Further, the Receiver shall have the authority to do the following:

A) Pay for services provided by any of Respondent's vendors, in the ninety (90) day period prior to assuming or rejecting the contract, which are necessary to administer the Receivership estate;

B) Once the Receiver determines Respondent's vendor is necessary in the continued administration of the Receivership estate for a period to exceed the ninety (90) days from the date of this order, or from the date of Receiver's actual knowledge of such contract, whichever is

later, the Receiver may make minimal modifications to the terms of the contract, including, but not limited to, the expiration date of the agreement, the scope of the services to be provided, and /or the compensation to be paid to Respondent's vendor pursuant to the contract. "Minimal Modifications" shall mean any minimum alteration made to the contract in order to adapt to the new circumstances of the Receivership estate. In no event will any minimal modification be construed as the Receiver entering into a new contract with Respondent's vendor.

**Any vendor, including but not limited to, any and all employees / contractors of insurer, claiming the existence of a contractual relationship with the insurer shall provide notice to the Receiver of such relationship.** This notice shall include any and all documents and information regarding the terms and conditions of the contract, including a copy of the written contract between the vendor and the insurer, if any, what services or goods were provided pursuant to the contract, any current, future and/or past due amounts owing under the contract, and any supporting documentation for third party services or goods provided. Failure to provide the required information may result in vendors' contractual rights not being recognized by the Receiver. The rights of the parties to any such contracts are fixed as of the date of the Order and any cancellation under this provision shall not be treated as an anticipatory breach of such contracts.

BB. All affiliated companies and associations, including but not limited to Commercial Insurance Alliance, and the shareholder-owners of Commercial Insurance Alliance, shall be directed to make their books and records available to the Receiver, to include all records located in any premises occupied by said affiliate, whether corporate records or not, and to provide copies of any records requested by the Receiver whether or not such records are related to Respondent. The Receiver shall have title to all policy files

and other records of, and relating to Respondent, whether such documents are kept in offices occupied by an affiliate company or any other person, corporation, or association. The Receiver shall be authorized to take possession of any such records, files, and documents, and to remove them to any location in the Receiver's discretion. Any disputed records shall not be withheld from the Receiver's review, but shall be safeguarded and presented to this Court for review prior to copying by the Receiver.

CC. The Receiver shall have complete access to and control of all computer records of the Respondent, including administrative rights.

DD. Any person, firm, corporation or other entity having notice of the Order that fails to abide by its terms shall be directed to appear before this Court to show good cause, if any they may have, as to why they shall not be held in contempt of Court for violation of the provisions of this Order.

12. Pursuant to the provisions of 631.252, Florida Statutes, all policies of insurance or similar contracts of coverage that have not expired are canceled effective as of the date of entry of the liquidation order. Policies or contracts of coverage with normal expiration dates prior to the dates otherwise applicable under this paragraph, or which are terminated by insureds or lawfully canceled by the Receiver or insurer before such date, shall stand canceled as of the earlier date.

13. All subsidiaries, affiliates, parent corporations, ultimate parent corporations, and any other business entity affiliated with Commercial Insurance Alliance having any interest in any building or facility where Respondent may be located, shall make available, at that location and at no charge to the Receiver or to Commercial Insurance Alliance, office space, and related facilities (telephone service, copiers, computer equipment and software, office supplies, parking, etc.) to the extent deemed necessary by the Receiver in its sole discretion.

14. All subsidiaries, affiliates, parent corporations, ultimate parent corporations, and any other business entity affiliated with Commercial Insurance Alliance having any interest in the computer equipment and software currently used by or for Commercial Insurance Alliance shall make such computer equipment and software available to the Receiver at no charge to the Receiver or Commercial Insurance Alliance to the extent deemed necessary by the Receiver in its sole discretion.

#### **CONTINUATION OF INVESTIGATION**

15. The Receiver shall be authorized to conduct an investigation as authorized by Section 631.391, Florida Statutes, of Respondent and its affiliates, as defined above, to uncover and make fully available to the Court the true state of Respondent's financial affairs. In furtherance of this investigation, Respondent and its affiliates shall be required to make all books, documents, accounts, records, and affairs, which either belong to or pertain to Respondent, available for full, free and unhindered inspection and examination by the Receiver during normal business hours (9:00 a.m. to 5:00 p.m.) Monday through Friday, from the date of the Order. Respondent and the above specified entities shall be required to cooperate with the Receiver to the fullest extent required by Section 631.391, Florida Statutes. Such cooperation shall include, but not be limited to, the taking of oral testimony under oath of Respondent's officers, directors, managers, trustees, agents, adjusters, employees, or independent contractors of Respondent, its affiliates and any other person who possesses any executive authority over, or who exercises any control over, any segment of the affairs of Respondent in both their official, representative and individual capacities and the production of all documents that are calculated to disclose the true state of Respondent's affairs.

16. Any officer, director, manager, trustee, administrator, attorney, agent, accountant,

actuary, broker, employee, adjuster, independent contractor, or affiliate of Respondent and any other person who possesses or possessed any executive authority over, or who exercises or exercised any control over, any segment of the affairs of Respondent or its affiliates shall be required to fully cooperate with the Receiver as required by Section 631.391, Florida Statutes, and as set out in the preceding paragraph. Upon receipt of a certified copy of the Order, any bank or financial institution shall be required to immediately disclose to the Receiver the existence of any accounts of Respondent and any funds contained therein and any and all documents in its possession relating to Respondent for the Receiver's inspection and copying.

#### **NOTICE OF AUTOMATIC STAY**

17. Notice is hereby given that, pursuant to Section 631.041(1), Florida Statutes, the filing of the Department's initial petition herein operates as an automatic stay applicable to all persons and entities, other than the Receiver, which shall be permanent and survive the entry of this order, and which prohibits:

A. The commencement or continuation of judicial, administrative or other action or proceeding against the insurer or against its assets or any part thereof;

B. The enforcement of judgment against the insurer or an affiliate, provided that such affiliate is owned by or constitutes an asset of Respondent, obtained either before or after the commencement of the delinquency proceeding;

C. Any act to obtain possession of property of the insurer;

D. Any act to create, perfect or enforce a lien against property of the insurer, except a secured claim as defined in Section 631.011(21), Florida Statutes;

E. Any action to collect, assess or recover a claim against the insurer, except claims as provided for under Chapter 631;

F. The set-off or offset of any debt owing to the insurer except offsets as provided in Section 631.281, Florida Statutes.

18. All Sheriffs and all law enforcement officials of the state shall cooperate with and assist the Receiver in the implementation of this Order.

19. This Court retains jurisdiction of this cause for the purpose of granting such other and further relief as from time to time shall be deemed appropriate.

20. The Respondent is ordered into liquidation effective immediately upon the signing of this Order.

**DONE and ORDERED** in Chambers at the Leon County Courthouse in Tallahassee, Leon County, Florida this <sup>15</sup>26 day of January, 2011.

  
CIRCUIT JUDGE

✓ **COPIES FURNISHED TO:**

William A. Spillias, Chief Attorney  
Robert V. Elias, Deputy Chief Attorney  
Florida Department of Financial Services  
Division of Rehabilitation and Liquidation  
P.O. Box 110  
Tallahassee, Florida 32302



IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT, IN  
AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA, ex. rel., the  
DEPARTMENT OF FINANCIAL  
SERVICES OF THE STATE OF FLORIDA,

Relator,

vs.

CASE NO.: 2011 - 191

COMMERCIAL INSURANCE  
ALLIANCE,

A Florida Reciprocal Insurance  
Company,

Respondent.

COPY - not verified against original  
FILED  
2011 JAN 24 P 3:45  
CLERK OF COURT  
LEON COUNTY, FLORIDA

**PETITION FOR ORDER APPOINTING THE FLORIDA DEPARTMENT OF  
FINANCIAL SERVICES AS RECEIVER FOR PURPOSES OF LIQUIDATION,  
INJUNCTION, AND NOTICE OF AUTOMATIC STAY**

The Florida Department of Financial Services (hereinafter the "Department") hereby petitions this Court pursuant to Sections 631.031 and 631.061, Florida Statutes, for a consent order of liquidation of Commercial Insurance Alliance (hereinafter the "Respondent"). In support of its petition, the Department states:

1. This Court has jurisdiction pursuant to Section 631.021 (1), Florida Statutes, and venue is proper pursuant to Section 631.021(2), Florida Statutes.
2. Respondent is a Florida reciprocal insurer that was authorized to transact insurance business in the State of Florida. Respondent's principal place of business was previously located at 9309 Old Kings Road South, Suite 3, Jacksonville, Florida 32258. There is no current known principal place of business.

3. Section 631.021(3), Florida Statutes, provides that a delinquency proceeding pursuant to Chapter 631, Florida Statutes, constitutes the sole and exclusive method of liquidating, rehabilitating, reorganizing, or conserving a Florida domiciled insurer.

4. Pursuant to Section 631.031, Florida Statutes, the Department is empowered to apply to this Court for an Order directing the Respondent to show cause why the Department should not be appointed Receiver of Respondent for purposes of liquidation under any of the following grounds set out in Section 631.061, Florida Statutes.

5. Section 631.061, Florida Statutes, and Section 631.051 (11), Florida Statutes, authorize the Department to apply to this Court for an order directing it to rehabilitation or liquidate a domestic insurer upon the ground that the insurer has consented to such an order through the majority of its directors, stockholders, members or subscribers.

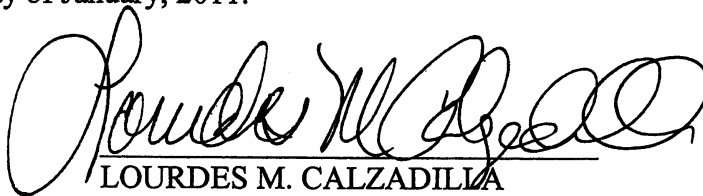
6. On January 19, 2011, pursuant to Section 631.031(1), Florida Statutes, Kevin McCarty, the Commissioner of the Office of Insurance Regulation, wrote a letter to the Honorable Jeff Atwater, Chief Financial Officer of the State of Florida, stating grounds for the initiation of delinquency proceedings against Commercial Insurance Alliance. *A copy of the letter is attached as Exhibit "A."* ***(The affidavit of Stephen J. Szypula referenced in the letter has been omitted from the exhibit as it is irrelevant given Respondent's consent.)***

7. On January 19, 2011, Respondent, through its Attorney-in-Fact, consented to the appointment of the Department as Receiver for the purposes of rehabilitation or liquidation pursuant to Sections 631.051(11) and 631.061, at the sole discretion of the Department. *A copy of the consent is attached as Exhibit "B."*

8. Accordingly, it is in the best interests of Respondent and its creditors and insureds that the relief requested in the petition be granted.

**WHEREFORE**, The Florida Department of Financial Services respectfully petitions this Court for entry of its order of liquidation attached to this Petition as part of Exhibit "B."

**SUBMITTED** on this 24<sup>th</sup> day of January, 2011.

A handwritten signature in black ink, appearing to read 'Lourdes M. Calzadilla', written over a horizontal line.

LOURDES M. CALZADILLA

SENIOR ATTORNEY

Florida Bar No. 00139408

Florida Department of Financial Services

Division of Rehabilitation and Liquidation

Post Office Box 110

Tallahassee, Florida 32302-0110

(850) 413-4413 – Telephone

(850) 921-6115 – Facsimile



## OFFICE OF INSURANCE REGULATION

**KEVIN M. MCCARTY**  
COMMISSIONER

**FINANCIAL SERVICES  
COMMISSION**

**RICK SCOTT**  
GOVERNOR

**JEFF ATWATER**  
CHIEF FINANCIAL OFFICER

**PAM BONDI**  
ATTORNEY GENERAL

**ADAM PUTNAM**  
COMMISSIONER OF  
AGRICULTURE

January 19, 2011

The Honorable Jeff Atwater  
Chief Financial Officer  
Department of Financial Services  
The Capitol, PL-11  
Tallahassee, FL 32399

**Via Email**

Re: Commercial Insurance Alliance, a Reciprocal Insurance Company

Dear Chief Financial Officer Atwater:

Please be advised that the Office of Insurance Regulation (hereinafter referred to as the "Office") has determined that one or more grounds exist for the initiation of delinquency proceedings, pursuant to Chapter 631, Florida Statutes, against Commercial Insurance Alliance, a Reciprocal Insurance Company (hereinafter referred to as "CIA").

CIA is a Florida reciprocal insurer that was authorized to transact insurance business in the State of Florida on May 5, 2006. CIA's Certificate of Authority was suspended by the Office, on August 19, 2009, pursuant to Order 105772-09. CIA has not written new insurance policies in the State of Florida since its suspension on August 19, 2009. CIA has on file with the Office a five hundred thousand U.S. Dollar (\$500,000) deposit, which could help facilitate run-off of the remaining loss and loss adjustment expenses. The Office questions whether the management of CIA is capable of achieving a solvent run-off and as such it is appropriate for the Department of Financial Services (hereinafter referred to as the "Department") to be appointed as receiver.

The grounds that allow a petition for an order appointing the Department as receiver and directing it to liquidate the business of a domestic insurer are specified in Section 631.061, Florida Statutes. I am advising you of the Office's determination so that delinquency proceedings can be initiated by the Division of Rehabilitation and Liquidation. The following document is attached in support of such determination:

Exhibit A – Affidavit of Stephen J. Szypula

...

KEVIN M. MCCARTY • COMMISSIONER  
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-0305 • (850) 413-5914 • FAX (850) 488-3334  
WEBSITE: WWW.FLOIR.COM • EMAIL: KEVIN.MCCARTY@FLOIR.COM

Affirmative Action / Equal Opportunity Employer

Exhibit "A"

The Honorable Jeff Atwater  
January 19, 2011  
Page 2

As always, the Office stands ready to provide any additional information or assistance the Department needs in order for this matter to proceed as expeditiously as possible. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "K M McCarty", written over the word "Sincerely,".

Kevin M. McCarty

cc: PK Jameson, General Counsel  
Department of Financial Services

Sha'Ron James, Interim Director  
Division of Rehabilitation and Liquidation  
Department of Financial Services



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY  
COMMISSIONER

CONSENT TO APPOINTMENT OF RECEIVER

IT IS HEREBY agreed as follows:

1. COMMERCIAL INSURANCE ALLIANCE, a Reciprocal Insurance Company (herein referred to as "Respondent") is a Florida corporation and is a domestic insurer that was authorized to transact insurance business in the state of Florida.
2. Respondent admits that grounds exist for the appointment of a Receiver for Rehabilitation or Liquidation pursuant to Sections 631.051 and 631.061, Florida Statutes.
3. Pursuant to Section 631.051 and 631.061, Florida Statutes, Respondent consents through a majority of its attorney-in-fact, directors, stockholders, members, officers, trustees, or subscribers, to the entry of an Order of Rehabilitation or Liquidation, at the sole discretion of the Department of Financial Services (hereinafter referred to as "DFS"), appointing DFS as Receiver, for purposes of Rehabilitation or Liquidation, and consents to any injunctions this Court deems necessary and appropriate.

By execution hereof COMMERCIAL INSURANCE ALLIANCE consents to the appointment of DEPARTMENT OF FINANCIAL SERVICES as receiver for purposes of Rehabilitation or Liquidation, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind COMMERCIAL INSURANCE ALLIANCE, to the terms and conditions above.

COMMERCIAL INSURANCE ALLIANCE

Corporate Seal

By:

Larry E. Haynes

Larry E Haynes  
Print or Type Name

Title:

Attorney in Fact

Date:

1/19/11

STATE OF Florida

COUNTY OF Duval

The foregoing instrument was acknowledge before me this 19<sup>th</sup> day of January, 2010

By Larry Haynes

as

Attorney-in-fact

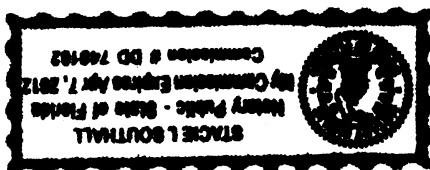
(Name of Person)

(Type of Authority - e.g. officer, trustee,

attorney-in-fact)

For Commercial Insurance Alliance.

(Company Name)



Stacie L Southall  
(Signature of the Notary)

(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_