

Targeted Market Conduct Examination Report

***OCEAN HARBOR CASUALTY INSURANCE
COMPANY***

NAIC Company Code: 12360

NAIC Group Code: 4051

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Executive Summary

The Florida Office of Insurance Regulation (“OIR”) performed a targeted market conduct examination of Ocean Harbor Casualty Insurance Company (“Ocean Harbor” or “Company”) pursuant to Section 624.3161, Florida Statutes (“F.S.”).

Purpose and Scope of the Examination

OIR has primary responsibility for the regulation, compliance, and enforcement of laws related to the business of insurance and the monitoring of the industry markets. OIR conducted a targeted market conduct examination of Ocean Harbor pursuant to Section 624.3161, F.S. The purpose of a market conduct examination is to review an insurer’s operating practices to determine if they comply with the Florida Insurance Code, rules related to the business of insurance, procedures adopted by the Company, the provisions contained within a contract of insurance issued by the Company, and orders issued by OIR; and to hold insurers accountable when issues or violations are identified.

The examination was initiated to review and evaluate Ocean Harbor’s private passenger auto claims-handling and policy forms issued to policyholders. The examination scope period was from January 1, 2019, to December 31, 2021. The examination was performed by a contracted examination firm, The INS Companies. The examination began on April 12, 2022, and ended on November 20, 2023. The examination was placed on hold due to Hurricane Ian in 2022 and Hurricane Idalia in 2023. The last examination of Ocean Harbor was completed on April 25, 2019. In reviewing materials for this report, the examiners relied on records provided by the Company.

Examination Procedures

The conduct of this examination and the procedures, statistical sampling, and examination processes used were consistent with and in accordance with those standards and procedures contained in the *Market Regulation Handbook* promulgated by the National Association of Insurance Commissioners (“NAIC”). The number of randomly selected items in each sample is consistent with the recommended sample size in the *Market Regulation Handbook’s* Acceptance Samples Table. Examination results with a 95% confidence level permit those results to be extrapolated to the population identified in each of the areas examined.

In preparation for the examination, Ocean Harbor was requested to provide the total number, or universe, of private passenger auto claims reported with a Florida exposure during the examination’s scope period. Ocean Harbor was also requested to provide the policy forms issued to Florida policyholders during the examination scope period.

Company Profile

Ocean Harbor Casualty Insurance Company is a domestic property and casualty insurer authorized to conduct business in Florida on September 30, 1993. The Company is authorized to write private passenger and commercial auto, fire, allied lines, homeowners multi-peril, and mobile home multi-peril lines of business.

Examination Findings

The following Findings are compiled from the examiners' review of Ocean Harbor's private passenger auto claims and the review of the Company's private passenger auto forms issued to policyholders.

Private Passenger Auto Claims

To facilitate a thorough review of Ocean Harbor's private passenger auto claims files, the claims universe was divided into six categories. For the purposes of this examination, the selection of claims reviewed for each of the categories was defined as follows:

- Non-Personal Injury Protection ("Non-PIP") Claims Closed with Payment: Personal auto claims filed by first or third parties during the examination scope period for bodily injury, property damage, comprehensive or collision coverage that were closed with payment. Ocean Harbor identified a universe of 14,295 Non-PIP claims that were closed with payment during the examination scope period. A random sample of 109 claims was selected and reviewed by the examiners.
- Non-Personal Injury Protection ("Non-PIP") Claims Closed without Payment: Personal auto claims filed by first or third parties during the examination scope period for bodily injury, property damage, comprehensive or collision coverage that were closed without payment. Ocean Harbor identified a universe of 20,165 Non-PIP claims that were closed without payment during the examination scope period. A random sample of 109 claims was selected and reviewed by the examiners.
- Personal Injury Protection ("PIP") Claims Closed with Payment: Personal auto claims filed during the examination scope period for PIP coverage that were closed with payment. Ocean Harbor identified a universe of 14,951 PIP claims that were closed with payment during the examination scope period. A random sample of 109 claims was selected and reviewed by the examiners.
- Personal Injury Protection ("PIP") Claims Closed without Payment: Personal auto claims filed during the examination scope period for PIP coverage that were closed without payment. Ocean Harbor identified a universe of 11,746 PIP claims that were closed without payment during the examination scope period. A random sample of 109 claims was selected and reviewed by the examiners.
- Expense Claims Closed with Payment: Personal auto claims filed by first and third parties during the examination scope period for rental, towing, and loss of use coverage that were closed with payment. Ocean Harbor identified a universe of 2,369 expense claims that were closed with payment during the examination scope period. A random sample of 107 claims was selected and reviewed by the examiners.
- Total Loss Claims: Personal auto claims filed during the examination scope period that resulted in total loss claims payments. Ocean Harbor identified a universe of 8,722 total loss

claims that were paid during the examination scope period. A random sample of 109 claims was selected and reviewed by the examiners.

Non-PIP Claims Closed with Payment

Finding 1: The examiners determined that in two instances out of 109 claims reviewed, an error percentage of 1.8%, Ocean Harbor did not inspect non-drivable vehicles within five days, as required by Ocean Harbor's *Claims Manual & Handling Procedures Outline*.

Finding 2: The examiners determined that in one instance out of 109 claims reviewed, an error percentage of 0.9%, Ocean Harbor did not affirm or deny full or partial coverage of claims upon written request of the insured within 30 days after proof-of-loss statements had been completed, as required by Section 626.9541(1)(i)3.e., F.S.

Finding 3: The examiners determined that in four instances out of 109 claims reviewed, an error percentage of 3.7%, Ocean Harbor did not acknowledge receipt of claims communications within 14 calendar days, as required by Rule 69O-166.024(1), Florida Administrative Code ("F.A.C.")

Non-PIP Claims Closed without Payment

Finding 4: The examiners determined that in three instances out of 109 claims files reviewed, an error percentage of 2.8%, Ocean Harbor did not promptly provide a reasonable explanation in writing to the insured for the denial of the claim, as required by Section 626.9541(1)(i)3.f., F.S.

PIP Claims Closed with Payment

Finding 5: The examiners determined that in 11 instances out of 109 claims reviewed, an error percentage of 10.1%, Ocean Harbor did not pay PIP benefits within 30 days after the Company was furnished with written notice of a covered loss, as required by Section 627.736(4)(b), F.S.

PIP Claims Closed without Payment

Finding 6: The examiners determined that in four instances out of 109 claims reviewed, an error percentage of 3.7%, Ocean Harbor did not pay PIP claims within 30 days after the Company was furnished with written notice of a covered loss, as required by Section 627.736(4)(b), F.S.

Expense Claims Closed with Payment

Finding 7: The examiners determined that in two instances out of 107 claims reviewed, an error percentage of 1.9%, Ocean Harbor did not acknowledge receipt of claims communications within 14 calendar days, as required by Rule 69O-166.024(1), Florida Administrative Code ("F.A.C.")

Finding 8: The examiners determined that in four instances out of 107 claims reviewed, an error percentage of 3.7%, Ocean Harbor made a material misrepresentation to an insured by paying towing or rental car expenses on less favorable terms than those provided in the policy, as prohibited by Section 626.9541(1)(i)2., F.S.

Finding 9: The examiners determined that in one instance out of 107 claims reviewed, an error percentage of 0.9%, Ocean Harbor did not tender payment within 20 days after a settlement agreement was reached, as required by Section 627.4265, F.S.

Finding 10: The examiners determined that in two instances out of 107 claims reviewed, an error percentage of 1.9%, Ocean Harbor misrepresented pertinent facts relating to coverages at issue which delayed the settlement of the claims, as prohibited by Section 626.9541(1)(i)3.b., F.S.

Finding 11: The examiners determined that in one instance out of 107 claims reviewed, an error percentage of 0.9%, Ocean Harbor did not pay sales tax, title or registration fees at the time of a total loss settlement to a first-party claimant, as required by Section 626.9743(5)(a), F.S., and per the class action settlement in *Charline Petit Beau v. Ocean Harbor Casualty Insurance Co.*, Case No. CACE18029268, Div. 19, 17th Judicial Court in Broward County, FL.

Total Loss Claims

Finding 12: The examiners determined that in two instances out of 109 claims reviewed, an error percentage of 1.8%, Ocean Harbor did not acknowledge receipt of claims communications within 14 calendar days, as required by Rule 69O-166.024(1), F.A.C.

Finding 13: The examiners determined that in 42 instances out of 109 claims reviewed, an error percentage of 38.5%, Ocean Harbor did not inspect non-drivable vehicles within five days, as required by Ocean Harbor's *Claims Manual & Handling Procedures Outline*.

Finding 14: The examiners determined that in three instances out of 109 claims reviewed, an error percentage of 2.6%, Ocean Harbor did not pay sales tax, title or registration fees at the time of a total loss settlement to a first-party claimant, as required by Section 626.9743(5)(a), F.S., and per the class action settlement in *Charline Petit Beau v. Ocean Harbor Casualty Insurance Co.*, Case No. CACE18029268, Div. 19, 17th Judicial Court in Broward County, FL.

Finding 15: The examiners determined that in eight instances out of 109 claims reviewed, an error percentage of 7.3%, Ocean Harbor made a material misrepresentation to an insured by failing to return deductibles to policyholders after receiving subrogated claims proceeds or by paying storage expenses on less favorable terms than those provided in the policy, as prohibited by Section 626.9541(1)(i)2., F.S.

Finding 16: The examiners determined that in two instances out of 109 claims reviewed, an error percentage of 1.8%, Ocean Harbor did not acknowledge and act promptly upon communications with respect to claims because salvage titles were not submitted to the appropriate party for more than a year after a total loss claim was resolved, as prohibited by Section 626.9541(1)(i)3.c., F.S.

Private Passenger Auto Policy Forms

On May 23, 2022, OIR submitted the examination's initial data call request to Ocean Harbor. The data call requested Ocean Harbor to provide the examiners with a list of all private passenger automobile policy forms issued to Florida consumers during the examination scope period of January 1, 2019, through December 31, 2021. In response, Ocean Harbor provided the examiners with policy forms OHC 002 (2013/02); OHC 001 (2013/10); OHC 001 (2016/06); OHC RS 06 18; and OHCBI 001A (2021/09).

Section 627.410(1), F.S., requires insurers to file insurance policies, application forms, printed riders or endorsements, or renewal certificates with OIR for approval before delivering or issuing them to consumers in Florida. During the examination, the examiners reviewed the policy forms prior to reviewing claims files and determined the following:

- **Form OHC 001 (2016/06):** Form OHC 001 (2013/10) was filed with OIR “for informational purposes only” in 2013 under a temporary exemption order that enacted the use of Section 627.4102, F.S., Informational filing of forms. Ocean Harbor’s informational filing contained a notarized certification stating that each form contained within the filing was thoroughly and diligently reviewed by Ocean Harbor and was in compliance with all applicable Florida laws. OIR did not review, approve, or disapprove form OHC 001 (2013/10) because Section 627.4102, F.S., exempted private passenger auto policy forms from the approval process normally required by Section 627.410, F.S.

Ocean Harbor created form OHC 001 (2016/06) by combining form OHC 001 (2013/10) with three endorsement forms that were separately submitted to and approved by OIR. Ocean Harbor did not file form OHC 001 (2016/06) with OIR for approval despite the expiration of the temporary exemption order and reinstatement of the requirements of Section 627.410, F.S. When the examiners identified that form OHC 001 (2016/06) had not been filed or approved, OIR conducted a review and determined that form OHC 001 (2013/10) contained regulatory compliance violations that were carried forward by Ocean Harbor to form OHC 001 (2016/06).

Finding 17: The examiners determined that Ocean Harbor delivered or issued form OHC 001 (2013/10) in Florida, which contained regulatory compliance violations, as prohibited by Section 627.4102, F.S., and which was contrary to the language contained in Ocean Harbor’s notarized certification that stated the form was in compliance with all applicable Florida laws.

Finding 18: The examiners determined that Ocean Harbor delivered or issued form OHC 001 (2016/06) in Florida without filing the form with or obtaining approval from OIR, as required by Section 627.410(1), F.S.

Subsequent Event: On April 12, 2023, Ocean Harbor filed form OHC 001A (2023/04) titled *Limited Personal Auto Policy*, which was approved by OIR on June 19, 2023.

Conclusion

This targeted market conduct examination of Ocean Harbor Casualty Insurance Company was designed to review and evaluate Ocean Harbor’s private passenger auto claims-handling and policy forms issued to policyholders. It does not document what regulatory or administrative action may be taken by OIR.

Examination Final Report Submission

OIR hereby issues this final report based upon information from the draft report, additional research conducted by the OIR, and additional information provided by Ocean Harbor Casualty Insurance Company.



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