



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

**REPORT ON EXAMINATION
OF THE
WORKERS' COMPENSATION SELF-INSURANCE GROUP FUND
OF
COMPTRUSTAGC TENNESSEE
NASHVILLE, TENNESSEE**

**As of
March 31, 2018**

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Nashville, Tennessee
July 12, 2019

Honorable Carter Lawrence
Interim Commissioner
Tennessee Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243

Dear Interim Commissioner:

In accordance with your instructions and pursuant to Tennessee Code Annotated ("Tenn. Code Ann.") § 56-1-408 and Tenn. Comp. R. & Regs. 0780-01-54-.20, a full-scope financial examination and market conduct review as of March 31, 2018, has been made of the condition and affairs of:

WORKERS' COMPENSATION SELF-INSURANCE GROUP FUND
of
COMPTRUSTAGC TENNESSEE
901 Woodland Street
Nashville, Tennessee 37206

hereinafter and generally referred to as the "Trust", and a report thereon is submitted as follows:

INTRODUCTION

This examination was arranged by the Tennessee Department of Commerce and Insurance (TDCI or "Department"). The examination was conducted by duly authorized representatives of the TDCI.

SCOPE OF EXAMINATION

The last examination of the Company was made as of March 31, 2013. This examination covers the period from April 1, 2013, to the close of business on March 31, 2018, and includes any material transactions and/or events occurring subsequent to the examination date and noted during the course of the examination.

The examination was conducted in accordance with rules and procedures as prescribed by the statutes of the State of Tennessee, and in accordance with practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC) in the *Financial Condition Examiners Handbook* ("Handbook"), as deemed appropriate. The examination sought to evaluate the overall financial statement presentation and management's compliance with generally accepted accounting principles. The examination also included an assessment of prospective risks faced by the Trust based on information obtained during the course of the examination.

The examination reviewed the Trust's business policies and practices, management and corporate matters, and reviewed and evaluated assets, liabilities, income, and disbursements. In addition, our examination included tests to provide reasonable assurance that the Trust was in compliance with applicable laws, rules, and regulations. In planning and conducting our examination, we considered the concepts of materiality and risk, and our examination efforts were directed accordingly.

A separate market conduct review was also performed concurrently with the financial examination. See the "Market Conduct Activities" section of this report.

The Trust provided a letter of representation certifying that management has disclosed all significant matters and records.

COMPLIANCE WITH PREVIOUS EXAMINATION FINDINGS

The examination included a review to determine the current status of the comments and recommendations in the previous report on examination, as of March 31, 2013, which covered the period from April 1, 2008, through March 31, 2013. A summary of the Commissioner's directives and the corrective actions taken by the Trust is discussed below:

Directive #1

The Trust is directed to comply with Tenn. Comp. R. & Regs. 0780-01-54-.05 by implementing controls in order to ensure that any amendments to the organizational documents or written contracts required to be provided to the Commissioner by rule 0780-01-54-.04 shall be filed at least thirty (30) days prior to the proposed effective date.

Corrective Action

During the current period of examination, the Trust was found to be in compliance with Tenn. Comp. R. & Regs. 0780-01-54-.05. The Trust worked

proactively with the TDCI in order to develop an administrator agreement prior to the effective date of that agreement.

Directive #2

The Trust was directed to comply with Tenn. Comp. R. & Regs. 0780-01-54.13(1) and (2) by implementing controls in order to maintain eighty-five percent (85%) of its net assets in permitted investments.

Corrective Action

During the period of examination, the Trust was found to be in compliance with Tenn. Comp. R. & Regs. 0780-01-54.13(1) and (2). The Trust received permission from the TDCI to file a supplemental modified financial statement non-admitting a portion of its real estate investments in order to effect compliance with Tenn. Comp. R. & Regs. 0780-01-54-.13(1).

Directive #3

The Trust was directed to comply with Tenn. Comp. R. & Regs. 0780-01-54-.04(3)(c)(1) by implementing controls in order to timely submit to the Department an actuarially justified request to forgo the procurement of aggregate excess of loss insurance.

Corrective Action

During the current period of examination, the Trust was found to be in compliance with Tenn. Comp. R. & Regs. 0780-01-54-.04(3)(c)(1). The Trust received approval to forgo the procurement of aggregate excess of loss insurance in 2014.

Directive #4

The Trust was directed to comply with Tenn. Comp. R. & Regs. 0800-02-14, Claims-Handling Standards, by refining its internal controls in order to more completely comply with the reporting requirements of Tenn. Comp. R. & Regs. 0800-02-14-.03(1) and the maintenance of all medical impairment dates of maximum medical improvement and settlement documents as required by Tenn. Comp. R. & Regs. 0800-02-14.06.

Corrective Action

During the current period of examination, the members of the Trust were found to be out of compliance with the reporting requirements of Tenn. Comp. R. & Regs. 0800-02-14-.03(1), and the Trust was found to be out of compliance with a number of the claims handling standards of Tenn. Comp. R. & Regs. 0800-02-14. However, the Trust was found to be in compliance with Tenn. Comp. R. & Regs. 0800-02-14-.06. See the "Market Conduct Activities" and "Comments and Recommendations" sections later in this report.

TRUST HISTORY

The Trust's sponsoring association, the Associated General Contractors of Tennessee (AGC), is a Tennessee non-profit trade association of general contractors. AGC was incorporated in 1945 to further the purposes of the Associated General Contractors of America, Inc., on a local level. The Trust is an unincorporated association that was created by AGC to act as a self-insurance group. The operation of the Trust is confined to Tennessee where it is licensed to transact the business of workers' compensation and employers' liability group self-insurance. Membership in the Trust is composed of qualifying members of AGC that have pooled their liabilities under the Tennessee Workers' Compensation Law.

In accordance with Tenn. Comp. R. & Regs. 0780-01-54.04, the Trust was created on January 13, 1994, through the adoption of the Declaration of Trust and Bylaws ("Bylaws"). The Trust was formed to act as a workers' compensation self-insurance group as defined by Tenn. Comp. R. & Regs. 0780-01-54-.02(17) and as authorized by Tenn. Code Ann. § 50-06-405. In accordance with Tenn. Comp. R. & Regs. 0780-01-54-.04(2)(e)(2), each member is required to execute and be bound by an indemnity agreement and power of attorney as a condition of membership in the Trust. Membership in the Trust also requires an initial contribution equal to twenty-five percent (25%) of first year estimated annual net premiums for workers' compensation coverage. The Trust continues to maintain the members' deposits.

MANAGEMENT AND CONTROL

Board of Trustees

The operation and administration of the Trust is the joint responsibility of a Board of Trustees ("Trustees") consisting of not more than fifteen (15) nor less than five (5) individuals. Pursuant to Tenn. Comp. R. & Regs. 0780-01-54-.06(1), all Trustees are required to be residents of the State of Tennessee or officers of corporations authorized to do business in the State of Tennessee. At least two-thirds (2/3) of the Trustees are required to be employees, officers, or directors of members of the Trust. During the period under examination, all of the Trustees were members of AGC or AGC of East Tennessee.

The Trustees shall be elected by the members of the Trust. Each Trustee shall serve for a term of three (3) years. A Trustee may be removed, with or without cause, by a majority vote of all Trustees. If a Trustee dies, becomes incapacitated, refuses to act, resigns, or is removed, his successor shall be appointed by the remaining Trustees to fill the unexpired term of office.

The following persons were duly elected to serve on the Board, as of March 31, 2018:

<u>Name</u>	<u>Principal Business Affiliation</u>
Larry Parks	T.U. Parks Construction Company
Craig Christenbury	Chris-Hill Construction Co., LLC
Cecil Morgan, Jr.	Morgan, Inc.
Bill Prince	BurWil Construction Company, Inc.
Todd Butler	Southern Constructors, Inc.

Officers

Pursuant to the Bylaws, the Trustees shall elect officers from among its members to serve for a term of one (1) year. The officers of the Trust shall consist of a Chairman, Vice-Chairman, and a Secretary. The Trustees may elect other officers if the need arises.

The following persons served as the Trust's officers, as of March 31, 2018:

<u>Name</u>	<u>Title</u>
Larry Parks	Chairman
Cecil Morgan, Jr.	Vice-Chairman
Craig Christenbury	Secretary

CONFLICTS OF INTEREST AND PECUNIARY INTERESTS

Pursuant to Tenn. Comp. R. & Regs. 0780-01-54-.07(6) and (7), Trustees, administrators of the Trust, and their employees cannot receive compensation for, be the beneficiary of, or be pecuniarily interested in any loan, deposit, sale, payment, exchange, or reinsurance transaction made by or on behalf of the Trust. During the course of the examination, no instances of non-compliance with Tenn. Comp. R. & Regs. 0780-01-54.07(6) and (7) were noted. However, as a best practice, examiners recommended creating conflict of interest disclosure documents to be completed by the Trustees. See the "Comments and Recommendations" section later in this report.

CORPORATE RECORDS

The Trust's Bylaws state that the Trustees shall meet quarterly, or as often as required, at the time and place specified by the Chairman or Secretary. Special meetings of the Trustees may be called at any time by the Chairman or any three (3) of the Trustees. During the period under examination, there were forty-eight (48) regular and special meetings of the Trustees and five (5) meetings of the members of the Trust. The minutes of the meetings were reviewed and appear to reflect properly the acts of the respective bodies. While reviewing the minutes, it was noted that there was no documentation of the Trustees' approval of investments for 2016. The Trustees are

required to approve all investments made by the Trust in accordance with Tenn. Code Ann. § 56-3-408(b)(1). See the “Comments and Recommendations” section later in this report. Membership requirements, powers, and duties of the Trustees and Group members were verified to be in accordance with Tenn. Comp. R. & Regs. 0780-01-54.

The Trust adopted an amendment to its Bylaws on August 21, 2014, in order to set forth succession plans in the event of the death, resignation, inability or refusal to act, or removal of its officers.

The Trust adopted an amendment to its Bylaws on November 22, 2016, to effectuate a name change from CompTrustAGC...Tennessee to CompTrustAGC Tennessee. This name change was recognized by the TDCI through the issuance of a new Certificate of Authority for the Trust on March 2, 2017.

The Trust adopted an amendment to its Bylaws on May 2, 2017, to implement an investment policy for the Trust.

MANAGEMENT AGREEMENTS

The Trust had five (5) management agreements in effect as of March 31, 2018. The following are summaries of the agreements in effect as of the examination date:

Administrative Agreement

Effective March 21, 2003, an Administrative Agreement was executed between William B. Young and the Trust. This agreement was in effect until January 1, 2018, when Grace Rogers and the Trust entered into a new Administrative Agreement. The Trustees engaged Mrs. Rogers to act as the administrator of the Trust, within the meaning of Tenn. Comp. R. & Regs. 0780-01-54-.02(1) and (2), to carry out the policies established by the Trustees, to provide day-to-day management of the Trust, and to conduct such other activities as required by applicable state laws and regulations to the extent such functions are not performed by the third party administrator. During the period under examination, the TDCI denied multiple applications for Grace Rogers' administrator license due to lack of experience in multiple areas necessary for the administration of the Trust. During this time, Mrs. Rogers was found to be performing some of the duties of an administrator despite lacking the required administrator license. This issue was discovered during the period under examination and resolved by the TDCI through approval of a modified administrator agreement for Mrs. Rogers. The Trust and Mrs. Rogers worked with the TDCI to come to an agreement to allow Mrs. Rogers to act as the administrator by restricting the duties Mrs. Rogers would be permitted to perform. The duties excluded from the administrator agreement are currently being performed by the Trust's third party administrator, Brentwood Services

Administrators, Inc. (BSA). See the “Comments and Recommendations” section later in this report.

Claims Processing Agreement

Effective April 1, 2016, the Trust entered into an agreement with BSA that provided “Specified Third Party Administrator Services” in regards to claims processing and other related services.

The agreement with BSA is effective from April 1, 2016, to April 1, 2019. The agreement is automatically renewed for consecutive one-month terms at the ending date unless written notice of termination is provided by one (1) party to the other party thirty (30) days prior to the ending date of the agreement or any one-month extension thereof, or a new agreement is entered into between the parties. Either party may terminate the agreement during its term by providing one hundred twenty (120) days’ prior written notice of termination to the other party.

Administrative Services Agreement

Effective July 22, 2010, the Trust entered into an agreement with AGC for administrative services. AGC agreed to provide office supplies, including necessary information technology equipment, and personnel for the operation of the Trust. The agreement provides for the Trust to pay a fee each quarter to AGC in order to reimburse for services and personnel.

Investment Advisory Services Agreement

Effective September 8, 2008, the Trust entered into an agreement with IPI Asset Management, Inc. (IPI) for investment advisory services. This agreement gives IPI discretion to supervise and direct, on a continuing basis, as agent and attorney-in-fact on behalf of the Trust without prior consultation, the investment and reinvestment of all assets, subject to the limitations, needs and objectives imposed by the Trust’s investment policy. IPI’s fees are calculated quarterly, based upon market value of all assets under management in the account.

Custodial Agreement

The Trust and its custodian, Pinnacle National Bank, executed an amended Custodial Agreement on July 29, 2014. This agreement does not comply with all of the provisions of Tenn. Comp. R. & Regs. 0780-01-46. See the “Comments and Recommendations” section later in this report.

EXCESS OF LOSS INSURANCE

In accordance with Tenn. Comp. R. & Regs. 0780-01-54-.04(3)(c), the Trust maintained an excess of loss agreement for workers’ compensation and employers’ liability claims

with Safety National Casualty Corporation throughout the period under examination. This agreement contains specific coverage. The Trust has elected to forgo obtaining aggregate coverage in accordance with Tenn. Comp. R. & Regs. 0780-01-54-.04(3)(c)(1).

The policy provides coverage for losses sustained by the Trust as a result of injury by accident occurring during the policy period or by disease caused or aggravated by exposure to conditions occurring during the policy period. The policy has provisions for the continuation of coverage in the event of Trust insolvency. The policy was written by a company authorized to do business in the State of Tennessee.

TERRITORY AND PLAN OF OPERATION

As of March 31, 2018, and as of the date of this report, the Trust was licensed to transact business only in the State of Tennessee. The Trust is licensed to operate as a self-insured workers' compensation pool which provides workers' compensation coverage to its members.

Effective April 1, 2018, the Trust has elected to enter into voluntary runoff and is no longer writing workers' compensation coverage to its members. See the "Subsequent Events" section of this report for more information.

GROWTH OF THE TRUST

The following exhibit depicts certain aspects of the growth and financial history of the Trust for the period subject to this examination, according to audited financial statements filed with the TDCI:

<u>Year</u>	<u>Earned Premiums</u>	<u>¹Total Reserves for Loss & LAE</u>	<u>Assets</u>	<u>Liabilities</u>	<u>Members' Equity or Surplus Funds</u>
2018	\$3,354,219	\$7,053,550	\$12,379,109	\$7,967,558	\$4,411,551
2017	\$4,051,817	\$8,210,182	\$13,528,331	\$9,015,897	\$4,512,434
2016	\$4,114,882	\$7,831,413	\$13,412,190	\$8,709,773	\$4,702,417
2015	\$4,168,780	\$7,045,999	\$12,645,071	\$8,014,867	\$4,630,204
2014	\$4,493,034	\$7,426,385	\$13,586,820	\$8,560,446	\$5,026,374

¹ This represents the total reserves for loss and loss adjustment expenses for all policy years with open claims since inception.

LOSS EXPERIENCE

The following comparative data reflects the loss experience of the Trust for the period under review, as reported by the Trust in its audited financial statements filed with the TDCI:

<u>Year</u>	<u>Premiums Earned</u>	<u>Incurred Losses & LAE</u>	<u>Under-writing Ratio</u>	<u>Gen. & Adm. Expenses</u>	<u>Gen. & Adm. Expense to Premiums</u>	<u>Combined Ratio</u>
2018	\$3,354,219	\$1,218,805	36.3%	\$2,345,322	69.9%	106.3%
2017	\$4,051,817	\$2,047,816	50.5%	\$2,207,799	54.5%	105.0%
2016	\$4,114,882	\$1,692,936	41.1%	\$2,104,358	51.1%	92.3%
2015	\$4,168,780	\$2,248,126	53.9%	\$2,165,101	51.9%	105.9%
2014	\$4,493,034	\$1,598,761	35.6%	\$2,090,879	46.5%	82.1%

REFUNDS OR DISTRIBUTIONS

Tenn. Comp. R. & Regs. 0780-01-54.15(1) states, "Any monies for a fund year in excess of the amount necessary to fund all obligations for that fund year may be declared refundable by Trustees not less than eighteen (18) months after the end of the fund year and only with the written approval of the Commissioner." If the refund is declared, ten percent (10%) of the refundable amount must be retained by the Trust for an additional year to cover any obligations that may not yet have been reported.

During the period of examination, in years 2014 through 2016, the Trustees declared surplus in excess of the funds not needed to comply with Tenn. Comp. R. & Regs. 0780-01-54-.11(1) as payable to the members with the written approval of the Commissioner.

The approval history of distributions, categorized by calendar year, since the previous examination report is as follows:

<u>Amount</u>	<u>Date of Approval by Board of Trustees</u>	<u>Date of Approval by TDCI</u>
\$450,000	February 21, 2016	March 3, 2016
\$500,000	January 29, 2015	March 25, 2015
\$1,000,000	February 9, 2014	March 17, 2014

ACCOUNTS AND RECORDS

Tenn. Comp. R. & Regs. 0780-01-54-.09(2) requires the Trust to submit to the Commissioner a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth (6th) month following the end of the Trust's fiscal year. As permitted by Tenn. Comp. R. & Regs. 0780-01-54-.09(5), the Trust's financial statements were presented in accordance with Generally Accepted Accounting Principles (GAAP).

The Trust's independent auditor, Crowe LLP (Crowe), issued the Trust's GAAP audited financial statements and prepared the Trust's federal income tax returns. Crowe also prepared all year-end adjusting entries and an adjusted trial balance as of year-end.

While reviewing the audit engagement letters issued by Crowe, it was determined that Crowe did not rotate audit partners on this engagement after five (5) years. The lead partner on the Trust's audit engagement acted as such from 2009 through 2018. Audit partner rotation is considered a best practice and should be considered by the Trust. See the "Comments and Recommendations" section later in this report.

The Trust's 2018 financial statement was reconciled to the corresponding general ledger account balances. All of the Trust's investment securities were confirmed with the custodian of such securities as of the date of this examination. All annual financial statements for the period under examination were reviewed for completeness and adequacy of disclosure. These test checks and reviews revealed no material discrepancies.

The Trust's books and records are located at the Trust's headquarters in Nashville, Tennessee and the BSA headquarters in Brentwood, Tennessee.

Tenn. Comp. R. & Regs. 0780-01-54-.13(3) states that investment in real estate by a pool may only be undertaken with the prior approval of the Commissioner. It was noted that the Trust invested in real estate in 2010 with approval from the Commissioner and improvements to that real estate in 2014 without the prior approval of the Commissioner. This issue was discovered by the TDCI and subsequently resolved prior to the beginning of this examination. See the "Comments and Recommendations" section later in this report.

Tenn. Comp. R. & Regs. 1700-02-01-.02(1) requires the holders of unclaimed property to report unclaimed property, including the verification required in Tenn. Code Ann. § 66-29-123, in electronic media only and in the format prescribed by the Unclaimed Property Division's online portal. The Trust has not reported unclaimed property during the examination period despite maintaining custody of unclaimed property. See the "Comments and Recommendations" section later in this report.

MARKET CONDUCT ACTIVITIES

In conjunction with this examination, a market conduct review was made of the Trust as of March 31, 2018. The following areas were addressed:

Underwriting

During the period of examination, the Trust used established underwriting guidelines to determine the acceptance or rejection of underwriting risks. These guidelines, which were approved by the Trustees and filed with the TDCI prior to the period of examination, were found to be in compliance with Tenn. Comp. R. & Regs. 0780-01-54-.08(1). No exceptions were noted with regard to the Trust's compliance with its underwriting guidelines.

Rate and Premium Contributions

The Trust's rate and premium contributions were examined for compliance with Tenn. Comp. R. & Regs. 0780-01-54-.10, Rates and Rate Reporting. No exceptions were found.

Advertising

In the examination of the Trust's advertising, items issued by the Trust were reviewed for compliance with Tenn. Code Ann. § 56-08-104(1) and (2). The Trust's bulletins and internet website were examined in accordance with the statute and found to be in compliance.

Producer Appointments

Tenn. Code Ann. § 56-6-115(a) requires that an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. In the review of producer appointments, it was noted that the Trust had not appointed any insurance producers to act on behalf of the Trust despite using multiple agents to produce its business. See the "Comments and Recommendations" section later in this report.

Claims Review

The Trust's processing of workers' compensation claims was examined for compliance with claims handling standards as required by the Department of Labor, Division of Workers' Compensation in Tenn. Comp. R. & Regs. 0800-02-14. The Trust was not in compliance with all of the provisions of Tenn. Comp. R. & Regs. 0800-02-14.04 during the period under examination. See the following paragraphs as well as the "Comments and Recommendations" section later in this report.

A sample of open and closed claims that were incurred as of March 31, 2018, was reviewed. Information regarding the examination of these open and closed claims files is described below:

Reporting Requirements

Tenn. Comp. R. & Regs. 0800-02-14-.03(1) requires employers to report accidents to their insurer within one (1) working day of knowledge of injury. In the sample of claims reviewed, there were exceptions found where employers failed to report an accident within one (1) working day of knowledge of injury.

Investigation

Tenn. Comp. R. & Regs. 0800-02-14-.04(1) requires the insurer to make verbal or written contact with the claimant within two (2) working days to confirm facts of the claim, history of prior claims, work history, wages, and job duties. In the sample reviewed, there were exceptions where the insurer failed to make verbal or written contact with the claimant within two (2) working days. See the “Comments and Recommendations” section later in this report.

Tenn. Comp. R. & Regs. 0800-02-14-.04(2) requires the insurer to make personal or telephone contact with the claimant’s employer within two (2) working days of notice of accident to verify accident details. In the sample reviewed, there were exceptions where the insurer failed to make personal or telephone contact with the employer within two (2) working days. See the “Comments and Recommendations” section later in this report.

Tenn. Comp. R. & Regs. 0800-02-14-.04(3) requires the insurer to verify the average weekly wage of the claimant consistent with the Division of Workers’ Compensation’s requirements and the requirements of Tenn. Code Ann. § 50-6-205. No exceptions were found.

Tenn. Comp. R. & Regs. 0800-02-14-.04(4) requires the insurer to contact physicians who have rendered medical services to a claimant within seventy-two (72) hours of verbal or written notice to confirm injury and treatment and make a preliminary compensatory determination. In the sample reviewed, there were exceptions where the insurer failed to make contact with physicians within seventy-two (72) hours. See the “Comments and Recommendations” section later in this report.

Tenn. Comp. R. & Regs. 0800-02-14-.04(5) requires all aspects of contacting and attempts to contact insureds, the claimant, and physicians to be documented within the insurer’s file. No exceptions were found.

Tenn. Comp. R. & Regs. 0800-02-14-.04(6) requires the insurer to determine when third-party subrogation is appropriate and to develop a strategy to promptly obtain needed evidence for subrogation. In the sample reviewed, there were exceptions where the insurer did not consider third-party subrogation or failed to develop a strategy to promptly obtain evidence related to subrogation. See the “Comments and Recommendations” section later in this report.

Tenn. Comp. R. & Regs. 0800-02-14-.04(7) requires that decisions on workers’ compensation insurance coverage and compensability, filing of all pertinent documents of the Division of Workers’ Compensation, and notification of claimants and employers of the decision of compensability shall all occur within fifteen (15) days of verbal or written notice of an accident. In the sample reviewed, there were exceptions where the insurer did not perform these actions in a timely manner. See the “Comments and Recommendations” section later in this report.

Tenn. Comp. R. & Regs. 0800-02-14-.04(8) requires denial of a claim to be supported with the documented results of the investigation, Form C-23 (Notice of Denial) should be filed within ten (10) days of denial, and Form C-23 should be provided to the claimant within the same time frame. In the sample reviewed, there were exceptions where the insurer did not file Form C-23 or provide a copy of such form to the claimant within ten (10) days. See the “Comments and Recommendations” section later in this report.

Tenn. Comp. R. & Regs. 0800-02-14-.04(9) requires an insurer to provide documentation of denial upon request of the Division of Workers’ Compensation, employers, claimants, and/or their legal representatives. No exceptions were found.

Payment of Benefits

Tenn. Comp. R. & Regs. 0800-02-14-.05 requires compensation payments for an injury to be received by the claimant no later than fifteen (15) days after notice of injury. It also requires compensation benefits be issued timely to ensure the injured employee receives the benefits no later than the date they are due. No exceptions were found.

Resolution Process

Tenn. Comp. R. & Regs. 0800-02-14-.06(1) requires the establishment of a medical impairment rating and date of maximum medical improvement by the treating physician, and information needed to settle a claim shall be documented in writing. No exceptions were found.

Payment of Medical Costs

Tenn. Comp. R. & Regs. 0800-02-14-.07 requires all medical costs owed under the Tennessee Workers' Compensation Law be paid within forty-five (45) days of receipt of invoice. No exceptions were found.

Case Reserves

The Trust established and maintained reserves for known claims and expenses and claims incurred but not reported, pursuant to Tenn. Comp. R. & Regs. 0780-01-54.11(4).

In the examination of case reserves, the examiner considered the reserve established in each case and the overall reserve pattern present in the sample in determining if the Trust established and maintained adequate reserves. The examiner found that the case reserves tested as of March 31, 2018, appeared to be adequate at the time of review, based on known health information of the injured employee.

In general, during the period of examination, it appears the Trust exercised a conservative reserve policy that resulted in establishment of an adequate reserve in compliance with Tenn. Comp. R. & Regs. 0780-01-54-.11(4).

Policyholder Complaints

Complaints for workers' compensation claims are handled through the Tennessee Department of Labor and Workforce Development (TDOL). Information on how to request assistance is posted on the TDOL website. The website provides contact information in order to file a complaint with the TDOL.

Neither the Trust nor BSA maintain a complaint register in accordance with Tenn. Code Ann. § 56-8-104(11) on behalf of the Trust. See the "Comments and Recommendations" section later in this report.

Privacy of Non-Public Personal Information

The Trust's members are commercial businesses. Accordingly, Tenn. Comp. R. & Regs. 0780-01-72-.02(2), Privacy of Consumer Information Regulations, does not apply to commercial businesses.

The third-party vendors engaged by the Trust for accounting, claims, underwriting, excess insurance, investments, and member premium audits have written privacy policies, or their agreements with the Trust contain confidentiality and protection language governing Trust, member, and injured employee information.

Anti-Fraud Plan

The Trust has a formalized anti-fraud plan, which was filed with the TDCI on June 29, 2009. The anti-fraud plan language is in compliance with Tenn. Code Ann. § 56-47-112(a).

SUBSEQUENT EVENTS

Effective April 1, 2018, the Trust has entered into voluntary runoff.

Effective April 30, 2018, the Trust amended its agreement with AGC for administrative services, increasing the administrative fees paid to AGC. This increase was approved by the Trustees in 2014 and was related to the increased administrative burden of purchasing and maintaining the building occupied by the Trust, AGC, and other tenants from 2014 through 2018. All other terms of the agreement remained the same.

Effective August 2, 2018, Tenn. Comp. R. & Regs. 0800-02-14, Claims Handling Standards, was amended. The amended Standards affecting the Trust include more specific timeliness requirements for the payment of benefits, new claims resolution filing requirements, and enumeration of the ways in which the Claims Handling Standards may be enforced.

Effective December 6, 2018, the Trust sold its building.

Effective April 1, 2019, the Trust entered into an agreement with William B. Young for consulting services related to the TDCI's examination of the Trust. This agreement provided for reasonable fees and is set to continue in full force and effect for twelve (12) consecutive months with the option to extend the terms of the agreement if needed.

Effective May 7, 2019, the Trust amended its bylaws to reflect the current operations of the Trust due to its election to enter voluntary runoff.

FINANCIAL STATEMENTS

There follows a statement of assets, liabilities, members' equity, and a statement of comprehensive loss as of March 31, 2018, together with a reconciliation of members' equity for the period under review, as reported by the Trust in its 2018 financial statement.

ASSETS

Cash	\$786,796
Marketable Securities:	
Municipal Bonds	6,842,102
Accounts Receivable:	
Regular premiums	122,995
Audited premiums	363,740
Accrued investment income	86,329
Prepaid expenses	30,588
Excess insurance recoverable on paid losses	84,996
Excess insurance recoverable on unpaid losses	2,603,550
Investment property	<u>1,458,013</u>
 Total assets	 <u>\$12,379,109</u>

LIABILITIES AND MEMBERS' EQUITY

Liabilities:	
Loss and loss-adjustment expense reserves	\$7,053,550
Audit premiums payable	135,612
Premium deposits	359,074
Accounts payable and accrued expenses	340,753
Premium taxes payable	72,823
Unearned rental income	<u>5,746</u>
Total Liabilities	<u>\$7,967,558</u>
 Members' equity:	
Retained earnings	4,416,612
Accumulated other comprehensive loss	<u>(5,061)</u>
 Total members' equity	 <u>4,411,551</u>
 Total liabilities and members' equity	 <u>\$12,379,109</u>

STATEMENT OF COMPREHENSIVE LOSS

Revenues

Premiums earned	\$3,354,219
Investment income, net	170,826
Realized loss on sale of marketable security	(1,827)
Rental income, net	<u>23,489</u>
 Total revenues	 <u>3,546,707</u>

Expenses

Claims and claim adjustments	1,218,805
Service fees	323,322
Excess insurance	484,661
Premium taxes	75,015
Commissions	155,920
Safety and loss control	555,165
General administrative expenses	<u>751,239</u>
 Total expenses	 <u>3,564,127</u>

Loss before income taxes (17,420)

Income tax expense -

Net loss (17,420)

Other comprehensive loss, net of tax:

Holding loss on marketable securities arising
during the period (85,290)

Realized loss on sale of marketable security 1,827

Total other comprehensive loss (83,463)

Comprehensive Loss \$(100,883)

MEMBERS' EQUITY ACCOUNT

	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>
Total members' equity, March 31 prior period	\$4,512,434	\$4,702,417	\$4,630,204	\$5,026,374	\$5,234,492
Other comprehensive income / (loss)	(83,463)	(171,111)	(33,378)	73,852	(252,314)
Net income / (loss) for the current period ended March 31	(17,420)	(18,872)	555,591	29,978	1,044,196
Dividends paid to members	<u>0</u>	<u>0</u>	<u>(450,000)</u>	<u>(500,000)</u>	<u>(1,000,000)</u>
Net Change in members' equity	<u>(100,883)</u>	<u>(189,983)</u>	<u>72,213</u>	<u>(396,170)</u>	<u>(208,118)</u>
Balance at March 31, current period	<u>\$4,411,551</u>	<u>\$4,512,434</u>	<u>\$4,702,417</u>	<u>\$4,630,204</u>	<u>\$5,026,374</u>

ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS

Total Members' Equity

\$4,411,551

Total members' equity is the same as what was reported by the Trust in its 2018 financial statement. There were no changes made to any asset or liability items as a result of our examination performed as of March 31, 2018.

COMMENTS AND RECOMMENDATIONS

Comments

1. As noted in the "Management and Control" section of this report, the Trust did not have a Conflict of Interest policy, nor did it require annual disclosures of conflicts of interest from Trust officers and Trustees. Maintaining a Conflict of Interest policy and disclosure form and requiring annual disclosures is considered a best practice as it documents the Trust's compliance with Tenn. Comp. R. & Regs. 0780-01-54-.07(6) and (7), which prohibits Trust officers and Trustees from being pecuniarily interested in any funds of the Trust. No issues were noted with regard to the Trust's compliance with Tenn. Comp. R. & Regs. 0780-01-54-.07(6) and (7).
2. As noted in the "Management Agreements" section of this report, the Trust sought approval for Grace Rogers to be its new administrator on multiple occasions and was denied. After these denials, Mrs. Rogers was found to be performing administrator duties despite lacking a license as required by Tenn. Comp. R. & Regs. 0780-01-54-.07(1). This issue was resolved by the TDCI during the period under examination by allowing Mrs. Rogers to obtain an administrator license with the stipulation that the administration agreement between the Trust and Mrs. Rogers should limit her duties and responsibilities due to her lack of expertise and experience in multiple areas needed to effectively act as the administrator for a self-insured workers' compensation pool.
3. As noted in the "Accounts and Records" section of this report, the Trust's auditors, Crowe, did not rotate audit partners on the Trust's engagement during the period under examination. As a best practice, the Trust should consider having Crowe rotate audit partners on its engagement every five (5) years.
4. As noted in the "Accounts and Records" section of this report, the Trust invested in improvements to real estate without prior approval from the Commissioner. This is not in compliance with the real estate investment requirement set forth in Tenn.

Comp. R. & Regs. 0780-01-54-.13(3), which states “Investment in real estate by a pool may only be undertaken with the prior approval of the Commissioner.” This investment in real estate also caused the Trust to be in violation of Tenn. Comp. R. & Regs. 0780-01-54-.13(1) which requires that a pool maintain an amount equal to at least eighty-five percent (85%) of its net assets in approved investments. This issue was discovered by the TDCI during the period under examination and resolved by allowing the Trust to file a supplemental modified financial statement non-admitting a portion of the value of its investment in real estate. Subsequent to the period under examination, the Trust sold its real estate.

Recommendations

1. As noted in the “Management and Control” section of this report, no evidence of the Trustees’ approval of the Trust’s investments or investment transactions could be obtained for 2016. This is not in compliance with the approval requirement set forth in Tenn. Code Ann. § 56-3-408(b)(1) which states, “No investment or loan, except premium finance loans, shall be made by any insurance company, unless the investment or loan has first been authorized by the board of directors or by a committee appointed by the board and charged with the duty of supervising the investment or loan.”

It is recommended that the Trust ensure all investment activities are reviewed and approved by the Board of Trustees in accordance with Tenn. Code Ann. § 56-3-408(b)(1).

2. As noted in the “Management Agreements” section of this report, the Trust entered into a custodial agreement with Pinnacle National Bank on July 29, 2014. This agreement is required to comply with the requirements of Tenn. Comp. R. & Regs. 0780-01-46. However, the agreement is missing language sufficient to comply with Tenn. Comp. R. & Regs. 0780-01-46-.02 paragraphs (g), (j), and (n).

It is recommended that the Trust enter into a new or amended custodial agreement in order to fully comply with Tenn. Comp. R. & Regs. 0780-01-46.

3. As noted in the “Accounts and Records” section of this report, the Trust maintains custody of unclaimed property but has not reported such property to the State Treasurer in accordance with Tenn. Comp. R. & Regs. 1700-02-01-.02(1) and Tenn. Code Ann. § 66-29-123.

It is recommended that the Trust report all unclaimed property held by it, in electronic media and in the format prescribed by the Unclaimed Property Division’s

online portal, to the State Treasurer as required by Tenn. Comp. R. & Regs. 1700-02-01-.02(1) and Tenn. Code Ann. § 66-29-123.

4. As noted in the “Market Conduct Activities” section of this report, the Trust used a number of different producers to sell policies on its behalf during the period under examination. None of the producers identified were appointed to sell policies on behalf of the Trust in accordance with Tenn. Code Ann. § 56-6-115. The Trust has elected to stop selling policies and entered voluntary runoff subsequent to the period under examination.

Should the Trust ever elect to resume selling policies, it is recommended that the Trust ensure all producers used to sell its policies are appropriately appointed by the Trust as required by Tenn. Code Ann. § 56-6-115.

5. As noted in the “Market Conduct Activities” section of this report, the Trust was found to be in violation of several of the claims handling standards found within Tenn. Comp. R. & Regs. 0800-02-14.04 during a review of a random sample of claims. During this review, it was noted that the Trust did not always make verbal or written contact with claimants within two (2) working days to confirm information related to claims, as required by 0800-02-14-.04(1). The Trust also did not always make contact with the employer within two (2) working days of file assignment to confirm the facts of claims, as required in paragraph .04(2). The Trust also did not always make contact with physicians who rendered medical services within seventy-two (72) hours of file assignment, as required by paragraph .04(4). The Trust did not always consider the possibility of third-party subrogation or develop a strategy to obtain needed evidence, as required by paragraph .04(6). The Trust did not always issue decisions on coverage and compensability within fifteen (15) days of notice of an accident, or failed to notify claimants and employers of the decision of compensability within fifteen (15) days, as required in paragraph .04(7). The Trust did not always file Form C-23 (Notice of Denial) or provide a copy of such form to the claimant within ten (10) days of denial, as required by paragraph .04(8).

Subsequent to the period under examination, effective August 2, 2018, Tenn. Comp. R. & Regs. 0800-02-14 was amended as noted in the “Subsequent Events” section of this report.

It is recommended that the Trust comply with all of the claims handling standards set forth in Tenn. Comp. R. & Regs. 0800-02-14-.04.

6. As noted in the “Market Conduct Activities” section of this report, the Trust did not maintain a record of all complaints in accordance with Tenn. Code Ann. § 56-8-104(11), which requires information related to “the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.”

It is recommended that the Trust develop and maintain a complete record of all complaints as required by Tenn. Code Ann. § 56-8-104(11).

CONCLUSION

Rules and procedures as prescribed by the statutes of the State of Tennessee, and guidance from the NAIC Handbook, as deemed appropriate, have been followed in connection with the verification and valuation of assets and the determination of liabilities of the Workers' Compensation Self-Insurance Group Fund of CompTrustAGC Tennessee.

In such manner, it was found that, as of March 31, 2018, the Trust had assets of \$12,379,109 and liabilities, exclusive of members' equity, of \$7,967,558. Thus, there existed for the additional protection of the members of the Trust, the amount of \$4,411,551 in the form of members' equity. Tenn. Comp. R. & Regs. 0780-01-54-.11(1) requires self-insured workers' compensation pools to maintain a minimum surplus equal to thirty percent (30%) of the unpaid claims liability of the pool. For this examination, as of March 31, 2018, the Trust maintains surplus in an amount that is sufficient to meet the requirement of Tenn. Comp. R. & Regs. 0780-01-54-.11(1).

The courteous cooperation of the officers of the Trust and its administrator extended during the course of the examination is hereby acknowledged.

In addition to the undersigned, Dustin Rice, Insurance Examiner, Kyle Center, Insurance Examiner, and Jay Uselton, CFE, Supervising Examiner, from the State of Tennessee, participated in the work of this examination.

Respectfully submitted,



Daniel O. Clements, CPA
Examiner-in-Charge
State of Tennessee

AFFIDAVIT

The undersigned deposes and says that he has duly executed the attached examination report of the Workers' Compensation Self-Insurance Group Fund of CompTrustAGC Tennessee located in Nashville, Tennessee, dated July 12, 2019, and made as of March 31, 2018, on behalf of the Tennessee Department of Commerce and Insurance. Deponent further says he is familiar with such instrument and the contents thereof, and the facts therein set forth are true to the best of his knowledge, information, and belief.



Daniel O. Clements, CPA
Examiner-in-Charge
State of Tennessee

State Tennessee

County Davidson

Subscribed to and sworn before me

this 19th day of September, 2019

Mindy C. Walker
(NOTARY)

My Commission Expires: 7.6.2020

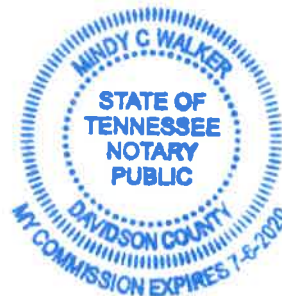


EXHIBIT B

September 23, 2019

Mr. Bryant Cummings
Assistant Director of Financial Examinations/Assistant Chief Examiner
Tennessee Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243-1135

RE: Report of Examination – CompTrustAGC Tennessee


Dear Mr. Cummings:

We hereby acknowledge receipt of the final Report of Examination for CompTrustAGC Tennessee, made as of March 31, 2018. Please note the move of AGC of Tennessee and the fact your letter of transmittal is using our old address; the certified mail copy of the letter may never be received.

As noted in prior emails and correspondence, we disagree with some of the "facts" expressed in the report and with some of the conclusions and subsequent resolutions. However, in order not to needlessly expend the remaining surplus accruing for the benefit of our members, we are electing not to enter into a formal contesting of the disputed items, but reserve the right to undertake such a protest should future conditions warrant such a move by the Trustees.

By signing below, we indicate acceptance of the report subject to the comments above, as transmitted, and without rebuttal at this time.

Sincerely,



Larry S. Parks,
Chairman, CompTrust AGC Tennessee

Grace Rogers, Administrator
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615.244.4555 | 800.341.8242 | FAX 615.248.6317

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