

**REPORT ON EXAMINATION AS TO THE CONDITION OF  
FIRST FOUNDERS ASSURANCE COMPANY**

**CHESTER, NEW JERSEY 07930**

**AT DECEMBER 31, 2019**

**NAIC COMPANY CODE 12150**

**FILED**

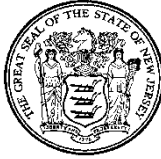
**SEPTEMBER 1, 2020**

**COMMISSIONER**

**DEPARTMENT  
OF  
BANKING & INSURANCE**

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**State of New Jersey**  
DEPARTMENT OF BANKING AND INSURANCE  
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PHIL MURPHY  
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SHEILA OLIVER  
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MARLENE CARIDE  
*Commissioner*

August 5, 2020

Honorable Marlene Caride  
Commissioner of Banking and Insurance  
State of New Jersey  
20 West State Street  
Trenton, New Jersey 08625

Commissioner:

A financial examination has been made of the condition and affairs of the:

**First Founders Assurance Company**  
**6 Mill Ridge Lane**  
**Chester, New Jersey 07930**  
**NAIC Company Code 12150**

a property and liability insurance organization authorized to transact business in the State of New Jersey, and hereinafter referred to in this report as "Founders," "FFAC," or "Company."

## SCOPE OF EXAMINATION

This comprehensive financial condition examination was called by the Commissioner of the New Jersey Department of Banking and Insurance (hereafter "NJDOBI" or "the Department") pursuant to the authority granted by Section 17:23-22 of the New Jersey Annotated Revised Statutes.

The examination was conducted using the risk-focused examination approach and addressed the five-year period from December 31, 2014, the date of the last examination, including material transactions and/or significant events occurring subsequent to the examination date. The examination followed procedures formulated by the National Association of Insurance Commissioners ("NAIC") as permitted by the Department.

The scope of this examination was framed around specific key risk areas as determined by a risk assessment analysis, which attempted to measure the impact of these risks upon the Company's financial condition and future viability. This entailed an evaluation of the Company's management, corporate governance, information systems, accounting methods, system of internal control, and the annual audit work performed by the Company's certified public accountants, encompassing the following overall objectives:

- Analysis of business risk activities deemed to have a great impact on the Company's overall operations, including deviations from statutory accounting practices that affect solvency assessment.
- Identification of significant deviations from New Jersey insurance laws, regulations and directives.
- Compliance with the guidelines outlined in the revised NAIC Financial Condition Examiners Handbook ("NAIC Handbook"), NAIC accreditation/codification standards, and with NJDOBI Departmental policies and procedures.
- Identification and reporting of significant operational and internal control deficiencies and assessment of the Company's risk management processes.
- Assessment of the quality and reliability of corporate governance to identify and manage the risk environment facing the insurer in order to identify current and prospective risk areas.
- Assessment of the risks that the Company's surplus is materially misstated.
- Provision of a foundation for a profile of the Company's operations, risks and results to be utilized by regulatory authorities.

Substantive procedures were completed on certain risks based upon the adequacy of controls, risk mitigation strategies and materiality of the risks. Additional substantive procedures were performed as required by the Department. The Company, due to its size, does not maintain an internal audit department and/or staff. Assets were verified and valued, and all known liabilities were established at December 31, 2019. During the five-year exam period, the Company's assets increased \$1,741,421 from \$4,692,988 to \$6,434,409; liabilities increased \$409,917 from \$761,826 to \$1,171,743 and policyholder surplus increased \$1,331,502 from \$3,931,162 to \$5,262,664.

## **COMPLIANCE WITH PRIOR EXAMINATION REPORT RECOMMENDATIONS**

In the prior examination report dated December 31, 2014, the following recommendations were made:

### **Corporate Records**

1. It was recommended that the Company amend its by-laws and Certificates of Incorporation and Authority to include the change of address to their current location.

### **Continuity of Operations**

2. It was recommended that the Company regularly test its disaster recovery system and document the results of these tests.

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

3. It was recommended that the Company establish case reserves on all reported claims in Schedule P and all supporting schedules and exhibits.

Examination review indicated that the Company is in compliance with all the above recommendations.

## **COMPANY HISTORY**

The Company was incorporated as a stock company by means of a Certificate of Incorporation dated December 25, 2003. The Certificate was approved by the Attorney General on June 25, 2004, recorded in the office of the Bergen County Clerk on July 26, 2004 and filed with the Department on July 26, 2004. commenced business operations on August 16, 2004 with an original office location at Englewood Cliffs, NJ. The Certificate of Incorporation was amended on March 18, 2016 to reflect the Company's move to its present headquarters located in Chester, NJ.

Through a Certificate of Authority dated August 16, 2004, the Company is authorized to transact the business of fidelity and surety insurance as specified in paragraph "g" of N.J.S.A. 17:17-1, et seq., e.g., property and casualty. FFAC is also authorized by the U.S. Treasury to write Federal bonds as indicated in Treasury Circular 570. As such, the Company is subject to federal financial reporting and oversight requirements as promulgated under 31 U.S.C. 9304-9308.

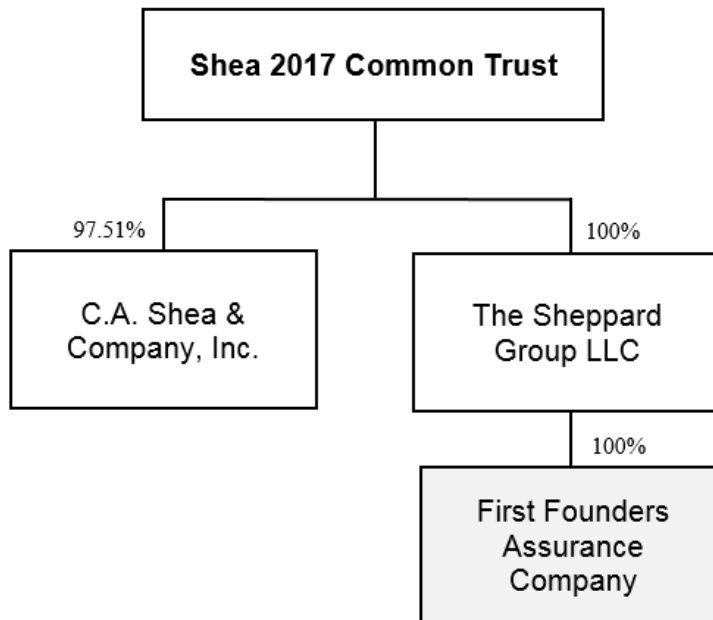
At December 31, 2019 the authorized capital stock of the Company consisted of 10,000 shares of common stock having a par value of \$100.00 per share for a total value of \$1,000,000 in accordance with N.J.S.A. 17:17-8, which requires that all authorized shares of stock of a stock company are to be issued.

All of the issued shares of the Company are controlled by **The Sheppard Group, LLC** ("Sheppard"), the parent company. Shares are not actively traded.

## HOLDING COMPANY SYSTEM

### Affiliated Parties

The Company's organizational structure makes it a member of an insurance holding company system as defined in N.J.S.A. 17:27A-1, and as such it has filed a holding company registration statement with the Department in compliance with N.J.S.A. 17:27A-3. The following is an organizational chart illustrating the interrelationship of the companies within the holding company system as of December 31, 2019.



On January 1, 2019, the members of Sheppard gifted their entire membership interest to the **Shea 2017 Common Trust** ("Trust"). As the trustees of the Trust are a former member and spouses of the former members the holding company, there is no material change in control of the holding system.

**C. A. Shea & Company, Inc.** ("Shea") is a specialty wholesale/intermediary insurance broker that services brokers, agents and insurance professionals seeking U.S. Customs, Federal Maritime Commission, and Carnet bonds. Shea has been in business for over seventy-five (75) years. The officers of Founders are also the key executives of Shea and managers of the Parent.

### Inter-Company Agreements

At December 31, 2019, the Company maintained a Management Agreement with Shea. As part of this agreement Shea will provide management, underwriting and claim handling services.

For services rendered by Shea ("Manager") during the term of this agreement, the Company shall pay to the Manager a commission equal to thirty-five percent (35%) of the premium for each policy underwritten and a management fee equal to fifteen percent (15%) of the gross monthly premium billed and reported to the Company by the Manager. The Manager shall be solely responsible for its own expenses.

## **INSURANCE PRODUCTS AND RELATED SERVICES**

### **Territory and Plan of Operation**

The Company is a monoline surety company specializing in the issuance of U.S. Custom bonds and other federally mandated, non-contract bonds related to the import and export industry. As of December 31, 2019, FFAC is licensed in the states of New Jersey and New York.

All insurance policies are issued through Founders' affiliate, Shea, its sole broker of record, which is also registered and doing business in the state of New Jersey. Shea is a Managing General Agent and a controlling producer. The Company filed annual Producer Control forms for each year of the examination period.

Direct premiums written during the examination period were as follows:

<u>Year</u>	<u>Total DWP</u>
2019	\$366,790
2018	\$388,325
2017	\$396,347
2016	\$386,781
2015	\$374,568

The Company operates only out of its home office located at 6 Mill Ridge Lane, Chester, New Jersey. It does not use any regional offices, branches or service offices. The registered agent in charge, upon whom process may be served, is John K. Daily, President.

### **Policy Forms and Underwriting Practices**

The Company accepts applications from bonds through Shea from licensed insurance producers, brokers, agents and intermediaries, in accordance with the management agreement.

A completed bond application or a written request is required for all continuous bond submissions. Should the bond application be approved, FFAC will require a standard indemnity agreement be executed. With respect to single transaction bonds, neither a written application nor an indemnity is required based on standard industry practice.

### **Treatment of Policyholders**

The review of the Company's complaint log indicated that the Company, in general, maintains its complaint log in accordance with N.J.S.A. 17:29B-4(10).

## **MANAGEMENT AND CONTROL**

### **Board of Directors**

The Company's by-laws specify that the business and affairs of the Company shall be managed by a Board of Directors (hereafter "the Board") consisting of no less than one member. Such number of directors shall from time to time be fixed and determined by the Board and shall be set forth in the notice of any meeting of shareholders held for the purpose of electing directors. The directors shall be elected at the annual meeting of shareholders in the manner provided in the Certificate of Incorporation, subject to exceptions provided in the corporate by-laws, and each director shall hold office until his successor shall be elected and shall qualify. Directors need not be residents of New Jersey or shareholders of the Company.

The duly elected members of the Board serving at December 31, 2019, were as follows:

<u>Name and Address</u>	<u>Principal Occupation</u>
John K. Daily Long Valley, NJ 07853	President/COO C.A. Shea & Company, Inc.
Bruce S. Haskell Long Valley, NJ 07853	President/CFO C.A. Shea & Company, Inc.
Michael P. O'Connor Cornwall, NY 12518	Attorney Law Offices of Michael P. O'Connor
Richard G. Ramsay Estero, FL 33928	Retired Judge and Attorney

The Board's composition meets the prerequisites of N.J.S.A. 17:27A-4d, paragraph 3, which requires that at least one-third of the membership (exclusive of the Audit Committee) be made up of outside directors only.

### **Committees**

The by-laws provide for the appointment of one or more committees, each to consist of varying numbers of directors. At December 31, 2019, the Company had one committee consisting of the following members:

#### **Audit Committee**

Richard G. Ramsay  
Michael P. O'Connor

The Audit Committee satisfies the statutory provisions of N.J.S.A. 17:27A-4d, paragraph 4, which requires the establishment of at least one committee to be composed entirely of outside directors who are not officers, employees, or beneficial owners of a controlling interest in the voting securities of the Company or its affiliates. Additionally, the committee is also in compliance with N.J.A.C. 11:2-26.14, paragraph (d), which further defines the independence of a committee member as one who does not receive compensation for services rendered to the Company and its affiliates other than his or her capacity as a member of the Board.

In the last examination, board director Michael O'Connor was found to have imperiled his independence as a member of the Audit Committee because he received a fee payment from the Company for rendering professional services in 2015 that included legal work, which disqualified him from serving in the committee. The total amount was for \$1,422. However, as per written communication obtained from the Company's CFO and Secretary of the Board, the Examiner-in-Charge was able to determine that this no longer poses a problem as the CFO has vouched that Mr. O'Connor has not worked in any professional capacity in behalf of the Company and its affiliates since 2015, and neither has he received or is projected to receive any money from the Company other than for his work as a member of the Board during the entire examination period. The Examiner-in-Charge has partly confirmed this through review of corporate expenditures, which did not reveal any disbursements going out to any of the committee members during the examination period that was characterized as compensation for professional services.

The Board's location for all correspondence and meetings is the FFAC home office, 6 Mill Ridge Ln, Chester, New Jersey 07930.



## **Officers**

The by-laws of the Company stipulate that the officers of the Company shall be a Chairman of the Board and a Vice Chairman of the Board (if such office is created by the Board), a Chief Executive Officer and a President, one or more Vice Presidents, any one or more of which may be designated Executive Vice President or Senior Vice President, a Secretary and a Treasurer. The Board of Directors may appoint such other officers and agents, including Assistant Vice Presidents, Assistant Secretaries, and Assistant Treasurers, in each case as the Board shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined by the Board of Directors.

<u>Name</u>	<u>Office(s)</u>
John Kevin Daily	President, Chief Underwriting and Claims Officer
Bruce Sterling Haskell	Secretary, Treasurer and Chief Financial Officer

## **Corporate Records**

The by-laws stipulate that a regular meeting of the Board shall be held each year, without notice other than the by-laws, following the annual meeting of the shareholders. Other meetings shall be held each year as the Board may provide. A review of the corporate minutes indicated that directors held their annual and regular meetings in accordance with the by-laws, for the purpose of nominating officers and transacting business. Altogether, nineteen (19) meetings were held during the period. All transactions and events of the Company were adequately approved and supported.

## **Policy on Conflicts of Interest**

The Company has adopted a policy statement on conflicts of interest. According to this policy any employee or officer who is aware of a conflict of interest or an improper personal benefit or is concerned that a conflict might develop, is required to discuss the matter with General Counsel or the Chairman of the Audit Committee.

Founders provided completed COI questionnaires applicable to the examination period. A review of the corporate minutes for the year 2019 revealed that the Company did not have any reported conflicts of interest.

## **FIDELITY BOND AND OTHER INSURANCE COVERAGES**

FFAC does not have fidelity bond or other insurance coverages. However, Shea, acting as the Managing General Agent, carries both fidelity bond and professional liability insurance. All processing of business is conducted by Shea under a management agreement.

## **REINSURANCE**

The Company does not maintain a reinsurance program and relevant reinsurance contracts.

## ACCOUNTS AND RECORDS

The Company uses QuickBooks for its accounting system. Computer processing is provided by Shea through the management agreement. Bruce Haskell, Chief Financial Officer (CFO), is responsible for the preparation and issuance of the Company's financial statements. All accounting matters are handled by the CFO.

Cash balances, along with investment portfolio and transactions, are held at **Advantax Investment Services**, which is an independent registered investment broker/dealer with **National Financial Services, LLC** acting as the custodian.

In accordance with the management agreement, FFAC outsources its claims administration to Shea. Shea has significant expertise and a proven track record in resolving U.S. Customs claims. It has established professional relationships with attorneys specializing in the legal analysis and negotiation of claims issued by U.S. Customs. In addition, Shea has contacts with attorneys who specialize in bond claim collection, subrogation and bankruptcy matters.

Shea has expertise in all aspects of the bonding process and the regulations and guidelines promulgated by the federal government for satisfaction of claims against Customs bonds. If there are legal concerns or defenses available to the surety, Shea will rely upon its relationship with a nationally recognized law firm specializing in Customs and international trade law. Since this is a highly specialized industry, it is critical to understand the rights and obligations of the parties to ensure claim payments are eligible and within the scope of the bond. Once payment is issued in accordance with the aforementioned accounting controls, Shea will proceed with subrogation and recovery of the claim as warranted. In this regard, Shea has also established a relationship with a law firm with expertise in subrogation, litigation, indemnity enforcement and bankruptcy procedures. This, too, is important to ensure the highest possible salvage value is obtained and to minimize the overall loss experience of the surety.

Pursuant to N.J.A.C. 11:2-26.4 an annual audit was performed by the CPA firm **AmperEisner LLP** and an audited financial CPA report was filed with the Commissioner of the NJDOBI. The report contains a synopsis of the major audit activities and results in the corporate area. The auditors issued an unqualified opinion and no areas of major concern were reported.

## CONTINUITY OF OPERATIONS

Shea, which provides IT services to the Company, has a formal disaster recovery plan that includes backup procedures, failover precautions, emergency contacts, cybersecurity, anti-virus support and a dedicated offsite location in order to maintain the stability and continuity of the Company's operations in the event of a man-made or natural disaster. The NJDOBI IT Examiner reviewed the plan without exception and confirmed that, due to its small organizational size and extremely streamlined IT infrastructure, the Company is well positioned to effectively respond to calamitous events as evidenced by its recovery from the 1993 World Trade Center bomb attack and the 2011 Halloween Nor-Easter superstorm. Additional confirmation of the Company's adaptability has been demonstrated through Founders' efficient and continued operation during the 2020 NJ State Shutdown due to the COVID-19 pandemic.

## **FINANCIAL STATEMENTS**

Financial statements are presented in the following three pages as listed below:

Exhibit-A      Statement of Financial Position  
                    as of December 31, 2019

Exhibit-B      Statement of Operating Results  
                    for the Five-Year Period ended December 31, 2019

Exhibit-C      Capital and Surplus Account  
                    for the Five-Year Period ended December 31, 2019

**EXHIBIT-A: Statement of Financial Position**

As of December 31, 2019

	Balance per Examination @ 12/31/19	Balance per Company @ 12/31/19	Examination Change	Note
<b>ASSETS</b>				
Bonds	\$ 4,431,957	\$ 4,431,957	\$ -	
Preferred Stocks	155,256	155,256		
Common Stocks	487,015	487,015		
Cash and Short-term Investments	1,284,971	1,284,971		
Investment Income Due and Accrued	39,213	39,213		
Uncollected Premiums	35,997	35,997		
<b>Total Admitted Assets</b>	<b>\$ 6,434,409</b>	<b>\$ 6,434,409</b>	<b>\$ -</b>	
<b>LIABILITIES</b>				
Losses	\$ 301,709	\$ 301,709	\$ -	1
Loss Adjustment Expenses	81,083	81,083		1
Other Expenses (excluding federal/foreign taxes)	35,690	35,690		
Taxes, Licenses, and Fees	32,182	32,182		
Unearned Premiums	167,163	167,163		
Amounts Withheld for Account of Others	545,609	545,609		
Payable to Parent, Subsidiaries and Affiliates	8,307	8,307		
<b>Total Liabilities</b>	<b>\$ 1,171,743</b>	<b>\$ 1,171,743</b>	<b>\$ -</b>	
<b>CAPITAL AND SURPLUS</b>				
Common Capital Stock	\$ 1,000,000	\$ 1,000,000	\$ -	
Gross Paid-in and Contributed Surplus	1,400,000	1,400,000		
Unassigned Funds (surplus)	2,862,664	2,862,664		2
<b>Surplus as Regards Policyholders</b>	<b>\$ 5,262,664</b>	<b>\$ 5,262,664</b>	<b>\$ -</b>	2
<b>Total Liabilities, Capital and Surplus</b>	<b>\$ 6,434,407</b>	<b>\$ 6,434,407</b>	<b>\$ -</b>	

**EXHIBIT-B: Statement of Operating Results**  
**For the Five-Year Period Ended December 31, 2019**

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
<b><u>UNDERWRITING INCOME</u></b>					
Premiums Earned	\$ 372,309	\$ 378,185	\$ 384,080	\$ 407,954	\$ 368,288
Deductions:					
Losses Incurred	85,288	20,365	52,207	24,875	30,512
Loss Adjustment Expenses Incurred	32,019	19,993	16,651	28,335	7,547
Other Underwriting Expenses Incurred	268,013	259,404	261,130	260,329	252,095
Total Deductions	<u>385,320</u>	<u>299,762</u>	<u>329,988</u>	<u>313,539</u>	<u>290,154</u>
<b>Net Underwriting Gain or (Loss)</b>	<b><u>\$ (13,011)</u></b>	<b><u>\$ 78,423</u></b>	<b><u>\$ 54,092</u></b>	<b><u>\$ 94,415</u></b>	<b><u>\$ 78,134</u></b>
<b><u>INVESTMENT INCOME</u></b>					
Net Investment Income Earned	182,841	174,595	176,868	181,662	184,749
Net Realized Capital Gains or (Losses)	1,054	73,774	(1,579)	(6,597)	1,658
<b>Net Investment Gain or (Loss)</b>	<b><u>\$ 183,895</u></b>	<b><u>\$ 248,369</u></b>	<b><u>\$ 175,289</u></b>	<b><u>\$ 175,065</u></b>	<b><u>\$ 186,407</u></b>
<b><u>OTHER INCOME</u></b>					
Aggregate Write-ins for Misc. Income	-	65	-	-	-
<b>Total Other Income</b>	<b><u>\$ -</u></b>	<b><u>\$ 65</u></b>	<b><u>\$ -</u></b>	<b><u>\$ -</u></b>	<b><u>\$ -</u></b>
Dividends to Policyholders	-	-	-	-	-
Federal and Foreign Income Taxes Incurred	-	-	-	-	-
<b>Net Income</b>	<b><u><u>\$ 170,884</u></u></b>	<b><u><u>\$ 326,857</u></u></b>	<b><u><u>\$ 229,381</u></u></b>	<b><u><u>\$ 269,480</u></u></b>	<b><u><u>\$ 264,541</u></u></b>

**EXHIBIT-C: Capital and Surplus Account**  
For the Five-Year Period Ended December 31, 2019

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Surplus as Regards Policyholders December 31, Previous Year	<u>\$ 3,931,162</u>	<u>\$ 4,081,559</u>	<u>\$ 4,429,392</u>	<u>\$ 4,640,414</u>	<u>\$ 4,869,662</u>
Net Income	170,884	326,857	229,381	269,480	264,541
Change in Net Unrealized Cap Gains/(Losses)	<u>(20,487)</u>	<u>20,976</u>	<u>(18,359)</u>	<u>(40,231)</u>	<u>128,463</u>
Total Adjustments	<u>\$ (20,487)</u>	<u>\$ 20,976</u>	<u>\$ (18,359)</u>	<u>\$ (40,231)</u>	<u>\$ 128,463</u>
Change in Surplus for the Year	150,397	347,833	211,022	229,248	393,003
Surplus as Regards Policyholders Decemebr 31, Current Year	<u><u>\$ 4,081,559</u></u>	<u><u>\$ 4,429,392</u></u>	<u><u>\$ 4,640,414</u></u>	<u><u>\$ 4,869,662</u></u>	<u><u>\$ 5,262,664</u></u>

## NOTES TO THE FINANCIAL STATEMENTS

### **Note 1 - Losses and Loss Adjustment Expenses**

The Company reported reserves for loss and loss adjustment expenses of \$301,709 and \$81,083 respectively. A review by the NJDOBI Office of Solvency Regulation's Actuarial Staff indicated the reserves established by the Company were reasonable. Data supplied to the actuaries were reconciled to the Company's 2019 annual statement without material exception.

### **Note 2 - Capital and Surplus**

#### Unassigned Funds

Total Unassigned Funds, as per the current examination review, amounted to \$2,862,664, which is \$393,001 more than the amount reported in the last examination, reflecting a 16% increase.

#### Surplus as Regards Policyholders

The cumulative changes in surplus and other funds during the five-year examination period is reflected and summarized below:

Policyholder Surplus, December 31, 2014 .....		\$ 3,931,162
Net Cumulative Income or (Loss) .....		1,261,141
Change in Net Unrealized Cap Gains/(Losses) .....	70,361	
Surplus Adjustments: Examination Change .....	<u>-0-</u>	
Net Adjustments During Five-Year Period .....		<u>70,361</u>
<b>Policyholder Surplus, December 31, 2019 .....</b>		<b><u>\$ 5,262,664</u></b>

The Company meets the statutorily required minimum capital and surplus benchmark of \$1,250,000, an excess of \$4,012,664 remaining PHS.

## SUBSEQUENT EVENTS

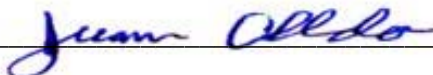
On March 11, 2020, the World Health Organization declared Coronavirus disease (COVID-19) a pandemic. On March 13, 2020, the U.S. President declared the coronavirus pandemic a national emergency in the United States. As of the date of this report, there was significant uncertainty on the effect that the pandemic would have on the insurance industry, economy, and society at large. Any impact to the Company will take time to assess and will be specific to the class and mix of business they underwrite. The Department will continue to monitor how the pandemic might impact the Company.

**CONCLUSION**

The statutory condition examination was conducted by the undersigned with the support of the NJDOBI field and office staff, away from the Company's home office.

The courteous cooperation and assistance extended during the course of this examination by the Officers of the Company and members of the office staff are hereby acknowledged.

Respectfully submitted,



---

Juan P. Collado  
Examiner-In-Charge

Under the supervision of:



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Nancy Lee Chice, CFE  
CFE Reviewer – Supervising Examiner  
New Jersey Department of Banking and Insurance



**FIRST FOUNDERS ASSURANCE COMPANY**  
**NOTARIZATION**

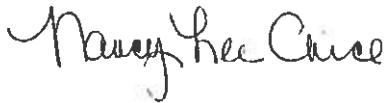
I, Juan P. Collado, do solemnly swear that the foregoing report of examination is hereby represented to be a full and true statement of the condition and affairs of the subject insurer as of December 31, 2019, to the best of my information, knowledge and belief.

Respectfully submitted,



Juan P. Collado  
Insurance Examiner I  
Representing the NJDOBI  
Office of Solvency Regulation  
Field Examination Unit

Under the supervision of:



\_\_\_\_\_  
Nancy Lee Chice, CFE  
CFE Reviewer – Supervising Examiner  
New Jersey Department of Banking and Insurance

State of New Jersey  
County of Mercer

Subscribed and sworn to before me, on this 31<sup>st</sup> day of December, 2019.



Notary Public of the State of New Jersey

My commission expires: July 2025