

**North Carolina Operators Self-Insurers Fund**

Tampa, Florida

**Report on Examination**

As of December 31, 2018

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April 27, 2020

Honorable Mike Causey  
Commissioner of Insurance  
State of North Carolina  
Raleigh, North Carolina

Sir:

Pursuant to your instructions and in accordance with Section (“§”) 58-2-131 of the General Statutes of North Carolina (“GS”), the North Carolina Department of Insurance (“Department”) conducted an examination of the records, business affairs and financial condition of

### **North Carolina Operators Self-Insurers Fund**

(hereinafter referred to as the “Fund”), at its main administrative office and statutory home office located at 4350 West Cypress Street, Suite 300, Tampa, Florida 33607. The following report on examination is respectfully submitted.

## **SCOPE OF THE EXAMINATION**

We performed a full-scope statutory examination of the Fund. This examination covers the period from January 1, 2014, to December 31, 2018, including any material transactions and events occurring subsequent to the examination date and noted during the course of this examination. The Department’s most recent prior examination of the Fund was as of December 31, 2013.

The purpose of this examination is to assess the financial condition and controls of the Fund and set forth findings of fact (together with citations of pertinent laws, regulations, and rules) with regard to any material adverse findings disclosed by the examination.

We conducted our examination in accordance with auditing standards established by the Department and the National Association of Insurance Commissioners Financial Condition Examiners Handbook (“Handbook”). The Handbook requires that we plan and perform the examination to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Fund, and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer’s surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Funds were considered in accordance with the risk-focused examination process and the following key functional activities were identified:

Cash and Investments  
Claims Handling and Reserving  
Premiums and Underwriting  
Reinsurance Ceding  
Capital and Surplus

This may include assessing significant estimates made by management, as well as evaluating the overall financial statement presentation, management's compliance with GS Chapter 58 and evaluating management's compliance with statutory accounting principles. This examination does not attest to the fair presentation of the financial statements included herein. If during the course of the examination an adjustment is identified, the impact of such adjustment will be documented separately from the Fund's financial statements.

This examination report includes significant findings of fact and general information about the insurer and its financial condition. There may be other items identified during the examination that, due to their nature (e.g., subjective conclusions, proprietary information, etc.), are not included within the examination report but separately communicated to the Fund.

The Fund's Annual Statements, work papers, and the independent audit work papers were reviewed and relied upon whenever possible. A trial balance reconciliation of the Annual Statement was performed, as were a verification of ownership and valuation of assets, determination of liabilities and reserves, and an analysis and review of such accounts and records as deemed necessary by the examination team. A management representation letter attesting to the Fund's ownership of assets, the nonexistence of unrecorded liabilities and contingent liabilities was received from the Fund's management.

The books and records of the Fund are audited annually by independent certified public accountants in accordance with GS § 58-10-185(a). Shores, Tagman, Butler & Company, P.A. of Orlando, Florida, the designated independent public accountant of the Fund, issued an unmodified opinion for each year subsequent to the Department's prior examination through, and including, the year ended December 31, 2018.

# SUMMARY OF SIGNIFICANT FINDINGS

## COMMENTS, RECOMMENDATIONS AND DIRECTIVES

- a. Conflict of interest forms were not executed annually by a trustee of the Fund for the years 2014, 2015, 2017 and 2018. The Fund is directed to execute all conflict of interest forms annually pursuant to North Carolina Administrative Code Title 11 Chapter 11C.0117.

## FUND HISTORY

The Fund commenced business on February 1, 1995, as a self-insured fund mutual association. The Fund is domiciled in North Carolina under GS § 58-47, and North Carolina Administrative Code Chapter 11, Section 0600. The Fund is owned by its members, which are McDonald's franchisees in North Carolina, and is managed by a Board of Trustees ("Board"). Each trustee must be a member of the Fund. The Fund is subject to the rules and regulations of North Carolina Industrial Commission.

## DIVIDENDS TO MEMBERS

The Fund reported a liability for policyholder dividends declared but unpaid totaling \$2,307,937 and \$1,658,881 at December 31, 2018 and 2017, respectively, which represents a return of excess premium to the Fund's policyholders. The Fund's by-laws state "the Board shall establish and approve discounts and the return of premiums and investment income to the members of the Fund. The Board shall not allow advance premium discounts to any member by the excess insurance underwriter. Any surplus monies in the Fund at the close of the Fund's year in excess of the amount necessary to fulfill obligations under the law, may be distributed to its members at the discretion of the Board of Trustees, after notice to the Commissioner of the North Carolina Department of Insurance of the proposed distribution, unless the Commissioner determines that such distribution would impair the solvency of the Fund." Pursuant to GS § 58-47-105, "dividends and other distributions shall be made in accordance with GS § 58-7-130, GS § 58-8-25(b), and GS § 58-19-30". Department approval is required prior to the payment of any extraordinary dividends.

The Fund paid dividends totaling \$400,000 in 2014 and \$300,000 in each year from 2016 to 2018. The Fund did not pay any dividends in 2015.

## MANAGEMENT AND CONTROL

### CORPORATE GOVERNANCE

#### Board of Trustees

The business of the Fund is conducted by its Third Party Administrator ("TPA") and subject to review by the Board. The bylaws specify that the number of directors shall be not less than four. Each member of the Board must be a member of the Fund. The members of the Board shall be elected by the members of

the Fund. Each elected Board member shall serve a five year term. The Board shall appoint from its members, a Chairman, Vice Chairman, and Secretary/Treasurer.

The following individuals served as directors as of December 31, 2018:

<b>Name</b>	<b>Location</b>	<b>Principal Occupation</b>
William Purcell, Chairman	New Bern, North Carolina	McDonald's Owner/Operator
Dennis Anderson	Wilmington, North Carolina	McDonald's Owner/Operator
John Hairston, Vice Chairman	Charlotte, North Carolina	McDonald's Owner/Operator
Anthony Delligatti	Summerfield, North Carolina	McDonald's Owner/Operator
Christine Nevant	Asheville, North Carolina	McDonald's Owner/Operator

The Board has not established any committees.

### **Officers**

The bylaws provide that the Board will elect the officers of the Fund. All officers so elected shall serve at the pleasure of the Board. Any officer of the Fund may be removed from his/her respective position by a resolution duly adopted by a majority of all persons elected and serving as Trustees.

The following individuals served as officer of the Fund as of December 31, 2018:

<b>Name</b>	<b>Title</b>
William Purcell	Chairman
John Hairston	Vice Chairman
Dennis Anderson	Secretary/Treasurer

### **CODE OF CONDUCT AND CONFLICT OF INTEREST**

The Fund has an established policy and procedure to identify existing or potential conflicts of interest and to report the same to the Board. Annually, the Fund requires a signed statement from each director and officer disclosing any conflict of interest. A review of the signed conflict of interest statements for the examination period revealed the Fund did not act in accordance with its policy and procedure for disclosure of conflicts of interest (Refer to the Summary of Significant Findings).

### **CORPORATE RECORDS**

We reviewed the minutes of the meetings of the Board for the period under examination. Based on our review, it appears that the minutes documented the Fund's significant transactions and events, and that the directors approved these transactions and events.

## **STATUTORY DEPOSITS**

Statutory deposits are maintained as required by insurance regulatory agencies for doing business in such jurisdictions. The Fund's 2018 Annual Statement Schedule E, Part 3 contains a complete description and listing of the Fund's statutory deposit. The Fund maintains a statutory deposit in North Carolina only.

## **THIRD PARTY ADMINISTRATOR**

The Fund uses Arthur J. Gallagher Risk Management Services, Inc. ("AJG"), the Fund's TPA, to write and administer workers' compensation policies. Under an agreement with AJG, effective January 1, 2014, the Fund is provided certain administrative services including, but not limited to, all bookkeeping, accounting, annual certified audits, underwriting, premium collection, and providing AJG with binding authority. The annual fee for the services provided under this agreement totaled \$125,000 and \$120,000 in 2018 and 2017, respectively.

AJG also acts as a broker for the Fund under the agreement whereby AJG procures and places specific and excess reinsurance coverage on behalf of the Fund. The Fund pays AJG a commission based on the amount of premiums ceded. The Fund incurred commission expenses totaling \$92,339.26 and \$98,464.92 in 2018 and 2017, respectively.

The Fund utilized Key Risk Management Services ("KRMS") to perform claims administration services. The Fund paid fees to KRMS totaling \$230,000 and \$220,000 in 2018 and 2017, respectively. York Risk Services Group acquired KRMS in 2018.

## **FIDELITY BONDS AND OTHER INSURANCE**

The Fund has fidelity bond coverage totaling \$1,000,000 in aggregate, which exceeds the minimum amount of fidelity bond coverage recommended by the Handbook.

## TERRITORY AND PLAN OF OPERATION

The Fund writes workers' compensation insurance and operates through Fund members referring new restaurant franchisees to the Fund.

### TRENDS OF THE FUND

The following data, obtained from annual statements filed with the Department, illustrates the trends of the Fund for the five year period ended 2018:

<b>Year</b>	<b>Net Admitted Assets</b>	<b>Surplus</b>	<b>Gross Premiums Written</b>	<b>Net Earned Premiums</b>	<b>Net Income(loss)</b>
2018	\$5,655,239	\$596,818	\$3,581,108	\$3,097,155	(\$141)
2017	\$5,294,971	\$697,023	\$3,868,067	\$3,397,649	\$62,951
2016	\$4,775,439	\$543,776	\$3,399,516	\$3,024,288	\$0
2015	\$4,416,756	\$483,898	\$2,885,017	\$2,566,415	\$0
2014	\$4,771,825	\$543,929	\$3,048,999	\$2,712,202	\$0

### ACTUARIAL OPINION

Every property and casualty insurance company doing business in this State, unless otherwise exempted by the Commissioner, shall annually submit the opinion of an appointed actuary and an actuarial opinion summary in accordance with GS § 58-10-150 and GS § 58-10-155.

The statutory reserves and related items for 2018 were reviewed and certified by the Fund's Appointed Actuary, Thomas P. Langer, FCAS, MAAA of Casualty Actuarial Consultants, Inc. Actuarial opinions regarding the Fund's reserves for loss and loss adjustment expenses were issued by an appointed actuary for all years in the examination period. The appointed actuary evaluated the data provided by the Fund for reasonableness and consistency of the loss and loss adjustment expense reserve. According to the actuarial opinions, the Fund's reserve on the loss and loss adjustment expense met the requirements of the insurance laws of North Carolina; were consistent with reserves computed in accordance with accepted actuarial standards and principles; and made a reasonable provision for all unpaid loss and loss expense obligations of the Fund.

## REINSURANCE PROGRAM OVERVIEW

### REINSURANCE CEDED

The Fund's reinsurer shares in the risks at different levels as specified in the reinsurance contract.

The Fund has an aggregate excess of loss contract and a specific excess of loss contract with Safety National Casualty Corporation, effective January 1, 2018. The Fund also has a specific excess of loss contract with



Great American E&S Insurance Company for Occupational Accident Buffer Layer coverage, effective January 1, 2018. The types of contracts, attachment points and coverage limits are described below.

Aggregate excess of loss

The following table, by Fund year, reflects the maximum insurance coverage amounts when total losses exceed the established attachment points:

<u>Fund Years</u>	<u>Attachment Point</u>	<u>Maximum Coverage</u>
2014	110% of collected premium	\$2,000,000
2015	110% of collected premium	\$2,000,000
2016	120% of collected premium	\$2,000,000
2017	120% of collected premium	\$2,000,000
2018	123% of collected premium	\$2,000,000

Specific excess of loss

The following table, by Fund year, reflects the maximum insurance coverage amounts when paid losses on an individual accident exceed the specified retention amounts:

<u>Fund Years</u>	<u>Retention Amount</u>	<u>Maximum Coverage</u>
2014	\$350,000	Statutory
2015	\$400,000	Statutory
2016	\$400,000	Statutory
2017	\$250,000	Statutory
2018	\$250,000	Statutory

In 2017 and 2018 the Fund purchased a retention buy down policy of limits \$200,000 excess of \$250,000, making the retention attachment point for the Excess Workers Comp \$250,000. Prior to the retention buy down, the attachment point was \$450,000 for both 2017 and 2018.

## FINANCIAL STATEMENTS

The following financial statements are based on the statutory financial statements filed by the Fund with the Department and present the financial condition of the Fund for the period ending December 31, 2018. The supporting exhibits present the information required to be included, in conformity with reporting practices prescribed by the Department. The financial statements and supporting schedules as of December 31, 2017, are unexamined and are presented for comparative purposes only.

**North Carolina Operators Self-Insurers Fund**  
**Statutory Statement of Admitted Assets**  
**December 31,**

	<b>2018</b>	<b>2017</b> <i>(unexamined)</i>
Common stocks	\$893,165	\$976,547
Cash and short-term investments	4,674,362	4,249,380
<b>Total cash and invested assets</b>	<b>5,567,527</b>	<b>5,225,927</b>
Investment income due and accrued	17,969	13,957
Premiums and agents' balances in course of collection	1,435	1,007
Federal income tax recoverable	4,000	4,000
Net deferred tax asset	64,308	50,080
<b>Total admitted assets</b>	<b>\$5,655,239</b>	<b>\$5,294,971</b>

**North Carolina Operators Self-Insurers Fund**  
**Statutory Statement of Liabilities, Surplus**  
**December 31,**

	<b>2018</b>	<b>2017</b> <i>(unexamined)</i>
Losses	\$2,136,798	\$ 2,175,196
Reinsurance payable on paid losses and loss adjustment expenses		
Loss adjustment expenses	522,595	697,858
Taxes, licenses and fees	-	12,484
Advance premium	10,416	3,469
Dividends declared and unpaid: policyholders	2,307,937	1,658,881
Ceded reinsurance premiums payable	20,925	(2,609)
Accounts payable	59,750	50,750
Premium overpayments	-	1,919
<b>Total Liabilities</b>	<b>5,058,421</b>	<b>4,597,948</b>
Unassigned funds	596,818	697,023
<b>Total surplus</b>	<b>596,818</b>	<b>697,023</b>
<b>Total Liabilities, Surplus</b>	<b>\$5,655,239</b>	<b>\$5,294,971</b>

**North Carolina Operators Self-Insurers Fund**  
**Statutory Statement of Operations**  
**December 31,**

	<b>2018</b>	<b>2017</b> <i>(unexamined)</i>
<b>Underwriting Income</b>		
Premiums Earned	\$3,097,155	\$3,397,649
<b>Deductions</b>		
Losses incurred	1,260,236	1,706,721
Loss adjustment expenses incurred	824,046	934,562
Other underwriting expenses incurred	151,016	157,336
Total underwriting deductions	2,235,298	2,798,619
Net underwriting gain	861,857	599,030
<b>Investment Income</b>		
Net investment income earned	57,649	21,232
Net realized capital gains	18,209	64,148
Net investment gain	75,858	85,380
<b>Other Income</b>		
Other income	11,200	12,000
Total other income	11,200	12,000
<b>Net Income(Loss)</b>	<b>(\$141)</b>	<b>\$62,951</b>

**North Carolina Operators Self-Insurers Fund**  
**Statutory Statement of Surplus**  
**December 31,**

	<b>2018</b>	<b>2017</b> <i>(unexamined)</i>
Surplus, beginning of year	\$697,023	\$543,776
Surplus increases(decreases):		
Net Income(Loss)	(141)	62,951
Change in net unrealized capital gains or (losses)	(106,753)	154,153
Change in net deferred income tax	141	(62,951)
Change in non-admitted assets	6,548	(906)
Change in surplus as regards policyholders for the year	(100,205)	153,247
Surplus, end of year	<b>\$ 596,818</b>	<b>\$697,023</b>

**North Carolina Operators Self-Insurers Fund**  
**Statutory Statement of Cash Flow**  
**December 31,**

	<b>2018</b>	<b>2017</b> <i>(unexamined)</i>
<b>Cash From (Used By) Operations</b>		
Premiums collected net of reinsurance	\$3,125,289	\$3,369,102
Net investment income	53,637	14,034
Miscellaneous income	11,200	12,000
Total	3,190,126	3,395,136
Benefit and loss related payments	1,298,634	1,667,391
Commissions, expenses paid and aggregate write-ins	1,162,809	1,069,020
Dividends paid to policyholders	300,000	300,000
Total	2,761,443	3,036,411
<b>Net cash from operations</b>	<b>428,683</b>	<b>358,725</b>
<b>Cash From (Used By) Investments</b>		
Proceeds from investments sold, matured, or repaid	164,660	183,961
Cost of investments acquired	169,822	179,378
<b>Net cash (used by) investments</b>	<b>(5,162)</b>	<b>4,583</b>
<b>Cash From (Used By) Financing and Miscellaneous Sources</b>		
Other cash provided	1,461	4,999
<b>Net cash from financing and miscellaneous sources</b>	<b>1,461</b>	<b>4,999</b>
<b>Reconciliation of Cash and Short-Term Investment</b>		
Net change in cash and short-term investments	424,982	368,307
Cash and short-term investments, beginning of year	4,249,380	3,881,073
Cash and short-term investments, end of year	<b>\$4,674,362</b>	<b>\$4,249,380</b>

## COMMENTS ON FINANCIAL STATEMENTS

### **Basis of Presentation and Summary of Significant Accounting Policies:**

The accompanying financial statements have been prepared on the basis of the accounting practices prescribed or permitted by the Department.

The more significant accounting policies followed by the Fund are as follows:

**Common stocks:** Carried at fair value except investments in stock of subsidiaries, which are carried at a value determined under equity method.

**Cash and short-term investments:** Carried at amortized cost (which approximates fair value) and includes money market instruments and debt securities with maturities of less than one year.

**Premiums:** Insurance premiums, net of premiums ceded to reinsurers, are earned over the terms of the policies. The portion of direct premiums written applicable to the unexpired terms of the policies is recorded as unearned premium. Premiums are earned on a pro rata basis.

**Reinsurance:** Premiums, commissions, expense reimbursements, and reserves are reported for on a basis consistent with the original policies issued and the terms of the reinsurance agreements. Premiums ceded are reported as a reduction of premium income. Losses and loss adjustment expenses are reported as reductions of those items. Uncollateralized amounts from unauthorized reinsurers are deducted directly from surplus through a provision for unauthorized reinsurance. Changes to the provision are credited or charged directly to surplus.

**Nonadmitted assets:** Certain assets, such as premiums over 90 days past due, excess of book value over market value for securities, and prepaid expenses are "nonadmitted" and are charges against surplus.

**Loan-backed securities:** Stated at either amortized cost or the lower of amortized cost or fair market value. The retrospective adjustment method is used to value all securities.

**Unpaid loss & loss adjustment expense:** Includes amounts determined from individual case estimates and loss reports and amounts, based on experience, for losses incurred but not reported. Estimated amounts of salvage and subrogation and reinsurance recoverable are deducted from the reserve for losses and loss adjustment expenses.

**Analysis of Assets:**

The following represents an analysis of the Fund's net admitted assets:

	<b>Assets</b>	<b>Assets not Admitted</b>	<b>Net Admitted Assets</b>
Common stocks	\$893,165	-	\$893,165
Cash and short-term investments	4,674,362	-	4,674,362
<b>Total cash and invested assets</b>	<b>5,567,527</b>		<b>5,567,527</b>
Investment income due and accrued	17,969	-	17,969
Premiums and agents' balances in course of collection	3,033	\$1,598	1,435
Federal income tax recoverable	4,000	-	4,000
Net deferred tax assets	74,019	9,711	64,308
Prepaid expenses and other assets	7,875	7,875	-
<b>Total admitted assets</b>	<b>\$5,674,423</b>	<b>\$19,184</b>	<b>\$5,655,239</b>



## **Reinsurance Activity:**

The Fund has reinsurance contracts to minimize its exposure to losses. Reinsurance contracts do not relieve the Fund of its primary obligation to policyholders. Failure of the reinsurers to discharge their obligations could result in losses to the Fund. The Fund utilizes Kent Reinsurance Solutions as a reinsurance intermediary to negotiate and obtain reinsurance contracts on its behalf for specifically identified risks.

Direct and ceded premiums written and earned are as follows:

	<b>2018</b>	<b>2017</b>
Direct written	\$3,581,108	\$3,868,067
Ceded written	483,953	470,418
<b>Net written</b>	<b>3,097,155</b>	<b>3,397,649</b>
Direct earned	3,097,155	3,397,649
Ceded earned	-	-
<b>Net earned</b>	<b>\$3,097,155</b>	<b>\$3,397,649</b>

The reinsurers share in the risks at different levels as specified in the reinsurance contracts. The types of contracts and retention limits are described under the Reinsurance Program Overview.

## **Summary of Reserves:**

The following provides a reconciliation of the Fund's reserves for losses and loss adjustment expenses:

	<b>Current Year</b>	<b>Prior Year</b>
Reserve for losses and loss adjustment expenses, beginning of year	\$ 2,873,054	\$ 2,816,463
<b>Add:</b>		
Provision for losses and loss adjustment expenses, current year	2,571,288	2,626,096
Change in estimated losses and loss adjustment expenses, prior years	(487,006)	15,187
<b>Total incurred</b>	<b>2,084,282</b>	<b>2,641,283</b>
<b>Deduct:</b>		
Losses and loss adjustment expenses paid, current year	908,451	1,055,875
Losses and loss adjustment expenses paid, prior year	1,389,492	1,528,817
<b>Total paid</b>	<b>2,297,943</b>	<b>2,584,692</b>
Reserve for losses and loss adjustment expenses, end of year	2,659,393	2,873,054
Increase in reserve for losses and loss adjustment expenses	(\$213,661)	\$56,591

Reserves for losses and loss adjustment expenses are reported net of the amounts that are recoverable under the Fund's reinsurance contracts. At December 31, 2018 and 2017, the liability for losses and loss adjustment expenses was not reduced by reinsurance recoverable.

## **Surplus:**

The following, in conjunction with the Statutory Statement of Surplus, represents the changes in the Fund's surplus since the Department's last examination as of December 31, 2013:

	<b>2016</b>	<b>2015</b>	<b>2014</b>
Surplus, beginning of year	\$483,898	\$543,929	\$514,306
Surplus increases (decreases):			
Net income(loss)	-	-	-
Change in net unrealized capital gain (loss)	31,951	(32,918)	16,878
Change in nonadmitted assets	27,927	(27,113)	12,745
Change in surplus as regards policyholders for the year	59,878	(60,031)	29,623
Surplus, end of year	\$543,776	\$483,898	\$543,929

## **SUBSEQUENT EVENTS**

On September 4, 2019, York Risk Services was purchased by Sedgwick Claims Management Services, Ltd., which continues to provide claim administration services to the Fund.

The Fund received approval on November 7, 2019, to pay a \$500,000 extraordinary dividend to its members on December 15, 2019.

**North Carolina Operators Self-Insurers Fund**  
**DISTRIBUTION OF REPORT ON EXAMINATION**  
**December 31, 2018**

Randall Squires, Administrator  
Arthur J. Gallagher Risk Management Services, Inc.  
4350 West Cypress Street, Suite 300  
Tampa, Florida 33607

William Purcell, Chairman  
North Carolina Operators Self-Insurers Fund  
4350 West Cypress Street, Suite 300  
Tampa, Florida 33607

## CONCLUSION

The examination procedures, described, herein, revealed no material adverse findings or adjustments to surplus.

We conclude that the Fund complies with the minimum surplus requirements of GS § 58-47-85 for the kind of insurance that the Fund has been authorized to write, which is \$392,867.

The courteous cooperation and assistance extended by the employees of the Fund's TPA during the examination is hereby acknowledged.

Respectfully submitted,



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Ke Xu, CPA, CFE  
Chief Financial Examiner  
North Carolina Department of Insurance

April 27, 2020

STATE OF NORTH CAROLINA

COUNTY OF WAKE

Keith Greene, North Carolina Department of Insurance, being first, duly sworn, deposes and says that this report on examination, subscribed by him, is true and correct to the best of his knowledge and belief.

Signature: Keith Greene Date: 4/27/2020

Sworn and subscribed before me this 27 day of April, 2020.

Notary Public Signature: Grant James Myers Notary Public Seal:

GRANT JAMES MYERS  
NOTARY PUBLIC  
Wake County  
North Carolina  
My Commission Expires Aug. 18, 2024