FILED

MAR 14 2011

Docket: KP

OFFICE INSURANCE REGULATION

KEVIN MCCARTY

IN THE MATTER OF:

FIRST AMERICAN TITLE INSURANCE COMPANY, a California Corporation.

Case No.: 106633-09

_____/

ORDER

THIS CAUSE came on for consideration as a result of the filing of a petition for rate deviation by FIRST AMERICAN TITLE INSURANCE COMPANY (hereinafter referred to as "First American") with the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "Office"). Pursuant to Section 627.783, Florida Statutes, First American submitted a Petition for Rate Deviation for the Office's review and approval. After a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the Office, hereby finds as follows:

1. The Office has jurisdiction over the subject matter of this proceeding.

2. First American is a foreign insurer domiciled in California authorized to transact the business of title insurance in the State of Florida and is subject to the jurisdiction and regulation of the Office pursuant to the Florida Insurance Code.

3. Prior to filing the request for deviation reviewed in this Order, First American made a filing with the Office seeking approval of its Mortgage Priority Guaranty (hereinafter

"MPG") product form. After a thorough review and editorial process, the Office approved First American's use of the MPG form by Consent Order which is attached hereto as Exhibit 1.

4. During this form review process, First American filed with the Office a "Verified Petition for Rate Deviation Pursuant to Section 627.783, Florida Statutes" to establish a rate for the previously approved MPG forms. The Petition included actuarial support for a specific deviation from the adopted premium to set a rate of One Hundred Twenty Five Dollars ($125.00) for the MPG.

5. The Petition was published in the Florida Law Weekly on December 18, 2009, and the public was given an opportunity to provide any written comment on the request for rate deviation. No comments either written or verbal were received and the Office subsequently began its review process.

6. With recent economic trends and record mortgage defaults, banks are looking for alternative ways to avoid foreclosure. At the request of consumer advocates and the federal government, banks and consumers are increasingly looking to modify or amend existing mortgages. Additionally, Fannie Mae and Freddie Mac rules require either the issuance of title insurance or subordination from all junior lien holders to complete the loan modification process. As a result, lending institutions are seeking a product that assures that the validity, enforceability or priority of the recorded mortgage described therein has not been diminished or lost by reason of the recorded amendments or modifications to the existing mortgage, but which is less expensive to issue than a traditional title insurance loan policy. To fill this niche, First American seeks approval of its Petition to deviate from the currently adopted title insurance premium in setting the rate for the MPG product that is the subject of this Order.

7. By design the MPG product provides a low cost alternative product to lenders intent on protecting their interests when engaging in mortgage modifications or amendments. In doing so the MPG deviates from traditional title insurance coverage and assures only that the validity, enforceability or priority of a lender's existing mortgage is not altered by the underlying mortgage's modification. In doing so, the policy does not insure or make any assurances or guarantees regarding the status of ownership or title in the lands described in the modified or amended mortgage. However, according to First American the MPG policy will only be issued after the title insurer has caused to be made a determination of insurability based upon the evaluation of a reasonable title search in accordance with sound underwriting practices as required in Section 627.7845, Florida Statutes.

8. A review of the MPG product as presented by First American to the OFFICE reveals that it is a contract of indemnity against actual monetary loss or damage sustained by the insured lender resulting from certain events that could arise when modifying or amending an existing mortgage. As such, the MGP coverage is more restrictive than that provided in a traditional title insurance loan policy and the process for issuing such an MPG policy is simpler and less involved resulting in significantly less expense than that required by the issuance of a traditional title insurance loan policy. Additionally, as the number of perils covered is reduced, the risk of loss to the insurer is diminished.

9. After review, the Office finds that a deviation from the existing title insurance loan policy rate found in Rule 69O-186.004, Florida Administrative Code, is justified and amends the rate that First American may charge for its Mortgage Priority Guaranty product to a flat rate of One Hundred Twenty Five Dollars ($125.00) as proposed in First American's Verified Petition for Rate Deviation.

IT IS THEREFORE ORDERED:

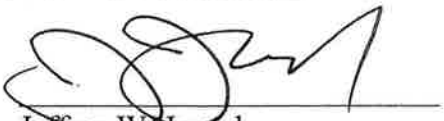
Effective upon the date of execution of this Order by the Commissioner, the Verified Petition for Rate Deviation Pursuant to Section 627.783, Florida Statutes, filed by FIRST AMERICAN which is attached to this order is hereby approved;

DONE and **ORDERED** this 14 day of March, 2011.

Kevin M. McCarty
Commissioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER has been furnished by U.S. Mail to: First American Title Insurance Company c/o Doug Mang, 660 East Jefferson Street, Tallahassee, FL 32303 this 14 day of March, 2010.



Jeffrey W. Joseph
Assistant General Counsel
Office of Insurance Regulation
Legal Services Office
612 Larson Building
200 E. Gaines Street
Tallahassee, Florida 32399-4206

Copies to:

Peter Rice
200 East Gaines Street
Tallahassee, FL 32399-4206

Doug Mang
The Mang Law Firm
660 East Jefferson Street
Tallahassee, FL 32303

Jeffrey W. Joseph
Assistant General Counsel
200 East Gaines Street
Tallahassee, FL 32399-4206