



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

IN THE MATTER OF:

CASE NO.: 37582-00-CO

CAPACITY INSURANCE COMPANY

2000 Property and Casualty Target Market
Conduct Examination

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement between **CAPACITY INSURANCE COMPANY**, hereinafter referred to as **CAPACITY INSURANCE** and the **FLORIDA DEPARTMENT OF INSURANCE**, hereinafter referred to as the **DEPARTMENT**. Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the Treasurer and Insurance Commissioner, as head of the **FLORIDA DEPARTMENT OF INSURANCE**, hereby finds as follows:

1. The Treasurer and Insurance Commissioner, as head of the **DEPARTMENT**, has jurisdiction over the subject matter of, and parties to, this proceeding.
2. **CAPACITY INSURANCE** is a domestic property and casualty insurer authorized to transact insurance business in Florida and is subject to the jurisdiction and regulation of the **DEPARTMENT** pursuant to the Florida Insurance Code.

3. The **DEPARTMENT** conducted a property and casualty target market conduct examination of **CAPACITY INSURANCE** covering the period of January 1998 through December 1998, pursuant to Section 624.3161, Florida Statutes. As a result of such examination, the **DEPARTMENT** determined that **CAPACITY INSURANCE** committed the following violations of the Florida Insurance Code or Florida Administrative Code as outlined in total in the Fine Worksheet provided with the Report of Examination Findings. A partial listing of the citations noted on the Fine Worksheet includes but is not limited to:

a. Municipal Coding

1. Sections 175 and 185, F.S.-Failure to Comply with Provisions of Chapters 175 and 185.

4. The **DEPARTMENT** and **CAPACITY INSURANCE** expressly waive a hearing in this matter and the making of Findings of Fact and Conclusions of Law by the **DEPARTMENT** and all further and other proceedings herein to which the parties may be entitled by law. **CAPACITY INSURANCE** hereby knowingly and voluntarily waives the rights to challenge or to contest this Order, in any forum now available to it, including the right to any administrative proceeding, circuit or federal court action, or any appeal.

5. For each violation noted in Paragraph 3, **CAPACITY INSURANCE** shall provide written documentation to the **DEPARTMENT**, no later than March 15, 2001, in accordance with directives in the examination report, detailing the corrective action taken in order to comply with Florida Statutes for the violations noted in Paragraph 3, including the following:

- a. File a correct 1998 DR-908 report with the Florida Department of Revenue.
- b. Provide a copy of the Corrected Report to Florida Division of Retirement.

- c. Modify Procedures for Preparing Reports to the Florida Department of Revenue to allow for accurate reporting.
- d. Provide documentation that these corrective actions have been completed to the Department of Insurance within 90 days of the issuance of this Report.

6. **CAPACITY INSURANCE** agrees that upon the execution of this Consent Order it shall be subject to the following terms and conditions:

(a) **CAPACITY INSURANCE** shall pay an administrative penalty of \$2,500 and administrative costs of \$500 on or before the 30th day after this Consent Order is executed.

(b) **CAPACITY INSURANCE** shall henceforth comply with all of the provisions of Sections 175 and 185, Florida Statutes.

(c) **CAPACITY INSURANCE** is hereby placed on notice of the requirements of the above referenced sections of law and agrees that any future violations of these sections by **CAPACITY INSURANCE** may be deemed willful, subjecting **CAPACITY INSURANCE** to appropriate penalties.

7. **CAPACITY INSURANCE** agrees that the failure to adhere to one or more of the above terms and conditions of this Order shall constitute a violation of a lawful order of the **DEPARTMENT**, and shall subject **CAPACITY INSURANCE** to such administrative action as the Treasurer and Insurance Commissioner may deem appropriate.

8. Except as noted above, each party to this action shall bear its own costs and attorney's fees.

9. **THEREFORE**, the agreement between **CAPACITY INSURANCE COMPANY** and the **DEPARTMENT**, the terms and conditions of that are set forth above, is approved.

FURTHER, all terms and conditions above are hereby **ORDERED**.

DONE AND ORDERED this ____ day of _____, 2001.

TOM GALLAGHER
TREASURER AND
INSURANCE COMMISSIONER

By execution hereof **CAPACITY INSURANCE COMPANY** consents to entry of this Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. I am authorized to execute this document.

CAPACITY INSURANCE COMPANY

By: _____

Title: _____

Date: _____

COPIES FURNISHED TO:

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