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FEB 29 2024

INSURANCE REGULATION

Docketed by: ke

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 317783-23

HERITAGE PROPERTY AND CASUALTY
INSURANCE COMPANY

CONSENT ORDER

THIS CAUSE came on for consideration as a result of an agreement between HERITAGE PROPERTY AND CASUALTY INSURANCE COMPANY ("HERITAGE") and the OFFICE OF INSURANCE REGULATION ("OFFICE") based on a review of forms previously submitted by HERITAGE and approved by the OFFICE. After a complete review of the entire record and upon consideration thereof, and otherwise being fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over HERITAGE and the subject matter of this proceeding.
2. HERITAGE is a Florida-domiciled property and casualty insurance company authorized to transact insurance in the state of Florida, and subject to the jurisdiction and regulation of the OFFICE pursuant to the Florida Insurance Code.
3. Section 627.410(1), Florida Statutes, requires an insurer to receive the OFFICE's approval of a basic insurance policy form and endorsement forms before delivering or issuing for delivery the policy form in Florida.

4. On or about March 13, 2014, the OFFICE received filing number 14-04854 which contained forms submitted by HERITAGE for the OFFICE's approval. The filing contained 51 forms, one of which was titled Roof/Actual Cash Value Endorsement.

5. On or about April 25, 2014, the OFFICE approved filing #14-04854 containing 51 forms.

6. On or about August 30, 2021, the OFFICE received inquiries from multiple sources related to HERITAGE issuing condominium association policies that provided coverage on the "structure" on an actual cash value basis.

7. After receiving the inquiries, HERITAGE confirmed that certain condominium associations were offered and opted into policies that provided coverage on the "structure" on an actual cash value basis. HERITAGE allowed condominium associations to deviate from the actual cash value coverage requirement by electing to purchase replacement cost value coverage for an additional premium. HERITAGE issued policies with actual cash value coverage on the "structure" between October 1, 2020, and August 29, 2021.

8. On or about September 2, 2021, HERITAGE was issued a corrective action plan by the OFFICE requiring HERITAGE to no longer issue condominium association policies with actual cash value coverage on the "structure" and HERITAGE to endorse any policies which existed at that time to provide replacement cost coverage on the "structure." HERITAGE confirmed completion of the corrective action plan on or about September 20, 2021.

9. On or about January 26, 2023, HERITAGE presented to the OFFICE, endorsement form number HC 31 08 14, Roof/Actual Cash Value Endorsement approved by the OFFICE in form filing #14-04854. This endorsement modified HERITAGE's condominium association coverage form to provide actual cash value for condominium "roofs" at the time of a covered loss. HERITAGE represented to the OFFICE that since 2021, and following the corrective action plan, HERITAGE

was covering condominium association “structures” at replacement cost value but continued to offer and provide actual cash value coverage on “roofs.”

10. Section 718.111, Florida Statutes, concerns condominium associations. Section 718.111(11), Florida Statutes, titled “INSURANCE,” provides:

(11) INSURANCE. —In order to protect the safety, health, and welfare of the people of the State of Florida and to ensure consistency in the provision of insurance coverage to condominiums and their unit owners, this subsection applies to every residential condominium in the state, regardless of the date of its declaration of condominium. It is the intent of the Legislature to encourage lower or stable insurance premiums for associations described in this subsection.

(a) Adequate property insurance, regardless of any requirement in the declaration of condominium for coverage by the association for full insurable value, replacement cost, or similar coverage, must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months.

11. The endorsement referenced above in paragraph nine is subject to the requirements of Section 718.111(11), Florida Statutes.

12. The Roof/Actual Cash Value Endorsement form filed and approved by the OFFICE in filing #14-04854 failed to require replacement cost value coverage for roofs and does not comply with Section 718.111(11), Florida Statutes.

13. Based on the foregoing finding, the OFFICE’s approval of HERITAGE’s Roof/Actual Cash Value Endorsement form in filing #14-04854 is hereby withdrawn. HERITAGE agrees that the Roof Actual Cash Value Endorsement form violates and does not comply with Section 718.111(11), Florida Statutes.

14. HERITAGE agrees to cease use of the Roof/Actual Cash Value Endorsement form effective immediately for new business, and due to notice requirements, renewals dated on and after March 15, 2024.

15. In accordance with Section 627.43141(2), Florida Statutes, HERITAGE must provide advance written notice to the named insured on all renewal policies summarizing the change to their policy terms by issuing a Notice of Change of Policy Terms.

16. HERITAGE expressly agrees to pay to the OFFICE a fine totaling \$10,000 U.S. Dollars ("USD") as penalty for violation of Section 718.111, Florida Statutes, that requires HERITAGE to provide full insurable value based on the replacement cost of the property to be insured. Within 30 days of execution of this consent order HERITAGE shall send payment for the fine pursuant to the directions on the invoice attached hereto as Exhibit A.

17. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OFFICE. Such approval must be requested in writing prior to any proposed deviation from the terms of this Consent Order.

18. HERITAGE affirms that all requirements set forth herein are material to the issuance of this Consent Order.

19. Any prior orders, consent orders, or corrective action plans that HERITAGE has entered into with the OFFICE prior to the execution of this Consent Order shall apply and remain in full force and effect for HERITAGE, except where provisions of such orders, consent orders, or corrective action plans have expired; have been superseded by subsequent orders, consent orders, or corrective action plans; or are inconsistent with this Consent Order.

20. HERITAGE expressly waives notice and a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings herein to which they may be entitled by law or rules of the OFFICE. HERITAGE hereby knowingly and voluntarily waives all rights to challenge or to contest this Consent Order in any forum available to them, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal as provided under Sections 627.066, 120.569 and 120.57, Florida Statutes.

21. Each party to this action shall bear its own costs and fees.

22. HERITAGE agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OFFICE suspending, revoking, or taking other administrative action as it deems appropriate upon HERITAGE's Certificate of Authority in this state in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

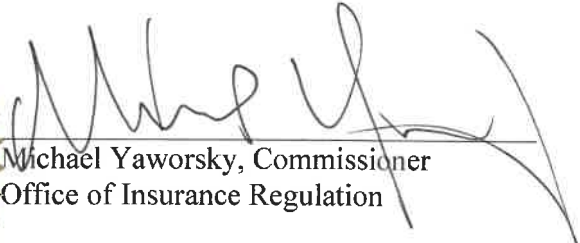
23. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the notarized signature of the authorized representative of HERITAGE.

WHEREFORE, the agreement between HERITAGE PROPERTY AND CASUALTY INSURANCE COMPANY and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above is hereby APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 29th day of February, 2024.




Michael Yaworsky, Commissioner
Office of Insurance Regulation

By execution hereof, HERITAGE PROPERTY AND CASUALTY INSURANCE COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions therein. The undersigned represents that they have the authority to bind HERITAGE PROPERTY AND CASUALTY INSURANCE COMPANY to the terms and conditions of this Consent Order.

HERITAGE PROPERTY AND CASUALTY
INSURANCE COMPANY

By: [Signature]

[Corporate Seal]

Print Name: Kirk Lusk

Title: CEO

Date: 2/24/24

STATE OF Florida
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me by means of physical presence or
 online notarization, this 28 day of Feb 2024, by Kirk Lusk
as CEO for Heritage Insurance
(type of authority; e.g., officer, trustee, attorney in fact) (company name)



[Signature]
(Signature of the Notary)
Kari Hyde Gilchrist
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known X OR Produced Identification _____
Type of Identification Produced _____
My Commission Expires 5/18/24

COPIES FURNISHED TO:

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