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INSURANCE REGULATION

Docketed by: ke

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 322312-24

HERITAGE PROPERTY & CASUALTY
INSURANCE COMPANY

CONSENT ORDER

THIS CAUSE came on for consideration as the result of HERITAGE PROPERTY & CASUALTY INSURANCE COMPANY's ("HERITAGE") violation of one or more provisions of the Florida Insurance Code as outlined in their 2024 Targeted Market Conduct Examination conducted by the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE"). Following 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 and the parties herein.
2. HERITAGE is a property and casualty insurer domiciled in Florida authorized to transact insurance in this state through a subsisting Certificate of Authority, and subject to regulation by the OFFICE, pursuant to the Florida Insurance Code.
3. On or about March 11, 2024, the OFFICE completed a targeted market conduct examination of HERITAGE to review their Hurricane Ian claims-handling operations. The examination scope period was September 28, 2022, to February 28, 2023.
4. The OFFICE documented the following violations of the Florida Insurance Code by HERITAGE:

- a. Failure to acknowledge receipt of a claim communication within 14 calendar days (Section 627.70131(1)(a), Florida Statutes (2022¹));
- b. Failure to provide the policyholder with a document containing the adjuster's name and license number (Section 627.70131(3)(b), Florida Statutes);
- c. Failure to include the name and license number of the adjuster in a subsequent communication regarding the claim (Section 627.70131(3)(c), Florida Statutes);
- d. Failure to pay or deny a claim or a portion of the claim within 90 days after notice of an initial, reopened, or supplemental property insurance claim (Section 627.70131(7)(a), Florida Statutes (2022²);
- e. Failure to calculate the correct amount of interest owed on payment of a claim (Section 627.70131(7)(a), Florida Statutes);
- f. Failure to pay interest when the claim payment was made 90 days after receiving notice of the claim (Section 627.70131(7)(a), Florida Statutes);
- g. Failure to provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after an initial claim communication (Section 627.7142, Florida Statutes);
- h. Failure to utilize properly appointed adjusters (Section 626.112(1)(a), Florida Statutes); or utilized emergency adjusters before the appropriate license was issued by the Florida Department of Financial Services (Rule 69B-220.001(5)(a), Florida Administrative Code); and
- i. Failure to maintain claims experience records (Section 627.318, Florida Statutes).

¹ Section 627.70131, Florida Statutes (2023), has reduced the 14-day timeframe to 7 days, the 45-day timeframe to 30 days and the 90-day timeframe to 60 days. Other revisions were also made to the law.

² *Id.*

5. Section 627.70131(1)(a), Florida Statutes (2022³), provides that upon an insurer's receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer.

6. In 98 instances, the OFFICE documented that HERITAGE did not acknowledge receipt of a claim communication within 14 calendar days.

7. Section 627.70131(3)(b), Florida Statutes, provides that, upon receipt of proof-of-loss statements from an insured, if the investigation of the claim involves a physical inspection of the property, the licensed adjuster assigned by the insurer must provide the policyholder with a printed or electronic document containing his or her name and state adjuster license number.

8. In 139 instances, the OFFICE documented that HERITAGE did not ensure that licensed field adjusters provided policyholders with a printed or electronic document containing his or her name and state adjuster license number when the claims investigation involved a physical inspection of the property.

9. Section 627.70131(3)(c), Florida Statutes, provides that any subsequent communication with the policyholder regarding the claim must also include the name and license number of the adjuster communicating about the claim.

10. In 66 instances, the OFFICE documented that HERITAGE did not include the name and license number of the adjuster communicating about the claim in a subsequent communication with the policyholder regarding the claim.

³ *Id.*

11. Section 627.70131(7)(a), Florida Statutes (2022⁴), provides that within 90 days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer.

12. In 70 instances, the OFFICE documented that HERITAGE did not pay or deny initial, supplemental, or reopened claims within 90 days.

13. Section 627.70131(7)(a), Florida Statutes (2022⁵), provides that any payment of an initial or supplemental claim or portion of such claim made 90 days after the insurer receives notice of the claim, or made after the expiration of any additional timeframe provided to pay or deny a claim or a portion of a claim made pursuant to an order of the office finding factors beyond the control of the insurer, whichever is later, bears interest at the rate set forth in Section 55.03, Florida Statutes.

a. In 59 instances, the OFFICE documented that HERITAGE did not accurately calculate the correct amount of interest owed at the rate set forth in Section 55.03, Florida Statutes, when payment of the claim was made 90 days after the insurer received notice of the claim, or more than 15 days after there were no longer factors beyond the control of the insurer to reasonably prevent payment.

b. In 4 instances, the OFFICE documented that HERITAGE did not pay interest when the claim payment was made 90 days after receiving notice of the claim, or more than 15 days after there were no longer factors beyond the control of the insurer which reasonably prevented such payment.

⁴ *Id.*

⁵ *Id.*

14. Section 627.7142, Florida Statutes, provides that an insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim.

15. In 46 instances, the OFFICE documented that HERITAGE did not provide a Homeowner Claims Bill of Rights to the policyholder within 14 days after receiving an initial communication with respect to a residential property insurance claim.

16. Section 626.112(1)(a), Florida Statutes, provides that no person may be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by the department and appointed by an appropriate appointing entity or person. Rule 69B-220.001, Florida Administrative Code, sets forth requirements for emergency adjusters.

17. In 13 instances, the OFFICE documented that HERITAGE utilized adjusters who were not properly appointed, or emergency adjusters before the appropriate license was issued.

18. Section 627.318, Florida Statutes, provides that every insurer shall maintain reasonable records of its experience, so that such records will be available at all reasonable times to enable the office to determine whether such insurer complies with the provisions of this part applicable to it.

19. In 10 instances, the OFFICE documented that HERITAGE did not maintain complete claims records.

20. Section 624.418, Florida Statutes, provides that the OFFICE may, in its discretion, suspend or revoke the certificate of authority of an insurer if it finds that the insurer has violated any provision of the Florida Insurance Code.

21. Section 624.4211, Florida Statutes, provides that if the OFFICE finds that one or more grounds exist for the discretionary revocation or suspension of a certificate of authority issued under Chapter 624, it may, in lieu of such revocation or suspension, impose a fine upon the insurer.

22. The OFFICE finds that HERITAGE has violated Section(s) 627.70131(1)(a), 627.70131(3)(b), 627.70131(3)(c), 627.70131(7)(a), 627.7142, 626.112(1)(a), and 627.318, Florida Statutes, and Rule 69B-220.001(5)(a), Florida Administrative Code.

23. HERITAGE agrees that within 10 days of the execution of this Consent Order, HERITAGE shall pay an administrative fine in the amount of \$1,000,000 U.S. Dollars ("USD") and administrative costs in the amount of \$10,000 USD to the OFFICE. HERITAGE shall send its payment to the address reflected on the invoice attached hereto as "Exhibit A".

24. 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.

25. 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.

26. HERITAGE additionally agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may be considered willful and subject HERITAGE to appropriate penalties and fines, as specifically authorized by law.

27. HERITAGE additionally agrees that any future violations of the statutes or rules named herein may be deemed willful, subjecting HERITAGE to penalties as the OFFICE deems appropriate.

28. HERITAGE expressly waives 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 it 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 it, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

29. Except as noted above, each party to this action shall bear its own costs.

30. 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 & CASUALTY INSURANCE COMPANY and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

All terms and conditions contained herein are hereby ORDERED.

DONE AND ORDERED this 9th day of May, 2024.




Michael Yaworsky, Commissioner
Office of Insurance Regulation

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

HERITAGE PROPERTY & CASUALTY INSURANCE COMPANY

By: Ernie Garateix

[Corporate Seal]

Print Name: Ernie Garateix

Title: CEO

Date: 5-3-24

STATE OF FL

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 3 day of May 2024, by Ernie Garateix (name of person) as CEO (type of authority; e.g., officer, trustee, attorney-in-fact) for Heritage Insurance (company name).



Kari Hyde-Gilchrist
(Signature of the Notary)

Kari Hyde-Gilchrist
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known OR Produced Identification

Type of Identification Produced _____

My Commission Expires 5/18/24

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