FILED

FEB 14 2025

INSURANCE REGULATION
Docketed by:

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

OIR: Index 2025-17

IN THE MATTER OF:

CASE NO.: 400939-25-CO

CAPACITY INSURANCE COMPANY
_____/

SIXTH CONSENT ORDER
EXTENDING PERIOD OF PUBLIC ADMINISTRATIVE SUPERVISION

THIS CAUSE came for consideration as a result of discussions between the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE") and CAPACITY INSURANCE COMPANY ("CAPACITY") subsequent to entering into a consent order placing it in public administrative supervision for a period of 120 days in Consent Order 307008-23-CO ("Supervision Order"), which was filed on March 3, 2023. Prior to the expiration of that 120-day period, the parties agreed to a 120-day extension in Consent Order 312190-23-CO, a second 120-day extension in Consent Order 317178-23-CO, a third 120-day extension in Consent Order 323526-24-CO, a fourth 120-day extension in Consent Order 328800-24-CO, and a fifth 120-day extension in Consent Order 400480-24-CO. Following 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 the subject matter and the parties herein.

2. CAPACITY is a domestic property and casualty insurer authorized to transact insurance business in the state of Florida pursuant to a Certificate of Authority issued by the OFFICE, pursuant to chapter 624, Part III, Florida Statutes.

3. Paragraph 6 of the Supervision Order states as follows:

> 6. CAPACITY has been cooperative with the OFFICE and agrees to be placed under administrative supervision for a period of 120 days from the date of execution of this Consent Order and to be subject to the provisions of Sections 624.80-.87, Florida Statutes, as if an order were issued by the OFFICE. Such administrative supervision may be extended in 60-day increments at the OFFICE's sole discretion for as long as is necessary for the company to effectuate a smooth transition and orderly wind-down of its remaining policies and liabilities. All terms of the transition and wind-down of business are to be included in a Runoff plan ("Plan"), which is subject to the OFFICE's approval.

4. Administrative supervision of CAPACITY is currently set to expire on February 15, 2025.

5. Section 624.81(8), Florida Statutes, provides that the OFFICE "may extend the supervision in increments of 60 days or longer…if conditions justifying supervision exist." The OFFICE has determined that grounds exist to extend the period of administrative supervision of CAPACITY.

6. As of the date of the execution of this Consent Order CAPACITY agrees that conditions exist that necessitate an additional period of administrative supervision.

7. CAPACITY hereby consents to an additional period of administrative supervision of 60 days from February 13, 2025.

8. CAPACITY hereby knowingly and voluntarily waives the requirement of written notice under section 624.81(1), and agrees that any timelines outlined in this Consent Order will be binding, notwithstanding any timelines provided for in section 624.81.

9. CAPACITY agrees that all terms of the Supervision Order shall apply and remain in full force and effect, except as superseded by this Consent Order.

10. Any prior orders, consent orders, or corrective action plans that CAPACITY has entered into with the OFFICE prior to the execution of this Consent Order shall apply and remain in full force and effect for CAPACITY, except where provisions of such orders, consent orders, or

corrective action plans have expired, other than the Supervision Order as indicated above in paragraph 3; have been superseded by subsequent orders, consent orders, or corrective action plans; or are inconsistent with this Consent Order.

11. CAPACITY 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 CAPACITY's Certificate of Authority in this state in accordance with sections 120.569(2)(n) and 120.60(6), Florida Statutes.

12. CAPACITY affirms that all representations made herein are true and all requirements set forth herein are material to the issuance of this Consent Order.

13. In accordance with section 624.87, Florida Statutes, CAPACITY agrees to pay to the OFFICE all expenses of supervision incurred subsequent to the date of execution of this Consent Order.

14. Except as provided in paragraph 13 above, each party to this action shall bear its own costs and fees.

15. CAPACITY 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. CAPACITY 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.

16. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed a copy of this Consent Order bearing the signature of the authorized

representative of CAPACITY. Further, CAPACITY agrees that the signature of its authorized representative as affixed to this Consent Order shall be under the seal of a Notary Public.

WHEREFORE, because the FLORIDA OFFICE OF INSURANCE REGULATION has determined that conditions justifying administrative supervision continue to exist, the administrative supervision of CAPACITY INSURANCE COMPANY is hereby agreed to be extended for 60 days from February 13, 2025. All terms and conditions contained herein are hereby ORDERED, and all other provisions of Consent Orders 307008-23-CO, 312190-23-CO, 317178-23-CO, 323526-24-CO, 328800-24-CO, and 400480-24-CO remain unchanged by this Consent Order.

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

DONE and ORDERED this 14 day of FEBRUARY, 2025.

Michael Yaworsky, Commissioner
Office of Insurance Regulation

By execution hereof, CAPACITY 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 herein. The undersigned represents that they have the authority to bind CAPACITY INSURANCE COMPANY to the terms and conditions of this Consent Order. The undersigned also certifies that they have provided the signature below voluntarily and without coercion, based upon the assistance of legal counsel for CAPACITY INSURANCE COMPANY.

CAPACITY INSURANCE COMPANY

By: Joseph Kurtz

[Corporate Seal]

Print Name: Joseph Kurtz

Title: Corporate Secretary

Date: 02/13/2025

STATE OF Florida

COUNTY OF Broward

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☒ online notarization, this 13th day of February 2025, by Joseph Kurtz (name of person) as Corporate Secretary (type of authority, e.g., officer, trustee, attorney in fact) for Capacity Insurance Company (company name).

David Merkatz
NOTARY PUBLIC
STATE OF FLORIDA
Appt. No. HH 367674
Expires February 28, 2027
Online Notary Center

David Merkatz
(Signature of the Notary)

David Merkatz
(Print, Type or Stamp Commissioned Name of Notary)

Notarial Act performed by Audio-Video Communication.

Personally Known _____ OR Produced Identification X

Type of identification produced Driver's License

My Commission Expires 02/28/2027

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