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July 20, 2010

Christian R. Camara
Director of Florida Office
The Heartland Institute

Via email: ccamara@heartland.org

Dear Mr. Camara:

I am in receipt of your letter regarding your "concern" about Florida's confidentiality of administrative supervision proceedings. Section 624.82, Florida Statutes, expressly authorizes these confidential proceedings for companies that are experiencing financial distress, but where receivership is not inevitable. Florida's statute is a model law that is substantially similar in other states, and Florida has used it only occasionally.

When confronting a financially troubled insurance company, the Office has three options. The Office can take administrative action (issue orders, suspend the COA, etc.); negotiate an administrative supervision order; or send a letter to the Florida Chief Financial Officer (CFO) stating the reasons why the company should be placed into rehabilitation. This last option requires proof that grounds for receivership exist.

In the case of Northern Capital Insurance Company (Northern Capital), the Office entered into a supervision order because at the time, the company was financially troubled, but the Office did not have proof of insolvency. Northern Capital had prospective investors and buyers. If you read the Office e-mails, you will notice the American Integrity Insurance Company (American Integrity) was considering purchasing Northern Capital in February and March 2010. However, American Integrity found during its due diligence that many of Northern Capital's policies did not meet its underwriting criteria. The company decided it was not willing to purchase the entire book of business. If the Office had authority to cancel some of the policies, the Office potentially could have saved the company with many of its policies intact. Unfortunately, this option is not available under Florida law. The supervision allowed time for potential investors and buyers to consider investing.

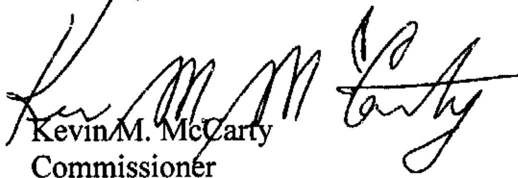
The Office received proof of insolvency and obtained a consent to rehabilitation on February 25, 2010, learned the buyer was not going to purchase the company in March 2010, and sent the

letter referring the company for receivership proceedings on April 7, 2010. Northern Capital was referred to the receiver with over $50 million dollars in assets. This money gave the receiver and the Florida Insurance Guaranty Association (FIGA) the ability to pay unearned premium claims for all the policyholders. Because the supervision allowed the unearned premium to be earned during non-hurricane months, policyholders were never in jeopardy during the period of administrative supervision.

The Office emails clearly show the Office proceeded with all deliberate speed to protect policyholders. More importantly, the confidentiality of the supervision saved FIGA millions of dollars that it would ultimately have paid through assessments. In addition, the confidential administrative supervision allowed a potential buyer the opportunity to review the book of business, which resulted in offers of coverage to 18,000 people after the court cancelled their Northern Capital policies.

The Office followed the statute that is currently in place. If the Florida Legislature decides to change the law and make all supervisions public, then the Office will certainly abide by the new law. It would mean that FIGA, and in turn, the public, will likely pay more for failures of troubled insurance companies. If every supervision were made public, it would be unlikely a buyer or investor could be found during the supervision, and the Office would have no practical alternative but to send troubled companies directly to DFS for the initiation of receivership proceedings.

Sincerely,



Kevin M. McCarty
Commissioner