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to; Nancy Watkins

from: Martin M. Simons

re: FHCF – Sunshine States Insurance Company - Commutation Panel

**Determination of the Capitalized Value of All Sunshine States Insurance Company
Claims and Losses, Both Reported and Unreported, Resulting from Loss Occurrences
Commencing During FHCF Contract Year 2004**

The capitalized value of all Sunshine States Insurance Company claims and losses, both reported and unreported, resulting from loss occurrences commencing during the FHCF contract year 2004 is **\$726,744.15**.

Given the highly contested nature of this proceeding and throughout our deliberations, and in accordance with the Actuarial Standards of Practice, I am providing a detailed explanation of the basis for my opinion. I am providing this to you, and once you have received Peter Scourtis' opinion, a copy may be forwarded to Mr. Scourtis. My opinion is based on my personal actuarial review of the issues without communicating with anyone at the SBA or anywhere else relating to the Commutation Panel issues during the period of our deliberations and without obtaining any additional information other than that which has been distributed to the other panel members during those deliberations.

This analysis is presented in a step by step manner thereby separately describing each item that I considered in my review.

1. The Statute and the Reimbursement Contract specifically exclude FHCF reimbursements for loss adjustment expenses.
2. The legal expenses incurred **by an insurer** in its loss adjusting process are, by definition, loss adjustment expenses.
3. The Florida Hurricane Catastrophe Fund (FHCF) rates do not account for loss adjustment expense reimbursements since the statute does not permit the FHCF to reimburse for them.

4. The models used in developing the FHCF's rates do not include expenses of any kind in the derivation of the loss costs.¹
5. **When a policyholder or claimant is awarded payment of his or her legal fees, the legal expenses of the policyholder become expenses of the insurer associated with the loss adjustment process which, by definition, are loss adjustment expenses, excluded by statute and by contract from FHCF reimbursements.**
6. It is actuarially acceptable for private insurers to include the policyholder's legal fees in their ratemaking process because those legal fees are covered by the private insurer and are included in the data used in establishing the rates. The FHCF is not a private insurer, and mandating it to act like a private insurer is actuarially unreasonable.
7. Even if it wished to be magnanimous and include loss adjustment expenses in the reimbursements, the FHCF can not do so, because:
 - a) The statute forbids it.
 - b) The Reimbursement Contract specifically excludes reimbursements for loss adjustment expenses.
 - c) FHCF rates would immediately become inadequate to provide the levels of coverage that the FHCF and the State of Florida have established.
8. If we rule in favor of Sunshine States and require the FHCF to reimburse for expenses that are not funded for in its rates, we will be overriding the FHCF rate making process mid-term, immediately causing not only the current rates to be inadequate, but those of several past years as well. We would be doing so in an actuarially unsound manner and in violation of Florida statutes. The effects of a ruling in favor of Sunshine States, and thereby overriding the basis upon which the FHCF rates are determined, include a major disruption in the Florida property insurance market.
9. The SBA is correct. The disputed amounts in this case are not reimbursable.

It has been a pleasure working with you on the Commutation Panel.

Our Panel has been unable to get beyond the legal challenges proposed by Sunshine States and deal with the important actuarial criteria associated with our assignment. Our sole purpose, however, is to review the issues from an actuarial standpoint and reach a conclusion as to the

¹Contrary to insinuations made during our deliberations, the reviews performed by the Florida Commission on Hurricane Loss Projection Methodology (FCHLPM) are intense. The FCHLPM Professional Team has delved deeply into the processes used by each modeler. The models do not incorporate insurer expenses of any kind in producing loss costs. While some data used to validate the reasonableness of the model results may include some loss adjustment expenses, a modeling company in communication with the provider of the data may either make actuarially appropriate adjustments to account for and remove any perceived problems or anomalies prior to using the data, or if the data are deemed to be unfit, not to use them for validation. The Professional Team has reviewed these communications on numerous occasions to ensure that the process is performed in an actuarially appropriate manner. Again, this applies to the data used for validation, not the data used to produce the FHCF loss costs which do not include loss adjustment or any other insurer expenses.

capitalized value of all Sunshine States Insurance Company claims and losses, both reported and unreported, resulting from loss occurrences commencing during the FHCF contract year 2004

I have provided, in accordance with Actuarial Standard of Practice #41, a detailed description of my analysis and the rationale behind it for your review. If you need further clarification relating to any portion of the above, please ask me and I will endeavor to provide it.

A ruling in favor of Sunshine States Insurance Company will place the Florida property insurance market in an actuarially unsound position. Although the results of our deliberations are intended to be non- precedent setting, I am concerned that additional challenges to the process may increase the amount of forced rate level inadequacy to a point where the FHCF will be unable to provide the services it has been statutorily designed to provide.

I look forward to your decision.