

FILED

AUG 04 2022

INSURANCE REGULATION
Docketed by: ADG



OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 285280-21

PRIME PROPERTY & CASUALTY INSURANCE, INC.

CONSENT ORDER

THIS CAUSE came on for consideration as the result of a market conduct investigation of PRIME PROPERTY & CASUALTY INSURANCE, INC. (hereinafter referred to as "PRIME") conducted by the OFFICE OF INSURANCE REGULATION (hereinafter referred to as the "OFFICE"). The OFFICE, having considered the record in this case and being otherwise fully advised in the premises, finds as follows:

1. The OFFICE has jurisdiction over PRIME and the subject matter of this proceeding.
2. PRIME is an Illinois domiciled property and casualty insurer that became authorized to transact insurance business in the state of Florida on October 13, 2015. A Certificate of Authority was issued by the OFFICE, in accordance with Chapter 624, Part III, Florida Statutes. PRIME is authorized to write commercial auto liability, commercial auto physical damage and other liability insurance in Florida.
3. On October 13, 2015, PRIME and the OFFICE entered into a Consent Order approving the issuance of PRIME's Certificate of Authority. Paragraph 19 of the Consent Order states, in part, that PRIME shall not transact business in any line of insurance in Florida until

PRIME's forms were approved in writing by the OFFICE unless so exempted pursuant to Sections 627.062 or 627.410, Florida Statutes.

4. The OFFICE conducted a market conduct investigation of PRIME pursuant to Sections 624.307 and 624.318, Florida Statutes, in response to a complaint filed alleging PRIME's use of an unapproved form in Florida. Section 627.410, Florida Statutes, states, in part, that a basic insurance policy, or application form, or contract, or printed rider or endorsement form or form of renewal certificate, may not be delivered or issued for delivery in this state unless the form has been filed and approved by the OFFICE. Section 627.4102, Florida Statutes, exempts certain property and casualty forms from the approval process and allows insurers to make an informational filing as long as the OFFICE receives a notarized certification with the filing that confirms that each form within the filing is in compliance with all applicable state laws and rules.

5. The results of the investigation determined that from 2016 to 2021, PRIME delivered or issued forms without filing the forms with the OFFICE for approval or without making an informational filing. This conduct was engaged in even after PRIME made a filing, which was withdrawn as a result of non-compliance issues, and even after receiving notice from the OFFICE that the form was disapproved. PRIME also erroneously delivered or issued policy forms to Florida policyholders when those forms had been superseded and replaced by later edition forms. The specifics of each form violation are listed as follows:

a. PRIME delivered or issued Form CA 23 84 10 13 (Exclusion of Terrorism Endorsement) to 4,164 Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. On March 23, 2016, PRIME filed Form CA 23 84 10 13 with the OFFICE for informational purposes. PRIME submitted a letter to the OFFICE dated April 8, 2016, requesting to withdraw the form from the filing. The OFFICE stamped the Form as Withdrawn on April 15,

2016. PRIME refiled Form CA 23 84 10 13 with the OFFICE for approval on September 27, 2019. The OFFICE disapproved Form CA 23 84 10 13 on November 8, 2019, because the form violated Florida law. Despite initially withdrawing the form and later receiving the disapproval letter from the OFFICE, PRIME failed to maintain necessary internal controls and delivered or issued disapproved Form CA 23 84 10 13 to Florida policyholders between 2016 and June 7, 2021.

b. PRIME delivered or issued Form ACA-F-003 (Policy Receipt Form) to 3,010 Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the form with the OFFICE for approval or make an informational filing prior to delivering or issuing the form to Florida policyholders. On February 9, 2018, PRIME submitted the form to the OFFICE for approval. PRIME withdrew the form on March 26, 2018, after receiving a letter from the OFFICE informing PRIME of certain non-compliance concerns. Despite withdrawing the form and being informed of the non-compliance concerns, PRIME failed to maintain necessary internal controls and delivered or issued withdrawn Form ACA-F-003 to Florida policyholders between 2016 and June 7, 2021.

c. PRIME delivered or issued Form ACA-99-31 (Approved Driver Endorsement) to seven Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. On September 27, 2019, PRIME submitted the form to the OFFICE for approval. The OFFICE disapproved Form ACA-99-31 on November 8, 2019, because the form violated Florida law. Despite receiving the disapproval letter from the OFFICE, PRIME failed to maintain necessary internal controls and delivered or issued disapproved Form ACA-99-31 to Florida policyholders between 2019 and June 15, 2020.

d. PRIME delivered or issued forms labeled Insurance Program Agreement ("IPA") or Claim Fund Agreement and similar side agreements to 1,288 Florida policyholders, in

violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the forms with the OFFICE for approval or make an informational filing prior to delivering or issuing the forms to Florida policyholders between 2016 and 2021.

e. PRIME delivered or issued Form PAP-99-12 (Additional Insured Endorsement) to 927 Florida policyholders in violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the form with the OFFICE for approval or make an informational filing prior to delivering or issuing the form to Florida policyholders between 2016 and 2021.

f. PRIME delivered or issued Form PAP-99-50 (Additional Insured, Primary and Non-Contributory, and Waiver of Subrogation Endorsement) to four Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the form with the OFFICE for approval or make an informational filing prior to delivering or issuing the form to Florida policyholders between 2016 and June 7, 2021.

g. On March 23, 2016, PRIME filed Form ACA-99-04 20MAY2015 with the OFFICE which was stamped for informational purposes per Section 627.4102, Florida Statutes. On February 13, 2020, PRIME submitted an updated version of Form ACA-99-04 01APR2020 to the OFFICE which was approved on April 1, 2020, and superseded Form ACA-99-04 20MAY2015. Despite receiving approval for Form ACA-99-04 01APR2020, PRIME did not remove superseded Form ACA-99-04 20MAY2015 from circulation. PRIME erroneously delivered or issued superseded Form ACA-99-04 20MAY2015 to 3,482 Florida policyholders until June 7, 2021. Between 2020 and 2021, PRIME delivered or issued other versions of Form ACA-99-04 dated 13DEC2012 and 17OCT2018 that were not filed with the OFFICE for approval or informational purposes in violation of Sections 627.410(1) and 627.4102, Florida Statutes.

h. On March 23, 2016, PRIME filed form ACA-99-03 (Scheduled Drivers Endorsement) with the OFFICE which was stamped for informational purposes per Section 627.4102, Florida Statutes. On September 13, 2017, PRIME filed form ACA-99-25 17JAN2018 (Scheduled Drivers Endorsement) with the OFFICE which was approved on January 17, 2018, and superseded Form ACA-99-03. Despite receiving approval for Form AA-99-25 17JAN2018, PRIME did not remove superseded Form ACA-99-03 from circulation. PRIME erroneously delivered or issued superseded Form ACA-99-03 to 3,411 Florida policyholders until June 16, 2021.

i. Beginning in 2016, PRIME delivered or issued Form PPCI-F-01 (Declarations Page) to 4,147 Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the form with the OFFICE for approval or make an informational filing prior to delivering or issuing the form to Florida policyholders. On March 23, 2016, PRIME filed a similar form, Form ACA-99-05 (Declarations Page), with the OFFICE for informational purposes. Form ACA-99-05 was stamped for information purposes on April 15, 2016. Despite having Form ACA-99-05, PRIME erroneously delivered or issued Form PPCI-F-01 to Florida policyholders until September 2021.

j. Between 2017 and April 1, 2020, PRIME delivered or issued Form ACA-99-20 (Cut-Through Endorsement) to nine Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the form with the OFFICE for approval or make an informational filing prior to delivering or issuing the form to Florida policyholders. On February 13, 2020, PRIME submitted the form to the OFFICE for approval. The form was stamped approved by the OFFICE on April 1, 2020.

k. Beginning in 2018, PRIME delivered or issued Form ACA-99-27 (Additional Insured, Primary and Non-Contributory, and Waiver of Subrogation Endorsement) to nine Florida policyholders, in violation of Sections 627.410(1) and 627.4102, Florida Statutes. PRIME did not file the form with the OFFICE for approval or make an informational filing prior to delivering or issuing the form to Florida policyholders. On February 13, 2020, PRIME submitted the form to the OFFICE for approval. The form was stamped approved by the OFFICE on April 1, 2020.

6. PRIME certifies a comprehensive review of all policies issued to Florida policyholders was conducted. PRIME certifies it shall not deliver or issue any policy in any line of insurance in Florida until PRIME's forms are approved in writing by the OFFICE unless so exempted pursuant to Sections 627.062 or 627.410, Florida Statutes (any such form referred to herein as a "Filed Form"). For property and casualty forms exempt from the approval process pursuant to Section 627.4102, Florida Statutes, PRIME certifies informational filings will be made with the OFFICE and contain a notarized certification that confirms each form within the filing is in compliance with all applicable state laws and rules prior to issuing or delivering those forms in Florida.

7. PRIME certifies that it has taken the following actions to address and correct the violations addressed in this ORDER as follows:

a. On June 7, 2021, PRIME ceased delivery or issuance of disapproved Form CA 23 84 10 13 (Exclusion of Terrorism Endorsement) to Florida policyholders. PRIME certifies that, as of the date of this Consent Order, no claims have been presented to which disapproved Form CA 23 84 10 13 would apply. For any claims asserted, or to be asserted, under policies

issued with disapproved Form CA 23 84 10 13, PRIME will not rely on disapproved Form CA 23 84 10 13 to deny coverage.

b. On June 7, 2021, PRIME ceased delivery or issuance of withdrawn Form ACA-F-003 (Policy Receipt Form), to Florida policyholders. For any policies issued to Florida policyholders prior to June 7, 2021, PRIME will not enforce the terms, conditions, limitations or exclusions in withdrawn Form ACA-F-003.

c. On June 15, 2020, PRIME ceased delivery or issuance of disapproved Form ACA-99-31 (Approved Driver Endorsement). PRIME confirmed there are no longer any current policies in effect that are endorsed with disapproved Form ACA-99-31. For any claims asserted, or to be asserted, under policies issued with disapproved Form ACA-99-31, PRIME will not rely on disapproved Form ACA-99-31 to deny coverage.

d. On June 7, 2021, PRIME ceased delivery or issuance of Forms PAP-99-12 (Additional Insured Endorsement) and PAP-99-50 (Additional Insured, Primary and Non-Contributory, and Waiver of Subrogation Endorsement) that were never approved or submitted to the OFFICE as an informational filing. PRIME certifies that it has issued a General Change Endorsement notifying Florida policyholders that the policy is amended with an approved form, effective retroactively to the policy's inception date.

e. On June 16, 2021, PRIME ceased delivery or issuance of superseded Forms ACA-99-04 20MAY2015 and ACA-99-03 to Florida policyholders and began delivering or issuing approved Forms ACA-99-04 1APRIL2020 and ACA-99-25, respectively. For Form ACA-99-04 20MAY2015, PRIME will continue to extend coverage for all Florida policies issued prior to June 16, 2021, based on the terms of the original version until the expiration of those policies because the original version of the form is more favorable to the policyholder. As the

Florida policy terms expire and renew, PRIME will issue the renewal policy using the approved Form ACA-99-04 01APR2020 unless such form is superseded by a Filed Form. For policies that are still in effect that contain Form ACA99-03, Prime will issue a General Change Endorsement notifying Florida policyholders that the policy is amended such that the approved Form ACA-99-25 replaces Form ACA-99-03, effective as of the date of the policy's inception. As those Florida policy terms expire and renew, PRIME will issue the renewal policy using the Form ACA-99-25 unless such form is superseded by a Filed Form.

f. On October 1, 2021, PRIME ceased delivery of or issuing Form PPCI-F-01 (Declarations Page) to Florida policyholders and started issuing or delivering Form ACA-99-05 that was stamped Informational as the Declarations Page with all policies issued in Florida.

g. No further action is required of PRIME regarding Form ACA-99-20 (Cut-Through Endorsement). Form ACA-99-20 was subsequently approved by the OFFICE, and the endorsement expands Florida policyholder rights under the policy. Policies that are currently in effect in Florida have been issued with the approved Form ACA-99-20.

h. PRIME maintains that the Insurance Program Agreement, Claim Fund Agreement, and similar side agreements are not required to be submitted to the OFFICE for approval or informational purposes. The OFFICE finds that the Insurance Program Agreement, Claim Fund Agreement, and similar side agreements are unfiled agreements required to be submitted to the OFFICE for approval or informational purposes. The forms change the terms of the contract by specifying Utah as the law governing the agreements and do not provide the correct number of days' notice for cancellation required by Section 627.728(3)(a), Florida Statutes. PRIME is hereby ordered to discontinue delivery or issuance of any forms for which the required filing was not made until such time as the OFFICE determines that the required filing is properly submitted for approval or informational purposes. For any policies issued to Florida policyholders

containing the Insurance Program Agreement, Claim Fund Agreement, and similar side agreements, PRIME is ordered to issue a policy endorsement stating that the policy and the agreement will remain subject to Florida law and PRIME will provide the appropriate number of days' notice for cancellation required by Section 627.728(3)(a), Florida Statutes. PRIME is ordered to submit its proposed endorsement form to the OFFICE for review and approval within 14 calendar days of this order and prior to issuing the endorsement to Florida policyholders. Should PRIME elect to file these or other forms and agreements for Informational Purposes in the future, PRIME will ensure and certify that each form is in compliance with all applicable Florida laws and rules.

8. Pursuant to Section 624.418(2)(a), Florida Statutes, the OFFICE may, in its discretion, suspend or revoke the Certificate of Authority of an insurer if the OFFICE finds that the insurer has violated any provision of the Florida Insurance Code. Section 624.4211, Florida Statutes, allows for an administrative fine in lieu of suspension if the OFFICE finds that grounds exist for the discretionary revocation or suspension of a Certificate of Authority issued under Chapter 624, Florida Statutes.

9. PRIME agrees that upon the execution of this Consent Order, it shall be subject to the following terms and conditions and shall comply and certify compliance to the OFFICE within 30 days after the execution of this Consent Order, as follows:

a. PRIME shall certify to the OFFICE that all proposed remediation actions outlined in Paragraph 7 of this Consent Order have been implemented.

b. PRIME shall implement the appropriate internal controls to ensure all forms are filed in compliance with Sections 627.410 and 627.4102, Florida Statutes, and to prevent the

delivery or issuance of unfiled, withdrawn, disapproved, superseded forms to Florida policyholders.

c. PRIME shall pay a fine of \$213,000 and administrative costs of \$5,000. PRIME shall send its payment to the address reflected on the invoice (attached as Exhibit A). PRIME agrees that failure to make this payment in full within the specified time period may result in further administrative action.

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

11. PRIME agrees that the failure to adhere to one or more of the above terms and conditions of this Consent Order shall constitute a violation of a lawful order of the OFFICE and may result in the OFFICE revoking, suspending, or taking other action as the OFFICE deems appropriate upon PRIME'S Certificate of Authority in the state of Florida.

12. The deadlines set forth in this Consent Order may be extended by prior written approval of the OFFICE. Approval of any deadline extension is subject to statutory or administrative regulation limitations.

13. PRIME 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 to which it may be entitled, either by law or by the rules of the OFFICE. PRIME 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.

14. Except as noted above, each party to this action shall bear its own costs and attorneys' fees.

15. This Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the signature of the authorized representative of PRIME, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically. Further, PRIME agrees that the signature of its authorized representative shall be under the seal of a Notary Public.

WHEREFORE, the agreement between PRIME PROPERTY & CASUALTY INSURANCE, INC. and the OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions above are hereby ORDERED.

DONE AND ORDERED this 4 day of August 2022.



David Altmaier
David Altmaier, Commissioner
Office of Insurance Regulation

By execution hereof, PRIME PROPERTY & CASUALTY INSURANCE, INC. 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 he or she has the authority to bind PRIME PROPERTY & CASUALTY INSURANCE, INC. to the terms and conditions of this Consent Order.

PRIME PROPERTY & CASUALTY INSURANCE, INC.

By: [Signature]
David McBride
Print or Type Name

Corporate Seal

Title: Corporate Attorney

Date: 7/27/2022

STATE OF Utah

COUNTY OF Salt Lake

The foregoing instrument was acknowledged before me this 27th day of July 2022, by David McBride as Corporate Attorney (Name of person) (type of authority.... e.g. officer, trustee attorney in fact) for Prime Property and Casualty (company name)



[Signature]
(Signature of the Notary)

Sherry Mattingly
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known or Produced Identification _____

Type of Identification Produced N/A

My Commission Expires 11-29-2025

COPIES FURNISHED TO:

**RICK J. LINDSEY, PRESIDENT
PRIME PROPERTY & CASUALTY INSURANCE, INC.
8722 South 300 West
Sandy, UT 84070
Telephone: (801) 304-5500**

**SHERYL K. PARKER, DIRECTOR P&C MARKET REGULATION
Office of Insurance Regulation
Market Investigations
200 East Gaines Street
Tallahassee, FL 32399
E-mail: Sheryl.Parker@flor.com**

**LORRAINE M. NOVAK, ASSISTANT GENERAL COUNSEL
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399
E-mail: Lorraine.Novak@flor.com**



OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER
COMMISSIONER

FINANCIAL SERVICES
COMMISSION

RON DESANTIS
GOVERNOR

JIMMY PATRONIS
CHIEF FINANCIAL OFFICER

ASHLEY MOODY
ATTORNEY GENERAL

NICOLE "NIKKI" FRIED
COMMISSIONER OF
AGRICULTURE

INVOICE

ADMINISTRATIVE PENALTY IMPOSED BY CONSENT ORDER

In order to ensure that your payment is received and properly credited, please make your check payable to the Florida Department of Financial Services and **return this invoice with your payment** to:

Department of Financial Services
Revenue Processing Section
P.O. Box 6100
Tallahassee, Florida 32314-6100

REFERENCE

NAME: Prime Property & Casualty Insurance Inc.
ADDRESS: PO Box 4439
CITY, STATE, ZIP: Sandy, UT 84091-4439
FEIN: 45-5518331
NAIC COCODE: 14371
CASE #: 285280-21
ATTORNEY: OIR = Lorraine Novak; Prime = Travis Miller
SOURCE: MARKET INVESTIGATIONS - SBS INVESTIGATION #41659

Fine Due: \$213,000
Costs Due: \$ 5,000
Total Amount Due: \$218,000

Amount Remitted:

OFFICIAL USE ONLY – PLEASE DO NOT MARK BELOW THIS LINE]

<u>B/T</u>	<u>T/C</u>	<u>F/T</u>	<u>AMOUNT</u>
C	1105	J	\$
C	1249	J+	\$

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SHERYL K. PARKER • DIRECTOR, PROPERTY & CASUALTY MARKET REGULATION
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399 • (850) 413-5086 • FAX (850) 922-5680
WEBSITE: WWW.FLOIR.COM • EMAIL: SHERYL.PARKER@FLOIR.COM