FILED

MAR 19 2025

INSURANCE REGULATION
Docketed by

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF:

Index: OIR 2025-31

AMERICAN MOBILE
INSURANCE EXCHANGE
_____/

CASE NO.: 321741-24

FINAL ORDER

TO: Jeffrey Paul Legare, President
American Mobile Risk Management, LLC,
as attorney-in-fact for
American Mobile Insurance Exchange
6170 Central Ave N, #300
St. Petersburg, FL 33707

c/o Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

Claude Mueller
Colodny Fass
119 East Park Avenue
Tallahassee, FL 32301

The STATE OF FLORIDA, OFFICE OF INSURANCE REGULATION (the "OFFICE"), being authorized and directed to administer and enforce the Florida Insurance Code, hereby enters this Final Order pursuant to the Florida Insurance Code and chapter 120, Florida Statutes, against AMERICAN MOBILE INSURANCE EXCHANGE ("AMERICAN MOBILE"), a reciprocal insurer.

FINDINGS OF FACT

1. On January 31, 2024, the OFFICE issued a letter ("Disapproval Letter") disapproving AMERICAN MOBILE's request to pay $1,000,000 in interest on surplus notes held by HSCM Bermuda Fund Ltd., HS Santanoni LP, and HS Opalescent LP pursuant to section 629.161, Florida Statutes. *See* Exhibit A. The Disapproval Letter contained a Notice of Rights pursuant to sections 120.569 and 120.57, Florida Statutes, and Rule 28-106, *Florida Administrative Code,* which advised AMERICAN MOBILE of its right to request a hearing within twenty-one days of service. *Id.*

2. The OFFICE mailed the Disapproval Letter via USPS Certified Mail to Jeffrey Paul Legare, President, American Mobile Risk Mgt. LLC as attorney-in-fact for American Mobile Insurance Exchange; Corporation Service Company, AMERICAN MOBILE's registered agent; and Claude Mueller, Esq., AMERICAN MOBILE's attorney. *See* Exhibit B.

3. On February 5, 2024, the USPS delivered the Disapproval Letter to American Mobile Risk Management, LLC, as attorney-in-fact for AMERICAN MOBILE. *See* Exhibit C. The USPS also delivered the Disapproval Letter to Corporation Service Company on February 3, 2024. *Id.*

4. As the Disapproval Letter was delivered to AMERICAN MOBILE on February 5, 2024, AMERICAN MOBILE had until February 26, 2024—twenty-one days after receipt of the Disapproval Letter—to file a request for a hearing.

5. As of the date of this Final Order, AMERICAN MOBILE has failed to file a petition for hearing with the OFFICE in response to the Disapproval Letter. Because AMERICAN MOBILE has failed to timely request a hearing, AMERICAN MOBILE has waived its rights to a hearing.

6. The alleged facts that form the basis for the OFFICE's disapproval of AMERICAN MOBILE'S request to pay $1,000,000 in interest on surplus notes as stated in the Disapproval Letter, being uncontested by AMERICAN MOBILE, are incorporated herein by reference and are adopted as Findings of Fact for purposes of this Final Order.

CONCLUSIONS OF LAW

The OFFICE Has Jurisdiction to Issue a Final Order

7. Section 20.121(3)(a)1., Florida Statutes, provides, in part, that the OFFICE shall be responsible for all activities concerning insurers and other risk bearing entities, such as licensing, rates, policy forms, market conduct, and claims.

8. Section 624.01, Florida Statutes, provides that chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the "Florida Insurance Code."

9. The OFFICE is responsible for the administration and enforcement of the Florida Insurance Code and has jurisdiction over AMERICAN MOBILE pursuant to section 20.121(3)(a)1. and the Florida Insurance Code.

10. Pursuant to section 629.161 parties may advance funds to a domestic reciprocal insurer as it may require in its operations, and such funds shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without advance approval of the office. § 629.161, Fla. Stat. (2024).

11. Chapter 28-106, *Florida Administrative Code*, applies in all proceedings in which the substantial interests of a party are determined by the agency and shall be construed to secure the just, speedy, and inexpensive determination of every proceeding.

12. Chapter 28-106 applies to all proceedings under chapter 120, Florida Statutes, with only three exceptions: (i) where the agency has adopted rules covering the subject matter pursuant to section 120.54(5)(a)2, Florida Statutes; (ii) agency investigations or determinations of probable cause preliminary to agency action or; (iii) mediation conducted pursuant to section 120.273, Florida Statutes. *See* Fla. Admin. Code. R. 28-106.101.

13. The OFFICE finds that this proceeding does not qualify for one of the exceptions listed in Rule 28-106.101.

14. AMERICAN MOBILE reported policyholder surplus in the amount of $15,403,289 as of September 30, 2023.

15. On November 15, 2023 AMERICAN MOBILE requested approval from the OFFICE to pay a total of $1,000,000 in interest on surplus notes held by HSCM Bermuda Fund Ltd., HS Santanoni LP, and HS Opalescent LP pursuant to the terms of its surplus notes.

16. Pursuant to section 624.408(1)(f) a residential property insurer must at all times maintain a $15,000,000 surplus as to policyholders.

17. AMERICAN MOBILE's surplus in excess of the minimum required under section 624.408(1)(f) was $403,289.

18. AMERICAN MOBILE's requested payment of $1,000,000 in interest would exceed AMERICAN MOBILE's available excess surplus of $403,289. Based upon this, the OFFICE disapproves AMERICAN MOBILE's request for approval to pay $1,000,000 in interest on surplus notes held by the investors.

AMERICAN MOBILE Waived its Right to Challenge the Disapproval Letter

19. The provisions of section 120.569 apply in all proceedings in which the substantial interests of a party are determined by an agency. *See* § 120.569(1), Fla. Stat. (2024).

20. A notice of agency decision is a point of entry into proceedings pursuant to chapter 120. *See* Fla. Admin. Code. R. 28-106.111.

21. The Office finds that the January 31, 2024 Disapproval Letter, attached hereto as Exhibit A, constitutes a written notice of agency decision pursuant to section 120.569(1) and Rule 28-106.111.

22. A person seeking a hearing on an agency decision which affects their substantial interests shall file a petition for hearing within 21 days of receipt of written notice of the decision. *See* Fla. Admin. Code. R. 28-106.111(2). Any person who receives a written notice of agency

decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing. *See id.* R. 28-106.111(4).

23. The OFFICE delivered the Disapproval Letter by USPS Certified mail to AMERICAN MOBILE's attorney-in-fact and its registered agent on February 5, 2024.

24. The OFFICE finds that AMERICAN MOBILE's deadline to file a petition for hearing was February 26, 2024. *See id.* R. 28-106.111.

25. As of the date of this Final Order, AMERICAN MOBILE has failed to file a petition for hearing with the OFFICE in response to the Disapproval Letter.

26. AMERICAN MOBILE has not submitted any evidence or made any allegations that would support the application of the doctrine of equitable tolling. *See Machules v. Dep't of Admin.*, 523 So. 2d 1132, 1134 (Fla. 1988) (finding of equitable tolling generally applies when a party has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting rights, or has timely asserted rights mistakenly in the wrong forum).

27. The OFFICE finds that AMERICAN MOBILE's failure to timely file a petition for hearing or to file any other document in compliance with Rules 28-106.201 or 28-106.301, Florida Administrative Code, constitutes a waiver of AMERICAN MOBILE's right to an administrative hearing. *See* Fla. Admin. Code. R. 28-106.111(4); *see also Giordano v. Dep't of Banking and Fin.*, 596 So. 2d 712 (Fla. 1st DCA 1992) (upholding entry of final order imposing penalties where complaint informed appellant that failure to timely request an administrative hearing constituted a waiver of right to do so).

28. The legal conclusions that form the basis for the OFFICE's disapproval of AMERICAN MOBILE's request to pay $1,000,000 in interest in surplus notes as stated in the Disapproval Letter, being uncontested by AMERICAN MOBILE, are accepted as true and correct and are adopted by the OFFICE as Conclusions of Law for purposes of this Final Order.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED**:

29. AMERICAN MOBILE INSURANCE EXCHANGE'S request for approval to pay a total of $1,000,000 in interest on surplus notes held by HSCM Bermuda Fund Ltd., HS Santanoni LP, and HS Opalescent LP is hereby disapproved.

DONE and ORDERED this 19 day of March, 2025.

Michael Yaworsky, Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a Petition or Notice of Appeal with the General Counsel, acting as the agency clerk, at 200 East Gaines Street, Tallahassee, FL 32399-4206, and a copy of the same and filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this FINAL ORDER in the matter of AMERICAN MOBILE has been sent by U.S. Certified Mail, return receipt requested, and electronic mail where indicated to the following addresses on this 20 day of March, 2025:

Jeffrey Paul Legare, President
American Mobile Risk Management, LLC
as attorney-in-fact for
American Mobile Insurance Exchange
6170 Central Ave N, #300
St. Petersburg, FL 33707
jlegare@americanmobileinsurance.com

Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

Claude Mueller
Colodny Fass
119 East Park Avenue
Tallahassee, FL 32301
cmueller@colodnyfass.com

William Oglo

William Oglo
Assistant General Counsel
Florida Bar Number 874876
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, Florida 32399-4206
Email: bill.oglo@floir.com
Telephone: (850) 413-4142

FINANCIAL SERVICES COMMISSION

RON DESANTIS
GOVERNOR

JIMMY PATRONIS
CHIEF FINANCIAL OFFICER

ASHLEY MOODY
ATTORNEY GENERAL

WILTON SIMPSON
COMMISSIONER OF AGRICULTURE

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

VIA CERTIFIED MAIL AND EMAIL: jlegare@americanmobileinsurance.com; cmueller@colodnyfass.com

January 31, 2024

Jeffrey Paul Legare, President
American Mobile Risk Management, LLC,
as attorney-in-fact for
American Mobile Insurance Exchange
6170 Central Ave N, #300
St. Petersburg, FL 33707

RE: American Mobile Insurance Exchange
Request for Approval of Surplus Note Interest Payment
REFS Filing 502995

Dear Mr. Legare:

The Office of Insurance Regulation ("the Office") has completed its review of American Mobile Insurance Exchange's ("the Company") request, dated November 15, 2023, pursuant to the terms of its surplus note, in which the Company is requesting approval to pay a total of $1,000,000 in interest on surplus notes held by HSCM Bermuda Fund Ltd., HS Santanoni LP, and HS Opalescent LP.

The Company reports policyholder surplus in the amount of $15,403,289 as of September 30, 2023. Pursuant to Section 624.408, Florida Statutes, the Company's minimum surplus requirement is $15,000,000. The Company's surplus in excess of its minimum required is $403,289 as of September 30, 2023. The Company's request to pay surplus note interest of $1,000,000 exceeds the Company's available excess surplus. As such, the Office hereby disapproves the Company's request for approval to pay $1,000,000 in interest on surplus notes held by the investors named above.

SCOTT SHOEMAKER • P&C FINANCIAL OVERSIGHT
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399 • (850) 413-5261
WEBSITE: WWW.FLOIR.COM • EMAIL: SCOTT.SHOEMAKER@FLOIR.COM

Exhibit A

Affirmative Action / Equal Opportunity Employer

Please see the attached notice of rights.

Sincerely,

Scott Shoemaker
Financial Examiner/Analyst II

Cc by certified mail:
Claude Mueller, Colodny Fass, 119 East Park Avenue, Tallahassee, FL 32301
Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301

NOTICE OF RIGHTS

Pursuant to sections 120.569 and 120.57, Florida Statutes, and chapter 28-106, Florida Administrative Code, you have the right to request a proceeding to contest this action by the Office of Insurance Regulation (Office) by filing a petition. Your petition must be in writing and directed to:

Agency Clerk
Office of Insurance Regulation
647 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0300

The petition must be transmitted by U.S. Mail or hand-delivered. Petitions transmitted by facsimile transmission or electronic mail will not be accepted for filing. Your petition challenging this action must be received by the Office at the above address not later than twenty-one (21) days from the date on which you receive this notice. Any document received by the Office before 5:00 p.m. shall be filed as of that day but any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. If you do not timely file a petition, your right to a proceeding shall be deemed waived and the Office's agency action will be final.

If you desire to challenge this agency action and do not dispute the material facts as found by the Office, you may request a proceeding pursuant to sections 120.569 and 120.57(2), Florida Statutes. A petition for an administrative proceeding not involving disputed issues of material fact must comply with the content requirements of section 120.569(1), Florida Statutes, and Rule 28-106.301, Florida Administrative Code.

If you desire to challenge this agency action and dispute the material facts as found by the Office, you may request a proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes. A petition for an administrative proceeding involving disputed issues of material fact must comply with the content requirements of section 120.569(1), Florida Statutes, and Rule 28-106.201, Florida Administrative Code.

A petition that is not in substantial compliance with the applicable rules and statutes will be dismissed.

Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation under section 120.573, Florida Statutes, is not available for this agency action.

WALZ CERTIFIED MAILER®

FROM WALZ

FORM #45663 VERSION: E0719

Label #1

Label #2

Jeffrey Paul Legare, President
American Mobile Risk Mgt. LLC
as attorney-in-fact for
American Mobile Insurance Exchange
6170 Central Avenue N, #300
St. Petersburg, FL 33707

Label #3

U.S. Postal Service®
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

USPS® ARTICLE NUMBER
9414 7266 9904 2160 3603 71

Certified Mail Fee	$	3.75
Return Receipt (Hardcopy)	$	3.05
Return Receipt (Electronic)	$	0.00
Certified Mail Restricted Delivery	$	0.00
Postage	$	0.53
Total Postage and Fees	$	7.33

Postmark Here

TEAR ALONG THIS LINE

Sent to: Jeffrey Paul Legare, President
American Mobile Risk Mgt. LLC
as attorney-in-fact for
American Mobile Insurance Exchange
6170 Central Avenue N, #300
St. Petersburg, FL 33707

Reference Information

PS Form 3800, Facsimile, July 2015

A FOLD AND TEAR THIS WAY ⟶ OPTIONAL

B

Label #4

Certified Article Number
9414 7266 9904 2160 3603 71

SENDER'S RECORD

Label #5 (OPTIONAL)

Label #6 - Return Receipt Barcode (Sender's Record)

9590 9266 9904 2160 3603 74

Label #7 - Certified Mail Article Number

FOLD AND TEAR THIS WAY ⟶

Exhibit B

WALZ CERTIFIED MAILER®

FROM WALZ

FORM #45663 VERSION: E0719

Label #1

Corporation Service Company
1201 Hays Street
Label #2 Tallahassee, FL 32301

Label #3

U.S. Postal Service®
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

USPS® ARTICLE NUMBER

9414 7266 9904 2160 3604 01

Certified Mail Fee	$	3.75
Return Receipt (Hardcopy)	$	3.05
Return Receipt (Electronic)	$	0.00
Certified Mail Restricted Delivery	$	0.00
Postage	$	0.53
Total Postage and Fees	$	7.33

Postmark Here

TEAR ALONG THIS LINE

Sent to: Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

Reference Information

PS Form 3800, Facsimile, July 2015

A FOLD AND TEAR THIS WAY ⟶ OPTIONAL

B

Label #4

Certified Article Number
9414 7266 9904 2160 3604 01
SENDER'S RECORD

Label #5 (OPTIONAL)

Label #6 - Return Receipt Barcode (Sender's Record)

9590 9266 9904 2160 3604 04

Label #7 - Certified Mail Article Number

FOLD AND TEAR THIS WAY ⟶

WALZ CERTIFIED MAILER®

FROM WALZ

FORM #45663 VERSION: E0719

Label #1

Label #2

Mr. Claude Mueller
Colodny Fass
119 East Park Avenue
Tallahassee, FL 32301

Label #3

U.S. Postal Service®
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

USPS® ARTICLE NUMBER

9414 7266 9904 2160 3603 95

Certified Mail Fee	$	3.75
Return Receipt (Hardcopy)	$	3.05
Return Receipt (Electronic)	$	0.00
Certified Mail Restricted Delivery	$	0.00
Postage	$	0.53
Total Postage and Fees	$	7.33

Postmark Here

TEAR ALONG THIS LINE

Sent to: Mr. Claude Mueller
Colodny Fass
119 East Park Avenue
Tallahassee, FL 32301

Reference Information

PS Form 3800, Facsimile, July 2015

A FOLD AND TEAR THIS WAY ⟶ OPTIONAL

B

Label #5 (OPTIONAL)

Label #7 - Certified Mail Article Number

Label #4

Certified Article Number

9414 7266 9904 2160 3603 95

SENDER'S RECORD

Label #6 - Return Receipt Barcode (Sender's Record)

9590 9266 9904 2160 3603 98

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USPS Tracking®

FAQs >

Remove ×

Tracking Number:

9414726699042160360371

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Your item was delivered to the front desk, reception area, or mail room at 10:49 am on February 5, 2024 in SAINT PETERSBURG, FL 33707.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, Front Desk/Reception/Mail Room
SAINT PETERSBURG, FL 33707
February 5, 2024, 10:49 am

In Transit to Next Facility
February 4, 2024

Arrived at USPS Regional Facility
JACKSONVILLE FL DISTRIBUTION CENTER
February 1, 2024, 12:37 am

Hide Tracking History

What Do USPS Tracking Statuses Mean? (https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates ⌄

USPS Tracking Plus® ⌄

Exhibit C

Feedback

USPS Tracking®

FAQs >

Remove X

Tracking Number:

9414726699042160360401

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Your item has been delivered and is available at a PO Box at 7:25 am on February 3, 2024 in TALLAHASSEE, FL 32303.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, PO Box

TALLAHASSEE, FL 32303
February 3, 2024, 7:25 am

In Transit to Next Facility

February 2, 2024

Departed USPS Regional Facility

TALLAHASSEE FL DISTRIBUTION CENTER
February 1, 2024, 10:52 pm

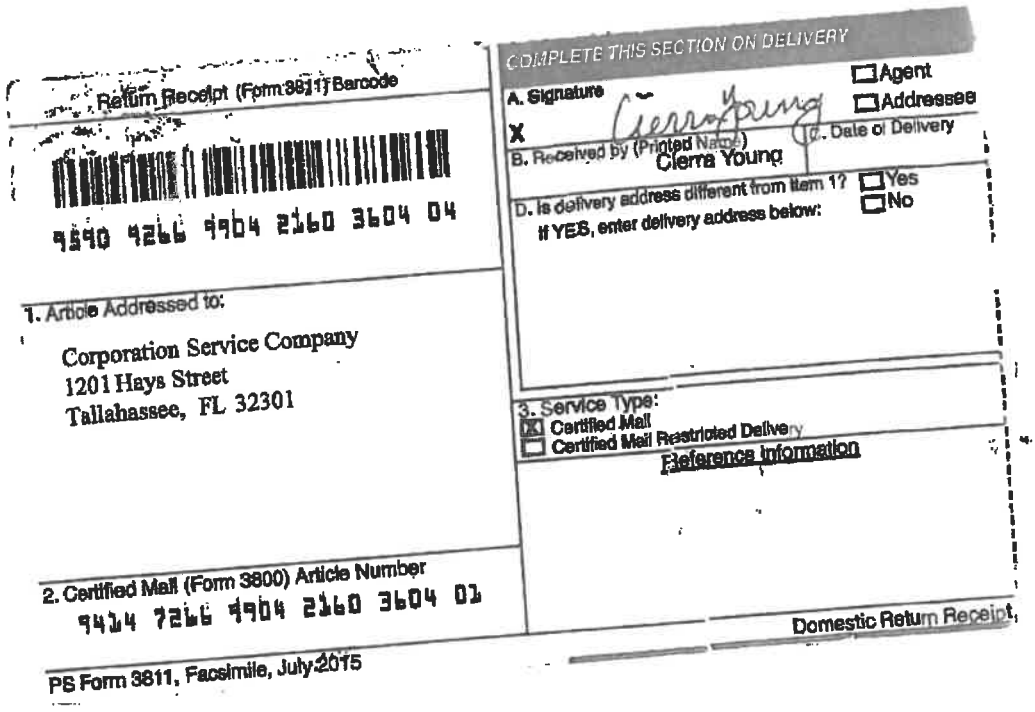
Arrived at USPS Regional Facility

TALLAHASSEE FL DISTRIBUTION CENTER
February 1, 2024, 10:31 pm

Arrived at USPS Regional Facility

JACKSONVILLE FL DISTRIBUTION CENTER
February 1, 2024, 12:37 am

Feedback



Return Receipt (Form 3811) Barcode

9590 9266 9904 2160 3604 04

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Cierra Young ☐ Agent ☐ Addressee

B. Received by (Printed Name) Cierra Young C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below:

1. Article Addressed to:

Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

3. Service Type:

☒ Certified Mail

☐ Certified Mail Restricted Delivery

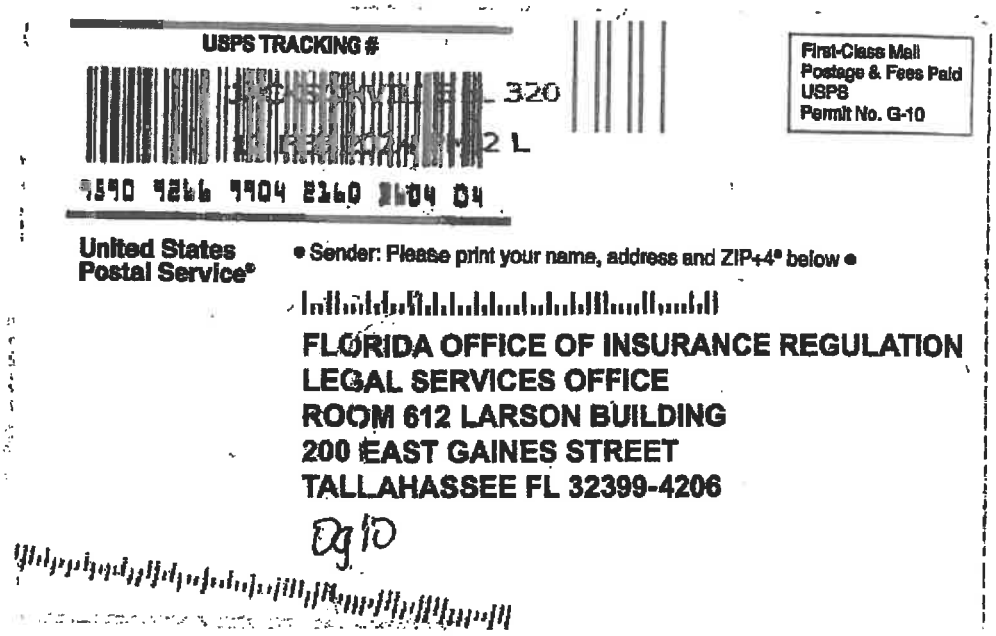
Reference Information

2. Certified Mail (Form 3800) Article Number

9414 7266 9904 2160 3604 01

PS Form 3811, Facsimile, July 2015

Domestic Return Receipt



USPS TRACKING #

9590 9266 9904 2160 3604 04

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States Postal Service®

• Sender: Please print your name, address and ZIP+4® below •

FLORIDA OFFICE OF INSURANCE REGULATION
LEGAL SERVICES OFFICE
ROOM 612 LARSON BUILDING
200 EAST GAINES STREET
TALLAHASSEE FL 32399-4206

Dg 10

USPS Tracking®

FAQs >

Remove X

Tracking Number:

9414726699042160360395

Copy Add to Informed Delivery (https://informeddelivery.usps.com/)

Latest Update

Your item was delivered to an individual at the address at 1:13 pm on February 5, 2024 in TALLAHASSEE, FL 32301.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, Left with Individual

TALLAHASSEE, FL 32301
February 5, 2024, 1:13 pm

See All Tracking History

What Do USPS Tracking Statuses Mean? (https://faq.usps.com/s/article/Where-is-my-package)

Feedback

Text & Email Updates

USPS Tracking Plus®

Product Information

See Less ^

Track Another Package

Enter tracking or barcode numbers

Return Receipt (Form 3811) Barcode

9590 9266 9904 2160 3603 98

1. Article Addressed to:

Mr. Claude Mueller
Colodny Fass
119 East Park Avenue
Tallahassee, FL 32301

2. Certified Mail (Form 3800) Article Number
9414 7266 9904 2160 3603 95

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X V. Weaver
☐ Agent
☐ Addressee

B. Received by (Printed Name) V. Weaver
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type:
☒ Certified Mail
☐ Certified Mail Restricted Delivery

Reference Information

PS Form 3811, Facsimile, July 2015 Domestic Return Receip

USPS TRACKING #

9590 9266 9904 2160 3603 98

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States Postal Service®

• Sender: Please print your name, address and ZIP+4® below •

FLORIDA OFFICE OF INSURANCE REGULATION
LEGAL SERVICES OFFICE
ROOM 612 LARSON BUILDING
200 EAST GAINES STREET
TALLAHASSEE FL 32399-4206

0a10