FILED

JUN 03 2025

INSURANCE REGULATION
Docketed by:

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

Index: OIR 2025-64
CASE NO.: 323957-24-FO

IN THE MATTER OF:
CALIFORNIA CASUALTY INSURANCE COMPANY
Private Passenger Automobile Excessive Profits
_____/

FINAL ORDER ON WAIVER

This matter arises from the Florida Office of Insurance Regulation ("OFFICE")'s intended decision to require California Casualty Insurance Company ("CALIFORNIA CASUALTY") to refund excess profits to policyholders in accordance with section 627.066, Florida Statutes.[1] Based upon a thorough review of the record and applicable law, the Office issues this Final Order and in support thereof declares as follows:

1. On December 15, 2023, CALIFORNIA CASUALTY provided data through their Excess Profit Report to the OFFICE pursuant to section 627.915(1).

2. After the OFFICE's review of CALIFORNIA CASUALTY's Excess Profit Report, the OFFICE determined that CALIFORNIA CASUALTY has realized and, therefore, owes excessive profits under section 627.066 to applicable policyholders in the amount of $341,510.00 for the calendar/accident years 2020, 2021, and 2022, valued on March 31, 2023.

3. On or about March 27, 2024, the OFFICE issued a Notice and accompanying Notice of Rights to CALIFORNIA CASUALTY (collectively "Notice"). The Notice identified

excessive profits under section 627.066 in the amount of $341,510.00 for the statutory period covering calendar/accident years 2020, 2021, and 2022, valued on March 31, 2023. The Notice explained CALIFORNIA CASUALTY's requirement to refund said excessive profits to policyholders in accordance with section 627.066. A true and correct copy of the Notice is attached hereto as Exhibit A.

4. On or about March 27, 2024, the Office properly apprised CALIFORNIA CASUALTY of its right to request a hearing under sections 120.569 and 120.57. The OFFICE informed CALIFORNIA CASUALTY that failure to timely respond to the Notice would result in the issuance of a Final Order. *See* Exhibit A.

5. CALIFORNIA CASUALTY received the Notice on April 4, 2024, as shown by tracking information provided by United States Postal Service. A true and correct copy of the tracking information is attached hereto as Exhibit B.

6. CALIFORNIA CASUALTY failed to file a petition for an administrative hearing with the OFFICE within twenty-one days following its receipt of the Notice.

7. To date, CALIFORNIA CASUALTY has not filed a petition for an administrative hearing with the OFFICE.

8. CALIFORNIA CASUALTY 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) (Doctrine of equitable tolling generally applies when party "has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum").

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[1] All statutory references refer to Florida Statutes (2024), unless otherwise noted.

9. Section 120.569(1) requires that each notice inform the recipient "of any administrative hearing or judicial review that is available under [section 120.569], s. 120.57, or s. 120.68; . . . indicate the procedure which must be followed to obtain the hearing or judicial review; and . . . state the time limits which apply."

10. Based on the above, the OFFICE provided CALIFORNIA CASUALTY sufficient notice regarding its opportunity to request an administrative hearing. *See* § 120.569(1), Fla. Stat.

11. Rule 28-106.111, *Florida Administrative Code*, provides in relevant part:

> (2) Unless otherwise provided by law, persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision
>
> ...
>
> (4) Any person who receives written notice of an agency decision and who fails to file a written request for a hearing with 21 days waives the right to request a hearing on such matters.

(Emphasis Added).

12. CALIFORNIA CASUALTY waived its right to request a hearing. CALIFORNIA CASUALTY failed to file a petition for an administrative hearing within twenty-one days of its receipt of the Notice. Fla. Admin. Code R. 28-106.111; *see Giordano v. Dep't of Banking and Fin.*, 596. So. 2d 712, 713-14 (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).

Upon careful consideration of the record in this matter and being otherwise advised in the premises, it is ORDERED:

13. Within sixty (60) days of this Final Order, CALIFORNIA CASUALTY shall provide refunds or policy renewal credits in the amount of $341,510.00 for the calendar/accident

years 2020, 2021, and 2022, valued on March 31, 2023, to applicable policyholders as specified in section 627.066.

14. CALIFORNIA CASUALTY shall attempt to locate policyholders whose refund checks are returned. CALIFORNIA CASUALTY shall report and process any unclaimed excessive profit funds as unclaimed or abandoned property in accordance with the provisions of chapter 717.

15. Pursuant to section 627.066(11)(b), upon completion of the renewal credits or refund payments, CALIFORNIA CASUALTY shall immediately certify to the OFFICE that the refunds have been made. CALIFORNIA CASUALTY shall also certify that it has attempted to locate policyholders whose refund checks are returned and complied with the abandoned property provisions of chapter 717, if necessary.

DONE and ORDERED this 2 day of JUNE 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 and Rule 9.110, Fla. R. App. P. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel of the Office of Insurance Regulation, acting as the Agency Clerk, at 612 Larson Building, Tallahassee, Florida 32399-4206, and a copy of the same with the appropriate district court of appeal, within thirty (30) days of rendition of this Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by certified mail to: CALIFORNIA CASUALTY INSURANCE COMPANY, Carl Brown, President, 10260 SW Greenburg Road, Suite 448, Portland, Oregon 97223-5500 this 3rd day of June 2025.

Courtney A. Colston-Hayes

Courtney A. Colston-Hayes
Assistant General Counsel
Florida Bar No. 1003226
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399-4206
Phone: (850) 413-4174
Fax: (850) 922-2543

COPIES FURNISHED TO:

CARL BROWN, President
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Portland, Oregon 97223-5500

JIE CHENG, Actuary
Property and Casualty Product Review
Office of Insurance Regulation
J. Edwin Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0329

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EXHIBIT
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FILED
MAR 27 2024
INSURANCE REGULATION
Docketed by: ke

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF: CASE NO.: 323957-24

CALIFORNIA CASUALTY INSURANCE COMPANY
Private Passenger Automobile Excessive Profits
_____/

TO: CALIFORNIA CASUALTY INSURANCE COMPANY
Mr. Carl Brown, President
10260 SW Greenburg Road, Suite 448
Portland, OR 97223-5500

NOTICE

Notice is hereby given that the Office of Insurance Regulation (hereinafter the "Office") has processed the data filed by your company or company group prior to July 1, 2023, pursuant to Section 627.066, Florida Statutes. Based upon a review of the data submitted, the Office finds on a preliminary basis that excessive profit has been realized in the amount of $341,510 for private passenger automobile business for the statutory review period covering calendar/accident years 2020, 2021, and 2022, valued at March 31, 2023.

WHEREFORE, you are hereby notified that in the absence of a request for a proceeding in accordance with the Notice of Rights, attached hereto, and in the absence of a demonstration by the insurer that the refund of excessive profits is not required pursuant to Section 627.066, Florida Statutes, the Commissioner will issue an Order requiring the refund of excessive profit in

the manner and within the time period prescribed by Section 627.066, Florida Statutes.

DATED AND SIGNED this 27th day of March 2024.

Michael Yaworsky, Commissioner
Office of Insurance Regulation

FLORIDA OFFICE OF INSURANCE REGULATION
NOTICE OF ADMINISTRATIVE RIGHTS

Pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule 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 private express mail service, 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 an informal proceeding by filing a petition pursuant to Sections 120.569 and 120.57(2), Florida Statutes. A petition for an informal administrative proceeding must comply with the content requirements of Section 120.569(1), Florida Statutes, and Rule 28-106.201, 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 formal proceeding by filing a petition pursuant to Sections 120.569 and 120.57(1), Florida Statutes. A petition for a formal administrative proceeding 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing NOTICE has been furnished by U.S. Certified Mail to CALIFORNIA CASUALTY INSURANCE COMPANY, Carl Brown, President, 10260 SW Greenburg Road, Suite 448, Portland, OR 97223-5500 this 27th day of March, 2024.

Courtney A. Colston-Hayes

Courtney A. Colston-Hayes
Assistant General Counsel
Office of Insurance Regulation
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-4206
(850) 413-4174

EXHIBIT

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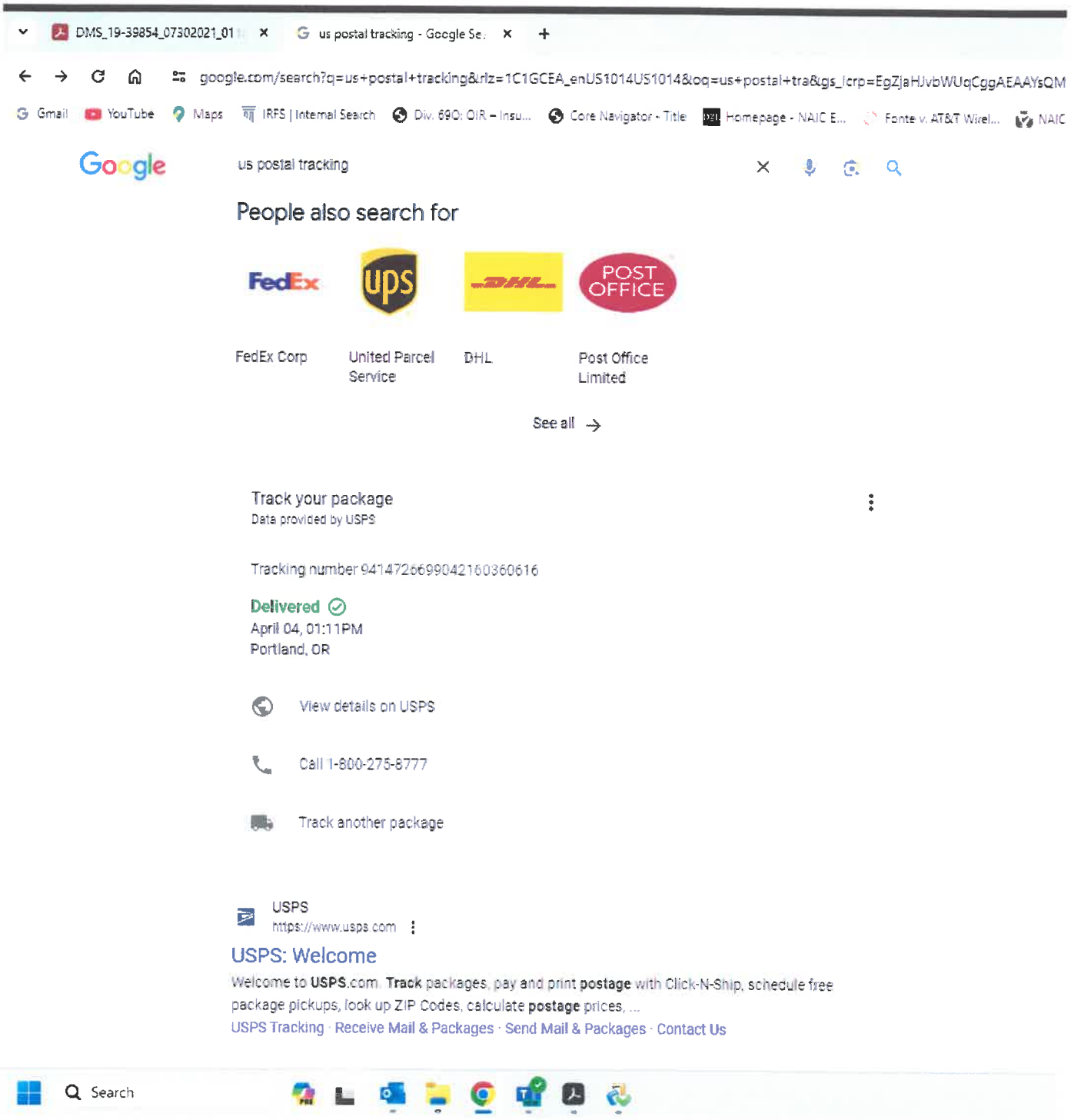
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