



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

IN THE MATTER OF:

PALM COAST TRAVEL

DFS Case No.: 102955-09-AG

AGREEMENT TO TERMS FOR ENTRY INTO CONSENT ORDER

IT IS AGREED by and between PALM COAST TRAVEL, ("Respondent"), and the Department of Financial Services ("Department"), that:

1. Respondent is not currently licensed as a resident travel firm (2-41) pursuant to Section 626.321(1)(c), Florida Statutes (2008). At all times relevant to the dates and occurrences referred to herein, Respondent was not licensed pursuant to the Florida Insurance Code in this state.

2. Pursuant to Chapter 626, Florida Statutes, the Department has jurisdiction over the Respondent's eligibility for licensure and appointment as a resident travel firm in this state and the subject matter of this proceeding.

3. The Department conducted an investigation of the Respondent's insurance activities in Florida. As a result of the investigation, the Department filed a Notice of Intent to Issue Cease and Desist Order ("Notice of Intent") on March 5, 2009, which included allegations that Respondent, directly or indirectly, represented or aided one or more unauthorized insurers including, but not limited to Prime Travel Protection, Inc., in violation of Section 626.901(1), Florida Statutes.

4. Respondent filed a response disputing one or more of the Department's allegations and requested an administrative hearing pursuant to Section 120.57(1), Florida Statutes. Respondent, by entering into this Agreement, does not admit any facts, conclusions or determinations, beyond those jurisdictional facts necessary for the Department and Respondent to settle and complete this matter, identified by DFS Case No. 10295-09-AG.

5. Respondent voluntarily waives the right to a hearing in this matter and voluntarily enters into this Settlement Stipulation for Consent Order. Respondent's waiver of a hearing is premised solely upon agreement to jurisdictional facts necessary for the Department to enter into this Agreement.

6. By entering into this Agreement to Terms for Entry of Consent Order, the filing of a Consent Order in this case, and satisfying the administrative sanctions set forth therein, Respondent and the Department intend to and do resolve all issues pertaining to this administrative matter as outlined in paragraph three (3) above.

7. Respondent hereby affirms the entity or entities identified in the Notice of Intent, which are referenced in paragraph three (3) above, are the only unauthorized entities Respondent represented in any way and that Respondent has not transacted insurance for any other unauthorized insurer except as has been disclosed to the Department in writing by Respondent in connection with the execution of this Settlement Stipulation. The requirement of disclosure in writing shall not apply to predecessor or commonly-owned entities promoted or owned by Jerry Watson: Trip Assured, Vacation Protection Services, Travel Protection Services, Universal Assurance Group, and Prime Travel Protection. The Department agrees that the listing provide herein satisfies Respondent's disclosure requirement under this paragraph.

8. No party will appeal this Settlement Stipulation for Consent Order or the Consent Order to be issued in this case, and the parties specifically waive notice of the right to appeal as required by Section 120.569(1), Florida Statutes.

9. This document, and the resulting Consent Order, are public records and contain information that is routinely published and disclosed by the Department.

10. Each party to this proceeding shall bear its own costs and attorney's fees.

11. The Settlement Stipulation and subsequent Consent Order does not resolve issues between Respondent and any other party, nor does it release any liability that the Respondent may have to other parties including the clients or the estates of the unauthorized insurer(s) formerly represented by Respondent, or release any liability any other party may have to Respondent. The Respondent should seek independent counsel with respect to any such claims or potential claims, or losses, or potential losses. This document has been agreed to by the Department and Respondent solely for purposes of this proceeding, and any facts, conclusions, or determinations provided, as well as the making of this document, are not intended by either party for use in any other proceeding. In the event a dispute other than the one between the Department and Respondent arises, no party shall use this document for any evidentiary purpose in that proceeding other than to establish the document's existence.

12. This Settlement Stipulation for Consent Order is subject to the approval of the Chief Financial Officer or her designee. If the Chief Financial Officer or her designee does not approve of this Settlement, no Consent Order will be issued, and this Settlement Stipulation shall be null and void as if it were never executed. Upon the approval of the Chief Financial Officer or her designee, and without further notice, the Chief Financial

Officer or her designee may issue a Consent Order providing for the following administrative sanctions:

(a) Incorporation by reference of all of the terms and conditions of this Settlement Stipulation for Consent Order;

(b) Respondent shall immediately CEASE AND DESIST representing Prime Travel Protection, Inc., and any other unauthorized insurer;

(c) Within fifteen (15) days of entry of the Consent Order to be issued in this case, Respondent shall apply for a Section 626.321(1)(c), Florida Statutes, resident travel firm (2-41) license. Respondent shall not transact the business of insurance until either Respondent or an individual within Respondent's travel firm is licensed pursuant to Section 626.321(1)(c), Florida Statutes. If such an individual within Respondent's firm is already licensed and appointed, Respondent may continue to transact insurance so long as Respondent also applies for a resident travel firm (2-41) license within fifteen (15) days of the entry of the Consent Order. Respondent agrees to take reasonable steps to acquire the license, but the Department agrees that it will not take any punitive action in the event the license does not issue, if Respondent's application has been properly submitted;

(d) As to any client that previously purchased travel insurance through the Respondent from an unauthorized insurer and whose travel is prospective, Respondent shall, within sixty (60) days following the issuance of the Consent Order in this case, at the client's option either:

1) Refund the premium paid by the client for the unauthorized travel insurance; or

2) Subject to either Respondent or an individual within Respondent's travel firm having a travel insurance (2-41) license, transfer any client that is still insured

through an unauthorized insurer to an authorized insurer with any additional costs associated with the foregoing borne by the Respondent. Respondent shall provide the Department with proof of the refund of premium or transfer to an authorized carrier within ten (10) business days thereafter;

(e) Whether known to the Department or presently known just to Respondent, as to those clients whose travel departure date has passed and who have an outstanding travel insurance claim, Respondent shall, within sixty (60) days following the issuance of the Consent Order in this case, make complete financial restitution regarding all unpaid valid travel insurance claims resulting from Respondent having placed clients with an unauthorized insurer. Those clients that are known to the Department at this time are identified on the attached list, marked as Exhibit A, which is fully incorporated herein. Respondent shall provide the Department with proof of making such payments within ten (10) business days thereafter. The Department agrees that claim 1, the Lay claim, is subject to dispute and shall be resolved pursuant to the evaluation procedure provided in this paragraph. The Department and Respondent agree that, based upon Department records, claim 2, the Levin claim, did not arise from the Claimant's business with Respondent, and instead involved a purchase through another travel agency. This paragraph shall not require Respondent to re-open satisfied claims, or to pay claims that have been properly rejected pursuant to an insurance policy's terms. Any claim that has been satisfied by Respondent, regardless of whether Respondent obtained a formal release, shall be considered satisfied. "Satisfaction," "satisfied," "pay," "paid," or "payment," as used in this paragraph shall include payment for a claim through provision of cash, or in kind, whether by voucher, credit, or provision of services/benefits/upgrades to a claimant. In the event satisfaction is challenged, Respondent shall provide the

Department with evidence of payment of the claim at issue and any governing policy language. If the claim was rejected, Respondent shall provide the policy language under which it rejected the claim. Because Respondent did not draft the language at issue, and had no role in its formulation, the doctrine of *contra proferentum* shall not apply and the language shall be interpreted in a manner that avoids ambiguity. If the Department disagrees with Respondent's conclusion, no enhanced penalty shall be applied, and instead, the claim shall be submitted to an independent party for evaluation. The costs of the evaluation proceeding shall be imposed upon the party whose interpretation is rejected, but no enhanced penalty shall be imposed for submission to the third party;

(f) Separate and apart from the insurance claims identified in the attached Exhibit A or otherwise presently known just to Respondent, Respondent shall be responsible for satisfying any new or previously unknown and unpaid valid travel insurance claims for any clients which Respondent placed with an unauthorized insurer. Respondent shall, within sixty (60) days of Respondent's knowledge of any new or previously unknown claim, make complete financial restitution regarding all unpaid valid travel insurance claims resulting from Respondent having placed clients with an unauthorized insurer. Respondent shall provide the Department with proof of making such payments within ten (10) business days thereafter. This paragraph shall not require Respondent to re-open satisfied claims, or to pay claims that have been properly rejected pursuant to an insurance policy's terms. Any claim that has been satisfied by Respondent, regardless of whether Respondent obtained a formal release, shall be considered satisfied. "Satisfaction," "satisfied," "pay," "paid," or "payment," as used in this paragraph shall include payment for a claim through provision of cash, or in kind, whether by voucher, credit, or provision of services/benefits/upgrades to a claimant. In

the event satisfaction is challenged, Respondent shall provide the Department with evidence of payment of the claim at issue and any governing policy language. If the claim was rejected, Respondent shall provide the policy language under which it rejected the claim. Because Respondent did not draft the language at issue, and had no role in its formulation, the doctrine of *contra proferentum* shall not apply and the language shall be interpreted in a manner that avoids ambiguity. If the Department disagrees with Respondent's conclusion, no enhanced penalty shall be applied, and instead, the claim shall be submitted to an independent party for evaluation. The costs of the evaluation proceeding shall be imposed upon the party whose interpretation is rejected, but no enhanced penalty shall be imposed for submission to the third party;

(g) Respondent shall be responsible for and ensure that all employees who sell insurance are only selling the insurance for which the Respondent is licensed and appointed to sell, and that the employees only sell said insurance pursuant to the direction or control of the Respondent;

(h) Respondent's complete financial restitution shall not be duplicative of any insurance claim payment previously paid by the unauthorized insurer or made by any other source;

(i) Failure of the Respondent to comply, in whole or in part, with paragraphs 12(a) through 12(g) above, shall constitute a material breach of this Settlement Stipulation and the resulting Consent Order. Such failure shall result in the denial of Respondent's application for licensure or immediate suspension of Respondent's license(s) and eligibility for licensure and appointment(s) in this state without further proceedings for a period of sixty (60) calendar days. If licensed, Respondent's license(s) shall not thereafter be reinstated except upon Respondent filing an application for

reinstatement. Reinstatement shall be conditioned upon Respondent's compliance with all terms of this Settlement Stipulation for Consent Order and the Consent Order to be entered in this cause, including making complete financial restitution. If Respondent is not licensed as a resident travel firm, it shall immediately CEASE AND DESIST placing any travel insurance for its clients even if an individual within Respondent's firm has an individual resident travel license;

(j) Respondent shall pay proceeding fees in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) within thirty (30) calendar days of the entry of the Consent Order to be issued in this case. Failure of Respondent to pay the administrative penalty within the specified limit shall result in the denial of Respondent's application for licensure or the immediate suspension of Respondent's license and eligibility for licensure in this state without further proceedings for a period of sixty (60) calendar days, whichever is applicable. If Respondent's application for licensure is denied, the Department may initiate enforcement proceedings against Respondent should Respondent fail to pay the administrative penalty within the specified time. Respondent hereby agrees to reimburse the Department for any and all costs and attorneys fees associated with such enforcement proceedings. If Respondent's license is suspended, Respondent's license shall not thereafter be reinstated except upon Respondent filing an application for reinstatement. Reinstatement shall be conditioned upon Respondent's compliance with all terms of this Settlement Stipulation for Consent Order and the Consent Order to be entered in this cause, including payment of the administrative penalty, and upon compliance with the terms of suspension;

(k) Upon issuance of the resident travel firm (2-41) license, Respondent shall be placed on probation, pursuant to Section 626.691, Florida Statutes, for a period of six

(6) months.. As a condition of probation, Respondent shall comply with all the terms and conditions of this Settlement Stipulation and resulting Consent Order and shall strictly adhere to all provisions of the Florida Insurance Code and Rules of the Department. As a specific condition of probation and in order to determine compliance with this Settlement Stipulation and the resulting Consent Order, Respondent shall give the Department, upon the Department's request, full and immediate access to all books and records relating to Respondent's insurance business. The six (6) month probationary period shall be self-terminating on the date six (6) months from the date of the entry of this Order, and shall not require any examination or sign-off by the Department. By agreeing to this paragraph, Respondent does not intend to waive any statutory, procedural, or substantive rights, in any subsequent proceeding that may arise between the Department and Respondent. All waivers made elsewhere in this agreement shall be strictly construed to apply solely for the purposes for which they were made, as determined by reference to the section in which such waiver was made;

(l) If, during the period of probation, the Department has good cause to believe that Respondent has violated the terms or conditions of this probation, it shall initiate administrative action to suspend or revoke Respondent's license and appointments, or it may seek to enforce the Consent Order in Circuit Court, or take any other action permitted by law;

(m) Pursuant to Section 626.321(1)(c), Florida Statutes, Respondent shall ensure that all employees who are authorized by Respondent to sell travel insurance are trained, prior to selling the travel insurance, by an authorized insurer or a general lines agent authorized to transact insurance pursuant to the Florida Insurance Code. Respondent shall maintain on file copies of all the materials used in the training of

Respondent's employees and the identity of the authorized insurer or general lines agent who conducted the training. Respondent shall be in compliance with this paragraph if its licensees and/or the agency (if the agency is the licensee) reviews and approves web-based "click through" travel insurance offerings;

(n) If the Department discovers that the Respondent, subsequent to this Settlement Stipulation and Consent Order, has directly or indirectly aided or represented any other unauthorized insurer, the Respondent acknowledges that such aiding or representing would be willful and knowing, given that the Respondent now understands the laws with respect to aiding or representing unauthorized insurers. Respondent shall not directly or indirectly transact insurance in or from this state except on behalf of an authorized insurer holding a valid certificate of authority issued by the Office of Insurance Regulation, or on behalf of a surplus lines insurer in compliance with the Florida surplus lines law;

(o) If Respondent has reasonable doubt or a good faith suspicion as to whether an insurer is properly authorized or admitted, the Respondent shall obtain written confirmation from the Office of Insurance Regulation that the insurer is authorized, admitted, approved, or registered before proceeding to transact insurance for that insurer. This paragraph shall not be construed to require Respondent to independently verify an insurer's regulatory compliance in a manner that is commercially unreasonable, and Respondent shall not be responsible for errors in publicly-available sources, such as the Office of Insurance Regulation's web-based database for licensed insurers. Respondent shall be entitled to rely upon any data it obtains based upon searches based upon a given insurer's National Association of Insurance Commissioners (NAIC) number. Any failure to comply shall be evaluated based upon the facts and circumstances surrounding the

failure, and Respondent shall not be liable for a third party's misappropriation of such number or any other intentional fraud in which it did not participate;

(p) Respondent shall fully cooperate with the Department and any other regulatory or law enforcement agencies with respect to the providing of documentation, truthful and candid information, and testimony upon request in any investigation or proceeding concerning or related to Prime Travel Protection, Inc., including its predecessors or successors, their officers, directors, and agents, and as to all other persons or entities known to the Respondent who may have marketed, solicited, sold, or serviced unauthorized travel insurance;

(q)

13. Respondent certifies that the address following its authorized representative's signature below is a valid address at which Respondent will receive the Consent Order when mailed to that address. Respondent agrees to notify the Department immediately of any change of address in the future as required by law.

