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STATE OF HAWAII
REC'D
INSURANCE DIVISION

INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of	)	**I. C. No. 05-072**
	)	
First Assured Warranty Corporation,	)	CEASE AND DESIST ORDER
	)	
Respondent.	)	
	)	

CEASE AND DESIST ORDER

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

TO: Mr. Alan Kastrinsky
First Assured Warranty Corporation
7935 E. Prentice Avenue Suite 400W
Greenwood Village, Colorado 80111

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Hawaii Revised Statutes (hereinafter "Haw. Rev. Stat."), §§ 481X-3; 481X-4; 481X-12, and Haw. Rev. Stat. chapter 91 that the INSURANCE COMMISSIONER of the State of Hawaii (hereinafter "Commissioner"), in investigation of the activities of Respondent, believes there is sufficient cause upon which to issue a cease and desist order upon the Respondent FIRST ASSURED WARRANTY CORPORATION (hereinafter "Respondent").

Accordingly, the Commissioner is authorized to issue a cease and desist order upon the Respondent to enforce compliance with the provisions of Haw. Rev. Stat. Chapter 481X Service Contracts, pursuant to HRS § 481X-12.

The Commissioner's Cease and Desist Order (hereinafter "Order") is based upon the following preliminary findings of fact:

1. Respondent is a service contract provider (#306941) that renewed its registration on August 1, 2005 to conduct the business of a service contract provider in the State of Hawaii.

2. Respondent's compliance with Haw. Rev. Stat. § 481X-4 Financial Responsibility, the financial security requirements of all service contract providers that is mandated by statute, was dependent upon the retention of an active contractual liability insurance policy with PrimeGuard Insurance Company, Inc. a Risk Retention Group (hereinafter "PrimeGuard").

3. Pursuant to Order of Liquidation issued in Special Proceeding No. 05-1-0443 on December 19, 2005 in the Circuit Court of the First Circuit, State of Hawaii ("Liquidation Order"), PrimeGuard has been declared insolvent and its business ordered to be liquidated.

4. Liquidation Order at paragraph 11 states:

> "11. Pursuant to Haw. Rev. Stat. § 431:15-105, the following injunctions and restraining orders are entered and the Liquidator may seek further injunctions, restraining orders and orders as necessary and proper under the [Hawaii Insurers Supervision, Rehabilitation and Liquidation Act, Chapter 431 Article 15, Haw. Rev. Stat. (the "Act")]. Applications of these injunctions includes, but is not limited to, all persons identified in Paragraph 9 of this Liquidation Order.
>
> a. Respondent PrimeGuard is enjoined and restrained from the transaction of further business. Respondent PrimeGuard may not insure any warranties issued by First Assured, 1Source [1SourceAutoWarranty.com, Inc.] or any other warranty company dated after the entry of this Liquidation Order. First Assured, 1Source and any other warranty company are hereby enjoined from issuing any warranties that identify Respondent PrimeGuard as an insurer of such warranties. To the extent any such warranties are issued after the date of this Liquidation Order, to the extent those warranties identify Respondent PrimeGuard as an insurer, those warranties are void and unenforceable as to Respondent PrimeGuard."

5. Pursuant to the Liquidation Order on PrimeGuard, Respondent First Assured shall not rely upon the contractual liability insurance policy issued by PrimeGuard to fulfill the financial responsibility requirements mandated by Haw. Rev. Stat. § 481X-4.

THEREFORE, BASED UPON THE FOREGOING, the Insurance Commissioner believes there is sufficient cause to conclude that the Respondent First Assured does not comply with the requirements of Haw. Rev. Stat. chapter 481X for financial responsibility and Respondent does not qualify for registration to conduct the business of a service contract provider in Hawaii.

IT IS THEREFORE HEREBY ORDERED by the Insurance Commissioner that:

a. Respondent shall immediately cease and desist from conducting the business of a service contract provider as described by Haw. Rev. Stat. chapter 481X.

b. Respondent is prohibited from selling or offering for sale any service contract that is purportedly insured by PrimeGuard.

c. Respondent is hereby notified that the Commissioner reserves all rights to investigate the individual actions of principals, officers, and agents of Respondent and its related entities and seek any additional remedies available under the law.

d. Respondent is hereby notified that the Commissioner may seek civil penalties on Respondent and related entities or individuals.

e. Respondent is hereby notified that the Commissioner reserves all rights to further modify this order as circumstances and events warrant.

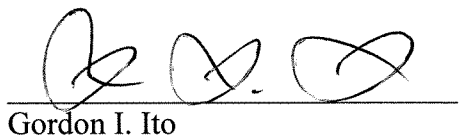
f. Respondent may request a hearing before the Commissioner, conducted subject to Haw. Rev. Stat. chapter 91. The hearing request shall be filed with the Commissioner within twenty days of the effective date of this Order at:

Insurance Commissioner
Insurance Division, Dept. of Commerce and Consumer Affairs
335 Merchant Street, Room 213
Honolulu, Hawaii 96813

g. Upon filing of a hearing request, the order shall be suspended from its effective date, until completion of the hearing and final decision of the Commissioner. At the hearing, the Commissioner shall have the burden of proof to show that the Order is justified.

h. If no hearing is requested by Respondent, the findings of fact and conclusions of this Order shall be deemed final and conclusive with respect to all matters contained herein.

EFFECTIVE DATE: Honolulu, Hawai`i, 21st day of December 2005.



Gordon I. Ito
Chief Deputy Insurance Commissioner
State of Hawaii