



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

MARKET CONDUCT  
EXAMINATION REPORT

OF

**HORACE MANN INSURANCE COMPANY  
SPRINGFIELD, IL**

As of: August 16, 2012  
Issued: October 4, 2012

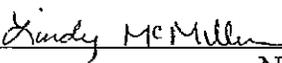
**BUREAU OF MARKET ACTIONS  
PROPERTY AND CASUALTY DIVISION**

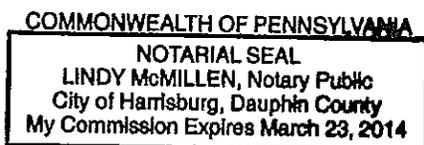
VERIFICATION

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
\_\_\_\_\_  
June A. Coleman, Examiner-In-Charge

Sworn to and Subscribed Before me  
This 16<sup>th</sup> Day of August, 2012

  
\_\_\_\_\_  
Notary Public



**HORACE MANN INSURANCE COMPANY**

**TABLE OF CONTENTS**

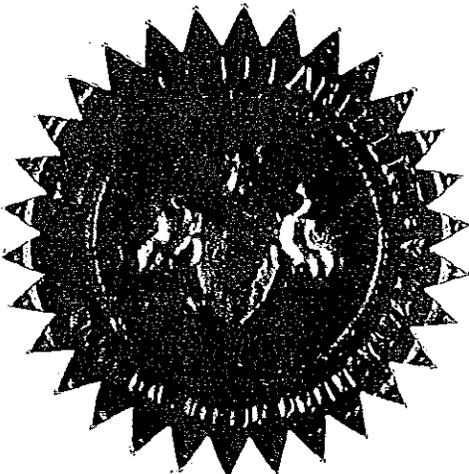
Order

I.	Introduction.....	1
II.	Scope of Examination.....	3
III.	Company History/Licensing.....	4
IV.	Underwriting Practices and Procedures.....	5
V.	Underwriting	
	A. Private Passenger Automobile.....	6
VI.	Rating	
	A. Private Passenger Automobile.....	12
VII.	Forms.....	19
VIII.	Recommendations.....	20
IX.	Company Response.....	23

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 27<sup>th</sup> day of April, 2011, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Ronald A. Gallagher, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



  
Michael F. Consedine  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
HORACE MANN INSURANCE : Act 1990-6, Sections 1705(a)(4),  
COMPANY : 1731(c)(1), 1734, 1738(d)(1) and (2),  
1 Horace Mann Plaza : 1791 and 1799.3(d) (75 Pa.C.S. §§  
Springfield, IL 62715 : 1705, 1731, 1734, 1738, 1791 and 1799)  
: :  
: Act 246, Section 4(h) (40 P.S. §1184)  
: :  
: Act 68 of 1998, Sections 2003(b), 2006(1),  
: (2), (4), (5), (6), and (7), and 2008(b) (40  
: P.S. §§991.2003, 991.2006 and 991.2008)  
: :  
Respondent. : Docket No. MC12-08-014

CONSENT ORDER

AND NOW, this *4<sup>th</sup>* day of *October*, 2012, this Order is hereby  
issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to  
the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of  
its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2  
Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this  
matter, and agrees that this Consent Order shall have the full force and effect of an order

duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Horace Mann Insurance Company, and maintains its address at 1 Horace Mann Plaza, Springfield, IL 62715.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from April 1, 2010 to March 31, 2011.
- (c) On August 16, 2012, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on September 17, 2012.
- (e) The Examination Report notes violations of the following:

- (i) Section 1705(a)(4) of Act 1990-6, Title 75, Pa.C.S. § 1705, which requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option;
  
- (ii) Section 1731(c)(1) of Act 1990-6, Title 75, Pa.C.S. § 1731, which states on policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists;
  
- (iii) Section 1734 of Act 1990-6, Title 75, Pa.C.S. § 1734, which allows a named insured to request in writing the issuance of coverages under Section 1731 in amount equal to or less than the limits of liability for bodily injury;
  
- (iv) Section 1738(c)(d)(1) and (2) of Act 1990-6, Title 75, Pa.C.S. § 1738, which requires the named insured to be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;

- (v) Section 1791 of Act 1990-6, Title 75, Pa.C.S. § 1791, which states it shall be presumed that the insured has been advised of the benefits available under this chapter provided the notice is given to the insured at time of application;
- (vi) Section 1799.3(d) of Act 1990-6, Title 75, Pa.C.S. § 1799, which requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the named insured of the determination and specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect;
- (vii) Section 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (viii) Section 2003(b) of Act 68 of 1998 (40 P.S. § 991.2003(b)), which states that an insurer may not cancel or refuse to renew a policy of automobile insurance on

the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy;

(ix) Section 2006(1) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a nonrenewal notice be in a form acceptable to the Insurance Commissioner;

(x) Section 2006(2) of Act 68 of 1998 (40 P.S. § 991.2006), which prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery;

(xi) Section 2006(4) of Act 68 (40 P.S. §991.2006(4)), which requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer;

(xii) Section 2006(5) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that either in the cancellation notice or in an accompanying statement, the

insured be advised of his possible eligibility for insurance through the automobile assigned risk plan;

- (xiii) Section 2006(6) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage;
- (xiv) Section 2006(7) of Act 68 of 1998 (40 P.S. § 991.2006), which requires that a cancellation notice clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533, or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy; and
- (xv) Section 2008(b) of Act 68 of 1998 (40 P.S. § 991.2008), which requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may

request in writing to the Commissioner that he review the action of the insurer in refusing to write a policy for the applicant.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
  
- (b) Respondent's violations of Section 4(h) of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. § 1184) are punishable under Section 16 of the Casualty and Surety Rate Regulatory Act:
  - (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation;
  
  - (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

- (c) Respondent's violations of Sections 2003, 2006 and 2008 of Act 68 of 1998 are punishable by the following, under Section 2013 of the Act (40 P.S. § 991.2013): Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars (\$5,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.

(d) Respondent shall pay Ten Thousand Dollars (\$10,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.

(e) Payment of this matter shall be made by check payable to the "PA Insurance Department, Commonwealth of Pennsylvania". Payment should be directed to Sharon L. Fraser, Bureau of Market Actions, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

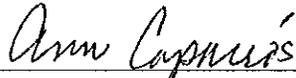
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law

contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

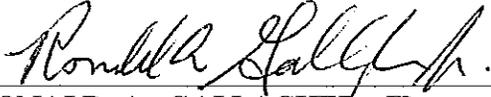
BY: HORACE MANN INSURANCE COMPANY,  
Respondent



\_\_\_\_\_  
President / Vice President



\_\_\_\_\_  
Secretary / Treasurer



\_\_\_\_\_  
RONALD A. GALLAGHER, JR.  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## I. INTRODUCTION

The Market Conduct Examination was conducted at Horace Mann Insurance Company, hereinafter referred to as "Company", office located in Springfield, Illinois, from June 20, 2011 to July 22, 2011. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

The Pennsylvania Market Conduct Examination Report, hereinafter referred to as "Report", generally notes only those items to which the Department, after review, takes exception. However, the Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations on 10 policies, the error ratio would be 10%.

Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

The following examiners participated in this examination and in preparation of this Report.

Constance L. Arnold, MCM  
Market Conduct Division Chief

June A. Coleman, MCM  
Market Conduct Examiner

Jerry L. Houston, AIE, CPCU  
Market Conduct Examiner

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Horace Mann Insurance Company's office in Springfield, Illinois. The examination was conducted pursuant to Sections 903 and 904 [40 P.S. §§323.3 and 323.4] of the Insurance Department Act and covered the experience period of April 1, 2010 through March 31, 2011, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile
  - Underwriting - Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations and declinations.
  - Rating - Proper use of all classification and rating plans and procedures.
  
2. Forms

### III. COMPANY HISTORY

Horace Mann Insurance Company was incorporated under the laws of Illinois. The Company was initially incorporated as Swiss National Insurance Company, U.S.A. under the laws of Florida on September 23, 1963, and began business on December 23, 1963. The present name was adopted November 2, 1967. On December 23, 1988, the Company was re-domiciled to the state of Illinois.

### LICENSING

Horace Mann Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2012. The Company is licensed in District of Columbia, Puerto Rico and all states except New Jersey and Hawaii. The Company's 2010 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$10,149,604. Premium volume related to the Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No Fault (personal injury protection) \$643,516; Other Private Passenger Auto Liability \$2,931,458; and Private Passenger Auto Physical Damage \$2,922,116.

#### IV. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

## V. UNDERWRITING

### **A. Private Passenger Automobile**

#### 1. 60-Day Cancellations

A 60-day cancellation is considered to be any policy, which was cancelled within the first 60 days of the inception date of the policy.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(b)(3) [40 P.S. §991.2002(b)(3)], which requires an insurer who cancels a policy of automobile insurance in the first 60 days, to supply the insured with a written statement of the reason for cancellation.

The universe of 25 private passenger automobile files identified as being cancelled in the first 60 days of new business was selected for review. All 25 files selected were received and reviewed. No violations were noted.

#### 2. Mid-term Cancellations

A mid-term cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. §991.2003], which establishes conditions under which action by the insurer is prohibited, and Section 2006 [40 P.S.

§991.2006], which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 1,910 private passenger automobile policies which were cancelled during the experience period, 250 files were selected for review. All 250 files requested were received and reviewed. The six (6) violations noted were based on one (1) file, resulting in an error ratio of .4 percent (.4%).

The following findings were made:

*1 Violation Act 68, Section 2006(1) [40 P.S. §991.2006(1)]*

Requires that a cancellation notice be in a form acceptable to the Insurance Commissioner. The violation noted resulted in a cancellation notice that was not filed and approved by the Insurance Commissioner.

*1 Violation Act 68, Section 2006(2) [40 P.S. §991.2006(2)]*

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The violation noted resulted in a cancellation notice that did not provide the required notice of 60 days from the date of mailing.

*1 Violation Act 68, Section 2006(4) [40 P.S. §991.2006(4)]*

Requires that a cancellation notice advise the insured of his right to request in writing that the Insurance Commissioner review the action of the insurer. The violation noted resulted from a cancellation notice which did not advise the insured of his or her right to request in writing a review by the Insurance Commissioner.

*1 Violation Act 68, Section 2006(5) [40 P.S. §991.2006(5)]*

Requires that either in the cancellation notice or in an accompanying statement, the insured be advised of this possible eligibility for insurance through the automobile assigned risk plan. The violation noted was a midterm cancellation issued which did not advise the insured of his or her eligibility for insurance through the assigned risk plan.

*1 Violation Act 68, Section 2006(6) [40 P.S. §991.2006(6)]*

Requires that a cancellation notice advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth and that the insurer is notifying the Department of Transportation that the insurance is being cancelled and the insured must notify the Department of Transportation that he has replaced said coverage. The violation noted resulted from the cancellation notice which did not advise the insured of the required information.

*1 Violation Act 68, Section 2006(7) [40 P.S. §991.2006(7)]*

Requires that a cancellation notice clearly state that when

coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa. C.S. §1533 (relating to suspension of operating privilege for failure to respond to a citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy. The violation resulted from a cancellation notice which did not advise the insured of the required information.

### 3. Nonrenewals

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month policy anniversary date.

The purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. §991.2003], which establishes conditions under which action by the insurer is prohibited, and Section 2006 [40 P.S. §991.2006], which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 229 private passenger automobile files identified as nonrenewals by the Company, 100 files were initially selected for review. Due to a consumer complaint an additional file was selected and reviewed. A total of 101 files requested were received and reviewed. The one (1) violation noted was based on one (1) file, resulting in an error ratio of one percent (1%).

The following finding was made:

*1 Violation Act 68, Section 2003(b) [40 P.S. §991.2003(b)]*

States that an insurer may not cancel or refuse to renew a policy of automobile insurance on the basis of one accident within the thirty-six (36) month period prior to the upcoming anniversary date of the policy. The file noted was the result of a cancellation notice being issued based on one accident.

4. Declinations

A declination is any application that is received by the Company and was declined to be written.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 [40 P.S. §991.2003], which establishes conditions under which action by the insurer is prohibited.

The universe of four (4) applicants for private passenger automobile insurance was selected for review. The list of applicants was refused by Horace Mann Insurance Company and referred to Progressive Insurance Company where the applicants were underwritten and issued an automobile policy. All four (4) files selected were received and reviewed. The two (2) violations noted were based on two (2) files, resulting in an error ratio of one percent (50%).

The following findings were made:

*2 Violations Act 68, Section 2008(b) [40 P.S. §991.2008(b)]*

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The two (2) files noted were the result of the Company not providing a written notice stating the specific reason for the refusal to write. In addition, one (1) of the files noted was the result of the Company not advising the insured of his or her right to request in writing a review by the Insurance Commissioner.

## VI. RATING

### **A. Private Passenger Automobile**

#### **1. New Business**

New business, for the purpose of this examination, is defined as policies written for the first time by the Company during the experience period.

The primary purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of Act 6 of 1990 and Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile Rating – New Business without Surcharges

From the universe of 322 private passenger automobile policies identified as new business without surcharges by the Company, 25 files were selected for review. All 25 files were received and reviewed. The eight (8) violations noted were based on seven (7) files, resulting in an error ratio of 28%.

The following findings were made:

*3 Violations Title 75, Pa. C.S. §1705(a)(4)*

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The three (3) violations noted were the result of a policy issued with limited tort and no evidence of a signed limited tort selection form.

*1 Violation Title 75, Pa. C.S. §1734*

A named insured may request in writing the issuance of coverages under Section 1731 (relating to availability, scope and amount of coverage) in an amount equal to or less than the limits of liability for bodily injury. The file noted did not contain a written request for lower limits of liability.

*3 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and

rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The three (3) files were rated with an improper territory resulting in an overcharge of \$258.70.

*1 Violation Title 75, Pa. C.S. §1738(c)(d)(1)&(2)*

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company did not provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the file noted.

Private Passenger Automobile Rating – New Business with Surcharges

The universe of two (2) private passenger automobile policies identified as new business with surcharges by the Company was selected for review. The two (2) policy files requested were received and reviewed. The 2 (two) violations noted were based on 2 (two) files, resulting in an error ratio of 100%.

The following findings were made:

*2 Violations Title 75, Pa. C.S. §1799.3(d)*

Requires insurers who make a determination to impose a surcharge, rate penalty or driver record point assignment, to inform the insured of the determination and specify the manner in which the surcharge, rate penalty or driver record

point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect. The two (2) files noted was the result of the Company not clearly identifying the amount of the surcharge on the premium notice.

## 2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date.

The purpose of the review was to measure compliance with Act 246, Sections 4(a) and (h) [40 P.S. §1184], which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68, Section 2005(c) [40 P.S. §991.2005(c)], which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory

assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile Rating – Renewals without Surcharges

From the universe of 6,072 private passenger automobile policies identified as renewals without surcharges by the Company during the experience period, 50 files were selected for review. All 50 policy files requested were received and reviewed. The four (4) violations noted were based on four (4) files, resulting in an error ratio of eight percent (8%).

The following findings were made:

*3 Violations Title 75, Pa. C.S. §1731(c)(1)*

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The three (3) policy renewals did not reflect the prominent notice as required.

*1 Violation Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 (40 P.S. §1184)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the

time of issue. The violation was the result of the policy being issued with an improper territory which resulted in an overcharge of \$1.00.

Private Passenger Automobile Rating – Renewals with Surcharges

From the universe of 224 private passenger automobile policies identified as renewals with surcharges, 50 files were selected for review. All 50 policy files requested were received and reviewed. The eight (8) violations noted were based on eight (8) files, resulting in an error ratio of 16%.

The following findings were made:

*6 Violations Title 75, Pa. C.S. §1731(c)(1)*

On policies in which either uninsured or underinsured motorist coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. The six (6) policy renewals did not reflect the prominent notice as required.

*2 Violations Act 246, The Casualty and Surety Rate Regulatory Act, Section 4 [40 P.S. §1184]*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the

time of issue. The one (1) violation was the result of the policy being issued with an improper territory which resulted in an overcharge of \$34.70. The second violation was the result of the policy being issued with a discount that did not apply which resulted in an undercharge of \$25.10.

## VII. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with Insurance Company Law, Section 354 [40 P.S. §477b], Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting files were also reviewed to verify compliance with Act 165 of 1994 [18, Pa. C.S. §4117(k)(1)] and Title 75, Pa. C.S. §1822 which require all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage.

The following finding was made:

*1 Violation Title 75, Pa. C.S. §1791*

Requires the Company to advise the insured of the benefits and limits available under this Chapter in bold print of at least ten-point type at the time of application for original coverage. The Company did not provide the required wording at the time of application.

## VIII. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1731(c)(1) do not occur in the future.
2. The Company must review Title 75, Pa. C.S. §1791 violations to ensure that the wording of the standardized notice of available benefits is correct when given to the insured at the time of application as noted in the Report.
3. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the amount of surcharge and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date. This is to ensure that violations noted under Title 75, Pa. C.S. §1799.3(d) do not occur in the future.
4. The Company must review Title 75, Pa. C.S. §1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.

5. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.
6. The Company must review Act 246, Section 4(h) [40 P.S. §1184] and take appropriate measures to ensure the rating violations listed in the report do not occur in the future.
7. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that the violation noted under Title 75, Pa. C.S. §1738(d)(1) and (2) does not occur in the future.
8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under Title 75, Pa. C.S. §1705(a)(4) do not occur in the future.
9. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and refusal to write notice requirements of Act 68, Sections 2003 and 2008 [40 P.S. §991.2003 and 2008], so that the violations noted in the Report do not occur in the future.

10. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Section 2006 [40 P.S. § 991.2006] so that the violations noted in the Report do not occur in the future.

*IX. COMPANY RESPONSE*

September 17, 2012

Constance Arnold  
Property & Casualty Division Chief  
Office of Market Regulation  
1227 Strawberry Square  
Harrisburg, PA 17120

RE: Examination Warrant Number: 11-M22-003

Dear Ms. Arnold:

On behalf of the Horace Mann Insurance Company, I am pleased to enclose our response to the Pennsylvania Insurance Department's Examination Report dated August 16, 2012. We hope you find that our response addresses all of the recommendations offered by the department.

Horace Mann endeavors to conduct its business in full compliance with the laws and regulations of the State of Pennsylvania. As a result of the Examination, necessary corrective action has been undertaken to ensure compliance with all regulations.

We would like to take this opportunity to thank you for the courtesy demonstrated by your staff. We look forward to working with you to reach a mutually agreeable resolution to this report. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Stephanie Fuller, CPCU, CIA, AIC  
Director of P&C Project Management & Compliance  
Horace Mann Insurance Company  
1 Horace Mann Plaza  
Springfield, IL 62715  
(217)788-5321

Enclosures

**Horace Mann Insurance Company**  
**Re: Examination Warrant Number: 11-M22-003**  
**September 17, 2012**  
**Company Response to Recommendations**

1. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewal must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists. This procedure must be implemented within 30 days of the Report issue date.

**Company Response:** The Company accepts this recommendation and has agreed to edit the notice on the declarations page consistent with this recommendation. The Company would like it to be noted that it is compliant with the Title 75, Pa. C.S. 1731(c)(1) requirement that notice is given on the renewal declarations page. The examiner's concern was solely with the *prominence* of the required notice.

2. The Company must review Title 75, Pa. C.S. 1791 violations to ensure that the wording of the standardized notice of available benefits is correct when given to the insured at the time of application as noted in the Report.

**Company Response:** The Company accepts this recommendation and has agreed to edit the Pennsylvania Important Notice form, to ensure compliance with the Department's interpretation of Title 75, Pa. C.S. 1791.

3. When a surcharge is imposed on a private passenger automobile policy, the Company must identify the amount of surcharge and give notice to the insured. This procedure must be implemented within 30 days of the Report issue date.

**Company Response:** The Company accepts this recommendation with regard to new business customers and has agreed to edit the declarations page, to ensure full compliance with Title 75 1799.3(d). The Company continues to be compliant with Title 75 1799.3(d) for renewal business customers.

4. The Company must review Title 75, Pa. C.S. 1734 to ensure that the insured signs a request for lower limits of liability for uninsured and underinsured motorist coverage and a copy kept in files as noted in the Report.

**Company Response:** The Company believes its process is in compliance with Title 75, Pa. C.S. 1734 and wishes to clarify that this recommendation is based on one policy in which the signed lower limits form was not provided, as a result of human error. The Company's practice is to ensure that the insured signs a request for lower liability limits for UM and/or UIM coverage, and a copy is kept in the agent's file. As a result of this examination, the Company is reinforcing this requirement and the associated record keeping requirement with agents.

5. The premium overcharges noted in the rating section of this report must be refunded to the insureds and proof of such refunds must be provided to the Insurance Department within 30 days of the report issue date.

**Company Response:** The Company refunded an overcharge to the five policies in question and forwarded the proof of the refunds to the Insurance Department on 10/21/11. The primary issue was incorrect territory assignment. As a result of this examination, the Company is reinforcing the importance of correct territory assignment with agents.

6. The Company must review Act 246, Section 4(h)[40P.S. 1184] and take appropriate measures to ensure the rating violation listed in the report do not occur in the future.

**Company Response:** The Company accepts this recommendation. The Company has reviewed Act 246, Section 4(h)[40P.S. 1184] in light of errors identified in assigning territories (5 policies) and a discount (1 policy). As indicated in Recommendation 5, above, the Company is reinforcing the importance of correct rating factor assignment with its agents.

7. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that the violation noted under Title 75, Pa.C.S. 1738(d)(1) and (2) does not occur in the future.

**Company Response:** The Company does not believe a revision of its current underwriting procedures with regard to waiver of stated limits is necessary. This recommendation is the result of one policy, from which the agent was unable to produce the signed waiver of stacked limits for UM and UIM motorist coverage. The Company's current practice is to ensure that the insured is aware that he may exercise the waiver of stacked limits for UM and UIM motorist coverage by signing written rejection forms. As a result of this examination, the Company is reinforcing this practice and the associated record keeping requirement with agents.

8. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that the violation noted under Title 75, Pa.C.S. 1705(a)4 does not occur in the future.

**Company Response:** The Company does not believe a revision of its current underwriting procedures with regard to election of a tort option is necessary. This recommendation is the result of three policies, from which the agents were unable to produce the signed tort forms. The Company's current practice is to ensure that each applicant for private passenger automobile liability insurance is aware that he has the opportunity to elect a tort option and that signed tort option selection forms are obtained and retained by the agent in the underwriting file. As a result of this examination, the Company is reinforcing this practice and the associated record keeping requirement with agents.

9. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and refusal to write notice requirements of Act 68, Section 2003 and 2008 [40 P.S.991.2003 and 2008], so that the violations in the Report do not occur in the future.

**Company Response:** The Company does not believe a revision of its current nonrenewal and refusal to write notice practices is necessary. The Company has reviewed internal control procedures and reinforced all nonrenewal and refusal to write notice requirements with underwriting personnel. In addition, the Company will provide reinforcement of the nonrenewal and refusal to write notice requirements to the agents.

10. The Company must review and revise internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Section 2006 [40P.S. 991.2006] so that the violation noted in the Report do not occur in the future.

**Company Response:** The Company does not believe a revision of its cancellation notice processes is necessary. This recommendation is based on one policy, of the 250 policies reviewed. In this one case the policyholder notified the Company that they had moved to a state where the Company does not do business, so the cancellation was handled in accordance with customer requested cancellation requirements. The Company has reviewed the internal control procedures to ensure compliance with cancellation notice requirements of Act 68, Section 2006 [40P.S. 991.2006].