

REPORT ON  
MARKET CONDUCT EXAMINATION

of the

MASSACHUSETTS BAY INSURANCE COMPANY  
THE HANOVER AMERICAN INSURANCE COMPANY  
THE HANOVER INSURANCE COMPANY

Worcester, Massachusetts

BY REPRESENTATIVES OF THE  
NORTH CAROLINA DEPARTMENT OF INSURANCE

as of

February 1, 2012

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Raleigh, North Carolina  
February 1, 2012

Honorable Wayne Goodwin  
Commissioner of Insurance  
Department of Insurance  
State of North Carolina  
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Raleigh, North Carolina 27603

Honorable Joseph G. Murphy  
Commissioner of Insurance  
Office of Consumer Affairs and Business Regulation  
Division of Insurance  
Commonwealth of Massachusetts  
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Boston, Massachusetts 02118-6200

Honorable Roger A. Seigny  
Insurance Commissioner  
New Hampshire Insurance Department  
21 South Fruit Street, Suite 14  
Concord, New Hampshire 03301

Honorable Commissioners:

Pursuant to your instructions and in accordance with the provisions of North Carolina General Statute (NCGS) 58-2-131, a compliance examination has been made of the market conduct activities of

**MASSACHUSETTS BAY INSURANCE COMPANY  
(NAIC #22306)  
THE HANOVER AMERICAN INSURANCE COMPANY  
(NAIC #36064)  
THE HANOVER INSURANCE COMPANY  
(NAIC #22292)**

NAIC Exam Tracking System Exam Number: NC170-M119  
Worcester, Massachusetts

hereinafter generally referred to as the Company, at the North Carolina Department of Insurance (Department) office located at 11 S. Boylan, Raleigh, North Carolina. A report thereon is respectfully submitted.

## **FOREWORD**

This examination reflects the North Carolina insurance activities of Massachusetts Bay Insurance Company, The Hanover American Insurance Company and The Hanover Insurance Company. The examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that manifested no improprieties were omitted.

## **SCOPE OF EXAMINATION**

This compliance examination commenced on September 5, 2011 and covered the period of January 1, 2010 through December 31, 2010 with analyses of certain operations of the Company being conducted through January 18, 2012. This action was taken due to previous examination findings referenced in the Market Conduct Report of July 20, 2009.

The examination was arranged and conducted by the Department. It was made in accordance with Market Regulation standards established by the Department and procedures established by the National Association of Insurance Commissioners (NAIC) and accordingly included tests of underwriting practices.

It is the Department's practice to cite companies in apparent violation of a statute or rule when the results of a sample show errors/noncompliance at or above the following levels: 0 percent for consumer complaints, sales and advertising, producers who were not appointed and/or licensed, and the use of forms and rates/rules that were neither filed with nor approved by the Department; 7 percent for claims; and 10 percent for all other areas reviewed. When errors are detected in a sample, but the error rate is below the applicable threshold for citing an apparent violation, the Department issues a reminder to the company.

### Previous Examination Findings

A compliance examination covering the period January 1, 2007 through December 31, 2007 was performed on the Company and a report dated July 20, 2009 was issued. The

compliance examination report identified concerns in the area of underwriting practices. Specific previous violations relating to this area are listed within the appropriate section of the report. Deficiencies noted in the previous examination report that did not exceed the Department's error tolerance thresholds were cited as reminders and may not appear as specific violations in this examination report. Any reminders which have not been sufficiently addressed by the Company, may be cited again in this examination report and thus may not appear in the "previous findings" as related to that particular section, but were an overall concern in the previous examination.

### **EXECUTIVE SUMMARY**

This market conduct examination revealed concerns with Company procedures and practices in the following area:

*Underwriting Practices* – Private passenger automobile: accepted applications from producers not properly appointed by the Company, accepted applications from producers not licensed by the State of North Carolina, unable to identify producer and rating errors. Homeowners: accepted applications from producers not properly appointed by the Company, unable to identify producer and rating errors. Commercial automobile: accepted applications from producers not properly appointed by the Company and rating errors.

Specific violations related to each area of concern are noted in the appropriate section of this report. All North Carolina General Statutes and rules of the North Carolina Administrative Code cited in this report may be viewed on the North Carolina Department of Insurance Web Site [www.ncdoi.com](http://www.ncdoi.com) by clicking "INSURANCE DIVISIONS", then "LEGISLATIVE SERVICES".

This examination identified various non-compliant practices, some of which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business in North Carolina according to its insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

All unacceptable or non-compliant practices may not have been discovered or noted in this report. Failure to identify or criticize improper or non-compliant business practices in North Carolina or in other jurisdictions does not constitute acceptance of such practices. Examination report findings that do not reference specific insurance laws, regulations, or bulletins are presented to improve the Company's practices and ensure consumer protection.

## **UNDERWRITING PRACTICES**

### Private Passenger Automobile

The Company's underwriting practices and procedures for active private passenger automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions and the applicable rules of the North Carolina Personal Automobile Manual.

#### **The previous examination revealed the following:**

- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40(h) as 6.0 percent of the private passenger automobile applications were accepted from a producer not appointed by the Company.

The Company provided a listing of 71 active private passenger policies issued during the period under examination. Fifty policies were randomly selected and received for review.

#### **The current examination revealed the following:**

- The Company was deemed to be in apparent violation of the provisions of Title 11 of the North Carolina Administrative Code (NCAC), Chapter 19, Section 0102(a) and 19.0106(a)(4)(g) as it was unable to provide the producer's name for 8 of the active files reviewed (16.0 percent error ratio).
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-5 as 1 of the private passenger automobile applications reviewed was accepted from a producer not licensed by the State of North Carolina (2.0 percent error ratio).
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producers were not properly appointed by the Company for 9 of the active files reviewed (18.0 percent error ratio).
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30 as the premiums for 8 of the active private passenger automobile policies

reviewed were calculated incorrectly (16.0 percent error ratio). The rating errors consisted of the following:

1. Company did not surcharge for at-fault accidents in accordance with the Safe Driver Insurance Plan. (4 undercharges)
2. Company did not apply the multi-car discount correctly. (2 undercharges)
3. Company did not apply rating factors correctly. (2 undercharges)

The rating errors resulted in 8 premium undercharges to the insureds. The remaining premiums charged were deemed correct.

### Homeowners

The Company's underwriting and rating practices and procedures for active homeowner policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions and the applicable rules of the North Carolina Homeowners Manual.

#### **The previous examination revealed the following:**

- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40(h) as 4.0 percent of the homeowners new business applications were accepted from a producer not appointed by the Company.
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as the premiums for 20.0 percent of the homeowners policies reviewed were calculated incorrectly.

The Company provided a listing of 153 active homeowner policies issued during the period under examination. Fifty policies were randomly selected and received for review. **The**

#### **current examination revealed the following:**

- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producers were not properly appointed by the Company for 12 of the active files reviewed (24.0 percent error ratio).
- The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(4)(g) as it was unable to provide the producer's name for 1 of the active files reviewed (2.0 percent error ratio).
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as the premiums charged on 12 active homeowners policies



reviewed (24.0 percent error ratio) were incorrect. The rating errors consisted of the following:

1. Company did not afford the "mature homeowner credit" where insured was entitled. (11 overcharges)
2. Incorrect construction type. (1 undercharge)

The rating errors resulted in 11 premium overcharges and 1 premium undercharge to the insureds. At the request of the examiners, refunds in the amount of \$263.00 were issued by the Company for the overcharges. The remaining premiums charged were deemed correct.

### Commercial Automobile

The Company's underwriting practices and procedures for active commercial automobile policies were reviewed to determine adherence to Company guidelines and compliance with applicable North Carolina statutes and rules, policy provisions and the applicable rules of the Commercial Automobile Manual.

#### **The previous examination revealed the following:**

- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-40(h) as 22.0 percent of the commercial automobile applications were accepted from a producer not appointed by the Company.
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-41-50(f) as the premiums for 14.0 percent of the commercial automobile policies reviewed were calculated incorrectly.
- The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a), 19.0104 and 19.0106(a)(4)(h) as 28.0 percent of the commercial automobile policies reviewed did not contain documentation to support the schedule credit or debit afforded.
- The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-85(a) and NCGS 58-41-50(f) for use of a premium reduction modification plan (commission expense reduction) on its commercial automobile program that had not been filed by the Company and approved by the Department.

The Company provided a listing of 16 active commercial automobile policies issued during the period under examination. All 16 policies were selected and received for review. **The current examination revealed the following:**

- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producers were not properly appointed by the Company for 3 of the active files reviewed (18.7 percent error ratio).
- The Company was again deemed to be in apparent violation of the provisions of NCGS 58-41-50(f) as the premiums charged on 4 active commercial automobile policies reviewed were incorrect (25.0 percent error ratio). The rating errors consisted of the following:
  1. Non-fleet private passenger type vehicles were rated with commercial loss costs in lieu of rates from the North Carolina Rate Bureau Personal Automobile Manual. (3 undercharges)
  2. Incorrect rating factors were applied. (1 undercharge)

The rating errors resulted in 4 premium undercharges to the insureds. The remaining premiums charged were deemed correct.

- The Company was deemed to be in compliance with the provisions of 11 NCAC 19.0102(a), 19.0104 and 19.0106(a)(4)(h) as complete documentation was contained in all files where schedule credits or debits were afforded.
- The Company was deemed to be in compliance with the provisions of NCGS 58-33-85(a) and NCGS 58-41-50(f) as the commission expense reduction plan was filed by the Company and approved by the Department.

### **SUMMARY**

This compliance examination was undertaken to review and update the status of issues referenced in the Market Conduct Report of July 20, 2009. The current examination revealed the following:

#### Underwriting Practices

- a. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(4)(g) as it was unable to provide the producer's name for 16.0 percent of the active private passenger automobile files reviewed.
- b. The Company was deemed to be in apparent violation of the provisions of NCGS 58-33-5 as 2.0 percent of the private passenger automobile applications reviewed were accepted from a producer not licensed by the State of North Carolina.
- c. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producers were not properly appointed by the Company for 18.0 percent of the active private passenger automobile files reviewed.

- d. The Company was deemed to be in apparent violation of the provisions of NCGS 58-36-30 as the premiums for 16.0 percent of the active private passenger automobile policies reviewed were calculated incorrectly.
- e. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producers were not properly appointed by the Company for 24.0 percent of the active homeowners files reviewed.
- f. The Company was deemed to be in apparent violation of the provisions of 11 NCAC 19.0102(a) and 19.0106(a)(4)(g) as it was unable to provide the producer's name for 2.0 percent of the active homeowners files reviewed.
- g. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-36-30(a) as the premiums charged on 24.0 percent of the active homeowners policies reviewed were incorrect.
- h. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-33-40 as the producers were not properly appointed by the Company for 18.7 percent of the active commercial automobile files reviewed.
- i. The Company was again deemed to be in apparent violation of the provisions of NCGS 58-41-50(f) as the premiums charged on 25.0 percent of the active commercial automobile files reviewed were incorrect.

#### **TABLE OF STATUTES AND RULES**

<u>Statute/Rule</u>	<u>Title</u>
NCGS 58-2-131	Examinations to be made; authority, scope, scheduling, and conduct of examinations.
NCGS 58-33-5	License required.
NCGS 58-33-40	Appointment of agents.
NCGS 58-33-85	Rebates and charges in excess of premium prohibited; exceptions.
NCGS 58-36-30	Deviations.
NCGS 58-41-50	Policy form and rate filings; punitive damages; data required to support filings.
11 NCAC 19.0102	Maintenance of Records.
11 NCAC 19.0104	Policy Records.
11 NCAC 19.0106	Records Required for Examination.

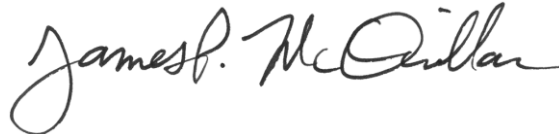
## CONCLUSION

A compliance examination has been conducted on the market conduct affairs of Massachusetts Bay Insurance Company, The Hanover American Insurance Company and The Hanover Insurance Company for the period January 1, 2010 through December 31, 2010 with analyses of certain operations of the Company being conducted through January 18, 2012. The Company's response to this report, if any, is available upon request.

This examination was conducted in accordance with the North Carolina Department of Insurance and the National Association of Insurance Commissioners Market Regulation Handbook procedures, including analyses of Company operations in the area of underwriting practices.

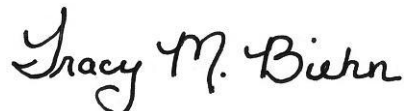
In addition to the undersigned, Gary Jones and Gina Abate, North Carolina Market Conduct Examiners, participated in this examination and in the preparation of this report.

Respectfully submitted,



James P. McQuillan, CPCU, AIT  
Examiner-In-Charge  
Market Regulation Division  
State of North Carolina

I have reviewed this examination report and it meets the provisions for such reports prescribed by this Division and the North Carolina Department of Insurance.



Tracy Biehn, LPCS, MBA  
Deputy Commissioner  
Market Regulation Division  
State of North Carolina