

JUN 29 2012

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY 

In the Matter of:

**HALLMARK INSURANCE COMPANY,**

NAIC # 34037,

Respondent.

) Docket No. 12A-065-INS

) **CONSENT ORDER**

Examiners for the Department of Insurance (the "Department") conducted a target market conduct examination of Hallmark Insurance Company ("HIC"). In the Report of Target Market Conduct Examination of the Market Conduct Affairs of Hallmark Insurance Company, the examiners allege that HIC violated A.R.S. §§20-385, 20-461, 20-466.03, 20-1632, 20-2106, 20-2110 and A.A.C. R20-6-801.

Hallmark Insurance Company wishes to resolve this matter without formal proceedings, admits that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Hallmark Insurance Company is authorized to transact property and casualty insurance pursuant to a Certificate of Authority issued by the Director.

2. The Director authorized the examiners to conduct a target market conduct examination of Hallmark Insurance Company. The examination covered the time period from January 1, 2010 through December 31, 2010 and concluded on March 6, 2012. Based on their findings, the examiners prepared the "Report of Target Market Conduct Examination of Hallmark Insurance Company" dated December 31, 2010.

3. The examiners reviewed 50 of 615 private passenger automobile cancellations and the only private passenger automobile non-renewal, either cancelled or non-renewed due to an adverse underwriting decision during the time frame of the

1 examination and found that HIC failed to provide a compliant Summary of Rights to all  
2 51 policyholders.

3 4. The examiners reviewed 14 of 3,279 private passenger automobile  
4 policies surcharged due to an adverse underwriting decision during the time frame of  
5 the examination and found that HIC failed to provide a compliant Summary of Rights to  
6 all 14 policyholders.

7 5. The examiners reviewed 62 of 50,989 new, renewal and surcharged  
8 policies issued during the time frame of the examination and found that HIC failed to  
9 accurately document and apply filed surcharges to determine premium for 5  
10 surcharged policies.

11 6. The examiners found the underwriting authorization disclosure included  
12 within the Company's private passenger automobile application used during the time  
13 frame of the examination, failed to specify that the authorization remains valid for no  
14 longer than one year from the date the authorization is signed and failed to advise the  
15 individual or a person authorized to act on behalf of the individual that they are entitled  
16 to receive a copy of the authorization form.

17 7. The examiners found two claim authorization disclosure forms used  
18 during the time frame of the examination that failed to specify the types of persons  
19 authorized to disclose information about the individual, that the authorization remains  
20 valid for no longer than the duration of the claim and advise the individual or a person  
21 authorized to act on behalf of the individual that they are entitled to receive a copy of  
22 the authorization form. (see Exhibit A)

23 8. The examiners reviewed 50 of 615 private passenger automobile policies  
24 cancelled for underwriting reasons during the time frame of the examination and found  
25 that HIC failed to include the unearned premium refund with the policy cancellation

1 notice to all 50 policyholders.

2 9. The examiners reviewed 50 of 615 private passenger automobile policies  
3 cancelled due to an adverse underwriting decision during the time frame of the  
4 examination and found that HIC failed to mail cancellation notice at least 10 days  
5 before the effective date to 3 policyholders.

6 10. The examiners found 9 claim forms used by the Company during the time  
7 frame of the examination that failed to contain a compliant fraud warning notice or  
8 failed to provide the notice in at least 12-point type. (see Exhibit B)

9 11. The examiners reviewed 62 of 62 private passenger automobile total loss  
10 claims processed by the Company during the time frame of the examination and found  
11 that HIC failed to correctly calculate and fully pay sales tax, license registration and/or  
12 air quality fees payable in the settlement of all 62 total losses.

13 12. The examiners reviewed 5 of 5 owner retained salvage total loss  
14 settlements processed by the company during the time frame of the examination and  
15 found that HIC failed to document the salvage allowances taken on 2 total loss  
16 settlements.

17 13. The examiners reviewed 50 of 575 private passenger automobile claims  
18 closed without payment during the time frame of the examination and found that the  
19 Company failed to provide 8 claimants with a written claim denial.

20  
21 **CONCLUSIONS OF LAW**

22 1. HIC violated A.R.S. §20-2110 by failing to send a compliant Summary of  
23 Rights to policyholders cancelled or non-renewed due to an adverse underwriting  
24 decision.

25 2. HIC violated A.R.S. §20-2110 by failing to send a compliant Summary of

1 Rights to policyholders surcharged due to an adverse underwriting action.

2 3. HIC violated A.R.S. §20-385 by failing to accurately document and apply  
3 filed surcharges to determine policy premium.

4 4. HIC violated A.R.S. §20-2106(7)(b) and (9) by using underwriting  
5 authorization forms that failed to contain a compliant *Authorization for the Release of*  
6 *Information*.

7 5. HIC violated A.R.S. §20-2106(3), (8)(b) and (9) by using claim  
8 authorization forms that failed to contain a compliant *Authorization for the Release of*  
9 *Information*.

10 6. HIC violated A.R.S. §20-1632(A)(3) by failing to include the unearned  
11 premium refund with the policy cancellation notice.

12 7. HIC violated A.R.S. §20-1632(A) by failing to mail cancellation notices at  
13 least 10 days before the effective date of the cancellation.

14 8. HIC violated A.R.S. §20-466.03 by using claim forms that failed to contain  
15 a compliant fraud warning notice.

16 9. HIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by  
17 failing to correctly calculate and fully pay sales tax, license registration and/or air  
18 quality fees payable in the settlement of total losses.

19 10. HIC violated A.R.S §20-461(A)(6) and A.A.C. R20-6-801(C) by failing to  
20 adequately document salvage allowances on total loss settlements.

21 11. HIC violated A.R.S §20-461(A)(5) and A.A.C. R20-6-801(G)(1)(a) by  
22 failing to provide claimants with a written claim denial.

23 12. Grounds exist for the entry of the following Order in accordance with  
24 A.R.S. §§20-220 and 20-456 and 20-2117.

25 . . . . .

1 ORDER

2 **IT IS HEREBY ORDERED THAT:**

3 1. Hallmark Insurance Company shall:

4 a. provide policyholders a compliant Summary of Rights if their policy is  
5 cancelled or non-renewed as the result of an adverse underwriting decision.

6 b. provide policyholders a compliant Summary of Rights if their policy is  
7 surcharged as the result of an adverse underwriting decision.

8 c. accurately document and apply filed surcharges to determine policy  
9 premium.

10 d. use applications that include underwriting authorization disclosure  
11 forms that contain a compliant *Authorization for the Release of Information*.

12 e. use claim authorization disclosure forms that contain a compliant  
13 *Authorization for the Release of Information*.

14 f. include the unearned premium refund with the policy cancellation  
15 notice.

16 g. mail cancellation notices at least 10 days before the effective date of  
17 the cancellation.

18 h. use claim forms that contain a compliant fraud warning notice.

19 i. correctly calculate and fully pay sales tax, license registration and/or  
20 other fees payable in the settlement of total losses.

21 j. adequately document salvage allowances on total loss settlements.

22 k. provide claimants with a written claim denial.

23 2. Within 90 days of the filed date of this Order, Hallmark Insurance  
24 Company shall submit to the Arizona Department of Insurance, for approval, evidence  
25 that HIC implemented corrections and communicated these corrections to the

1 appropriate personnel, regarding the issues outlined in Paragraph 1 of the Order  
2 section of this Consent Order. Evidence of corrective action and communication  
3 thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence,  
4 procedures manuals, print screens, and training materials.

5 3. The Department shall, through authorized representatives, verify that HIC  
6 has complied with all provisions of this Order.

7 4. Hallmark Insurance Company shall pay a civil penalty of \$27,500.00 to  
8 the Director for remission to the State Treasurer for deposit in the State General Fund  
9 in accordance with A.R.S. §20-220(B). HIC shall submit the civil penalty to the Market  
10 Oversight Division of the Department prior to the filing of this Order.

11 5. The Report of Target Market Examination of Hallmark Insurance  
12 Company of December 31, 2010, including the letter with their objections to the Report  
13 of Examination, shall be filed with the Department upon the filing of this Order.

14 DATED at Arizona this 29<sup>th</sup> day of June, 2012.

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18 Christina Urias  
19 Director of Insurance  
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1 **CONSENT TO ORDER**

2 1. Hallmark Insurance Company has reviewed the foregoing Order.

3 2. Hallmark Insurance Company admits the jurisdiction of the Director of  
4 Insurance, State of Arizona, admits the foregoing Findings of Fact, and consents to the  
5 entry of the Conclusions of Law and Order.

6 3. Hallmark Insurance Company is aware of the right to a hearing, at which  
7 it may be represented by counsel, present evidence and cross-examine witnesses.  
8 Hallmark Insurance Company irrevocably waives the right to such notice and hearing  
9 and to any court appeals related to this Order.

10 4. Hallmark Insurance Company states that no promise of any kind or  
11 nature whatsoever was made to it to induce it to enter into this Consent Order and that  
12 it has entered into this Consent Order voluntarily.

13 5. Hallmark Insurance Company acknowledges that the acceptance of this  
14 Order by the Director of the Arizona Department of Insurance is solely for the purpose  
15 of settling this matter and does not preclude any other agency or officer of this state or  
16 its subdivisions or any other person from instituting proceedings, whether civil, criminal,  
17 or administrative, as may be appropriate now or in the future.

18 6. KEVIN T. KASITZ, who holds the office of  
19 PRESIDENT of Hallmark Insurance Company, is authorized to enter  
20 into this Order for them and on their behalf.

21 **HALLMARK INSURANCE COMPANY**

22  
23 6-25-12  
24 Date

By

Kevin T. Kasitz

1 COPY of the foregoing mailed/delivered  
2 this 29th day of June, 2012, to:

3 Gerrie Marks

Deputy Director

4 Mary Butterfield

Assistant Director

5 Consumer Affairs Division

6 Helene I. Tomme

Market Examinations Supervisor

7 Market Oversight Division

Dean Ehler

8 Assistant Director

Property and Casualty Division

9 Kurt Regner

Assistant Director

10 Financial Affairs Division

David Lee

11 Chief Financial Examiner

Alexandra Shafer

12 Assistant Director

13 Life and Health Division

Chuck Gregory

14 Special Agent Supervisor

Investigations Division

15  
16 DEPARTMENT OF INSURANCE  
17 2910 North 44th Street, Suite 210  
18 Phoenix, AZ 85018

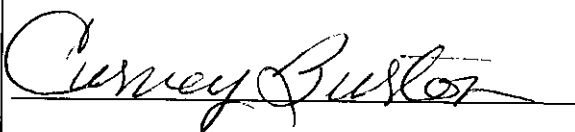
19 Cecil R. Wise

20 General Counsel

Hallmark Financial Services, Inc.

21 777 Main Street, Suite 1000

22 Fort Worth, Texas 76102

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24   
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## **EXHIBIT A**

### **Claim Authorization Disclosure**

These forms fail to comply with A.R.S. § 20-2106(3), (8)(b) and (9).

The following table summarizes these application form findings.

<b>Form Description / Title</b>	<b>Form #</b>	<b>Statute Provision</b>
Medical Authorization Form - HIPPA	None	3, 8(b) and 9
Wage Authorization Form	None	3, 8(b) and 9

## **EXHIBIT B**

**Fraud Warning Statement** – The Company failed to provide a fraud warning statement on two (2) claim forms and failed to provide the statement in at least 12-point type on seven (7) claim forms. These represent nine (9) violations of A.R.S. § 20-466.03.

The following table summarizes the fraud warning statement findings.

	<b>Form Title / Description</b>	<b>Form #</b>	<b>Reason</b>
1	Medical Authorization-HIPPA	None	No Fraud Warning
2	Release and Indemnity Agreement	None	Less than 12 Point Type
3	Cooperation Recorded Statement	None	Less than 12 Point Type
4	Ack Letter of Atty. Representation	None	Less than 12 Point Type
5	Lost Wages to Employer	None	Less than 12 Point Type
6	Settlement Letter with Release	None	Less than 12 Point Type
7	Pre-Suit Letter	None	Less than 12 Point Type
8	Request for Medical Authorization	None	Less than 12 Point Type
9	General Release and Indemnification	None	No Fraud Warning