

STATE OF ARIZONA
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DEPT. OF INSURANCE

REPORT OF TARGET MARKET CONDUCT EXAMINATION

OF

RESPONSE INSURANCE COMPANY

NAIC #43044

AS OF

June 30, 2012

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GERMAINE L. MARKS
Director of Insurance

Honorable Germaine L. Marks
Director of Insurance
State of Arizona
2910 North 44th Street
Suite 210, Second Floor
Phoenix, Arizona 85018-7269

Dear Director Marks:

Pursuant to your instructions and in conformity with the provisions of the Insurance Laws and Rules of the State of Arizona, a desk examination has been made of the market conduct affairs of the:

Response Insurance Company
NAIC #43044

The above examination was conducted by Helene I. Tomme, CPCU, CIE, Market Examinations Supervisor, Examiner-in Charge, and Linda L. Hofman, AIE, MCM, FLMI, AIRC, CCP, Market Conduct Senior Examiner and Christopher G. Hobert, CIE, MCM, FLMI, AIRC, CCP, Market Conduct Senior Examiner.

The examination covered the period of January 1, 2011 through June 30, 2012.

As a result of that examination, the following Report of Examination is respectfully submitted.

Sincerely yours,

Helene I. Tomme, CPCU, CIE
Market Examinations Supervisor
Market Oversight Division

FOREWORD

This targeted market conduct examination report of the Response Insurance Company (herein referred to as, "Response", or the "Company"), was prepared by employees of the Arizona Department of Insurance (Department) as well as independent examiners contracting with the Department. A market conduct examination is conducted for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the state of Arizona. The Examiners conducted the examination of the Company in accordance with Arizona Revised Statutes (A.R.S.) §§ 20-142, 20-156, 20-157, 20-158 and 20-159. The findings in this report, including all work products developed in the production of this report, are the sole property of the Department.

The examination consisted of a review of the following Private Passenger Auto (PPA) business operations:

1. Complaint Handling
2. Marketing and Sales
3. Producer Compliance
4. Underwriting and Rating
5. Cancellations and Non-Renewals
6. Claims Processing

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Director.

Failure to identify or criticize specific Company practices does not constitute acceptance of those practices by the Department.

SCOPE AND METHODOLOGY

The examination of the Company was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners (NAIC) and the Department. The market conduct examination of the Company covered the period of January 1, 2011 through June 30, 2012 for business reviewed. The purpose of the examination was to determine the Company's compliance with Arizona's insurance laws, and whether the Company's operations and practices are consistent with the public interest. This examination was completed by applying tests to each examination standard to determine compliance with the standard. Each standard applied during the examination is stated in this report and the results are reported beginning on page 8.

In accordance with Department procedures, the Examiners completed a Preliminary Finding ("Finding") form on those policies, claims and complaints not in apparent compliance with Arizona law. The finding forms were submitted for review and comment to the Company representative designated by Company management to be knowledgeable about the files. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action.

The Examiners utilized both examinations by test and examination by sample. Examination by test involves review of all records within the population, while examination by sample involves the review of a selected number of records from within the population. Due to the small size of some populations examined, examinations by test and by sample were completed without the need to utilize computer software.

File sampling was based on a review of underwriting and claim files that were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company. Samples are tested for compliance with standards established by the NAIC and the Department. The tests applied to sample data will result in an exception ratio, which determines whether or not a standard is met. If the exception ratio found in the sample is, generally less than 5%, the standard will be considered as "met." The standard in the areas of procedures and forms use will not be met if any exception is identified.

HISTORY OF THE COMPANY

(Provided by the Company)

Response Insurance Company (the "Company") was originally incorporated as John Hancock Indemnity Company in the State of Delaware on May 26, 1983 under Title VIII of the Delaware Corporation Law and in accordance with Title XVIII of the Delaware Insurance Code and subsequently changed its name to Direct Response Insurance Company on September 19, 1995 and Response Insurance Company on December 23, 1996. The home office address of the Company is One East Wacker Drive, Chicago, Illinois 60601. The principal executive office address of the Company is One East Wacker Drive, Chicago, Illinois 60601.

On February 13, 2009, the Company became part of the Kemper Corporation (formerly called Unitrin Inc.), when Trinity Universal Insurance Company, pursuant to a stock acquisition agreement, acquired 100% of the issued and outstanding shares of the Company's parent company, Direct Response Corporation, a Delaware general business corporation.

The Company redomesticated from the State of Connecticut to the State of Illinois on December 16, 2009.

PROCEDURES REVIEWED WITHOUT EXCEPTION

The Examiners review of the following Company departments¹ or functions indicates that they appear to be in compliance with Arizona statutes and rules:

Complaint Handling

Marketing and Sales

Producer Compliance

EXAMINATION REPORT SUMMARY

The examination identified 5 compliance issues that resulted in 13 exceptions due to the Company's failure to comply with statutes and rules that govern all insurers operating in Arizona. These issues were found in three (3) of the six (6) sections of Company operations examined. The following is a summary of the Examiner's findings:

Underwriting and Rating

In the area of Underwriting and Rating, one (1) compliance issue is addressed in this Report as follows:

- The Company incorrectly applied rates for one (1) PPA Surcharge policy which resulted in the policyholder being overcharged on renewal.

Cancellation and Non Renewals

In the area of Cancellations and Non Renewals, two (2) compliance issues are addressed in this Report as follows:

- The Company failed to include the unearned premium refund with its policy cancellation notice on one (1) PPA cancellation for underwriting reasons.

¹ If a department name is listed there were no exceptions noted during the review.

- The Company failed to provide a named driver exclusion offer prior to sending out one (1) PPA cancellation for underwriting reasons.

Claims Processing

In the area of Claims Processing, two (2) compliance issues are addressed in this Report as follows:

- The Company failed to include a fraud warning statement in at least 12-point type and/or incorrectly referenced the wrong state statute on one (1) claim form.
- The Company failed to identify the appropriate insuring company name on five (5) PPA closed without payment, one (1) PPA paid and three (3) PPA subrogation for a total of nine (9) claims correspondence/letters.

FACTUAL FINDINGS

RESULTS OF PREVIOUS MARKET CONDUCT EXAMINATIONS

During the past five (5) years, there was one (1) Market Conduct Examination completed by the Commonwealth of Virginia. No significant patterns of non-compliance were noted.

UNDERWRITING AND RATING

Private Passenger Automobile (PPA):

The Examiners reviewed 50 PPA New/Renewal Business files out of a population of 220 and 65 PPA Surcharge files out of a population of 65 during the examination period. This new/renewal and surcharge review included a total sample size of 115 PPA files from a total population of 285.

All new/renewal and surcharge files reviewed were to ensure compliance with Arizona Statutes and Rules.

The following Underwriting and Rating Standards were met:

#	STANDARD	Regulatory Authority
2	Disclosures to insureds concerning rates and coverage are accurate and timely.	A.R.S. §§ 20-259.01, 20-262, 20-263, 20-264, 20-266, 20-267, 20-443, 20-2110
3	All forms and endorsements forming a part of the contract should be filed with the director (if applicable).	A.R.S. § 20-398
4	All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations, including, but not limited to, the Notice of Insurance Information Practices and the Authorization for Release of Information.	A.R.S. §§ 20-2104, 20-2106, 20-2110 and 20-2113
5	Policies and endorsements are issued or renewed accurately, timely and completely.	A.R.S. §§ 20-1120, 20-1121, 20-1632 and 20-1654
6	Rescissions are not made for non-material misrepresentations.	A.R.S. §§ 20-463, 20-1109

The following Underwriting and Rating Standard failed:

#	STANDARD	Regulatory Authority
1	The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan.	A.R.S. §§ 20-341 through 20-385

Underwriting and Rating, Standard # 1 – failed

Preliminary Finding-001- Filing of Rates – During the Underwriting and Rating review, the Examiners identified a rating error in which the Company incorrectly applied rates to one (1) PPA Surcharge policy. This resulted in a rating error for one (1) policyholder being overcharged by \$6,133.00 on renewal, however the policyholder placed coverage with another carrier, therefore no money is owed, which is a violation of A.R.S. § 20-385.

PRIVATE PASSENGER AUTOMOBILE

Manually Rated Surcharges

Failed to apply correct rates

Violation of A.R.S. § 20-385

Population	Sample	# of Exceptions	% to Sample
65	11	1	9%

A 9% error ratio does not meet the Standard; therefore, a recommendation is warranted.

Recommendation #1

Within 90 days of the filed date of this Report submit documentation to the Department that it has procedures and controls in place to apply all rates correctly to comply with Arizona Statutes and Rules.

CANCELLATIONS AND NON-RENEWALS

Private Passenger Automobile (PPA):

The Examiners reviewed 22 PPA cancellation files for non-payment of premium out of a population of 22, 1 PPA cancellation files for underwriting reasons out of a population of 1 and 2 PPA non renewals out of a population of 2. This cancellation, non renewal and declination review included a total sample size of 25 PPA files from a total population of 25.

All cancellation and nonrenewal files reviewed were to ensure compliance with Arizona Statutes and Rules.

The following Cancellation and Non Renewal Standard was met:

#	STANDARD	Regulatory Authority
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory.	A.R.S. §§ 20-448, 20-2108, 20-2109, 20-2110

The following Cancellation and Non Renewal Standard failed:

#	STANDARD	Regulatory Authority
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656

Cancellation and Nonrenewal, Standard #2 - failed

Preliminary Finding 002 – Late Unearned Premium Refunds - The Company failed to include the unearned premium refund with the policy cancellation notice, which should be sent out at least 10 days prior to the effective date of cancellation for underwriting reasons, to one (1) PPA policyholder. This represents a violation of A.R.S. § 20-1632(A)(3).

PRIVATE PASSENGER AUTOMOBILE CANCELLATIONS

Failed to include the unearned premium refund with the policy cancellation notice
Violation of A.R.S. § 20-1632(A)(3)

Population	Sample	# of Exceptions	% to Sample
1	1	1	100%

A 100% error ratio does not meet the Standard; therefore, a recommendation is warranted.

Recommendation #2

Within 90 days of the filed date of this report, provide the Department with documentation that Company procedures and controls are in place to ensure that the unearned premium refund is sent out at least 10 days prior to the effective date of the cancellation, in accordance with the applicable state statute.

Subsequent Events: During the course of the Examination, the Company agreed with the finding and provided corrective procedures that were implemented on November 27, 2012. These were provided to the Department prior to completion of the Examination.

Cancellation and Non-Renewal Standard #2 – failed

Preliminary Finding #003 – The Company failed to offer a named driver exclusion prior to terminating coverage due to driving record on one (1) PPA cancellation for underwriting reasons. This represents a violation of A.R.S. § 20-1631(F).

PRIVATE PASSENGER AUTOMOBILE DRIVER EXCLUSION

Failed to offer a named driver exclusion prior to cancellation or nonrenewal
A.R.S. § 20-1631(F)

Population	Sample	# of Exceptions	% to Sample
1	1	1	100%

A 100% error ratio does not meet the Standard; therefore, a recommendation is warranted.

Recommendation #3

Within 90 days of the filed date of this report, provide documentation to the Department that Company procedures and controls are in place to ensure that policyholders are offered the option of a named driver exclusion prior to terminating coverage due to driving record of an individual on the policy.

Subsequent Event: All business was transferred to its affiliated Company on November 26, 2012. During the course of the Examination the Company agreed with the finding and provided corrective procedures that were implemented on November 27, 2012 in the affiliated Company. These were provided to the Department prior to completion of the Examination.

CLAIMS PROCESSING

Private Passenger Automobile (PPA):

The Examiners reviewed 14 PPA claims closed without payment from a population of 14; 32 PPA paid claims from a population of 32; 2 total loss PPA claims out of a population of 2 and 14 PPA subrogation claims out of a population of 14. This claims review included a total sample size of 62 PPA claim files from a total population of 62.

All claim files reviewed were to ensure compliance with Arizona Statutes and Rules.

The Following Claim Standards were met:

#	STANDARD	Regulatory Authority
1	The initial contact by the Company with the claimant is within the required time frame.	A.R.S. § 20-461, A.A.C. R20-6-801
2	Timely investigations are conducted.	A.R.S. § 20-461, A.A.C. R20-6-801
4	Claim files are adequately documented in order to be able to reconstruct the claim.	A.R.S. §§ 20-461, 20-463, 20-466.03, A.A.C. R20-6-801
6	The Company uses reservation of rights and excess of loss letters, when appropriate.	A.R.S. § 20-461, A.A.C. R20-6-801
7	Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner.	A.R.S. §§ 20-461, 20-462, A.A.C. R20-6-801
8	The Company responds to claim correspondence in a timely manner.	A.R.S. § 20-461, 20-462, A.A.C. R20-6-801
9	Denied and Closed Without Payment claims are handled in accordance with policy provisions and state law.	A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110, A.A.C. R20-6-801
10	No insurer shall fail to fully disclose to first party insureds all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.	A.A.C. R20-6-801
11	Adjusters used in the settlement of claims are properly licensed.	A.R.S. §§ 20-321 through 20-321.02

The following Claim Standards failed:

#	STANDARD	Regulatory Authority
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	A.R.S. §§ 20-461, 20-466.03, 20-2106, A.A.C. R20-6-801
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	A.R.S. §§ 20-268, 20-461, 20-462, 20-468, 20-469 and A.A.C. R20-6-801

Claims Processing Standard #3 – failed

Preliminary Finding 005 – Fraud Warning Statement –The Company failed to provide one (1) fraud warning statement in at least twelve (12) point type. This represents one (1) violation of A.R.S. § 20-466.03. The following tables summarize the fraud warning statement findings.

Fraud Warning Statement

Failed to provide fraud warning statement in at least twelve (12) point type
A.R.S. § 20-466.03

	Form Description / Title	Form Number
1	Arizona Application for Benefits	NA

CLAIM FORMS

Failed to provide fraud warning statement in at least twelve (12) point type
Violation of A.R.S. § 20-466.03

Population	Sample	# of Exceptions	% to Sample
N/A	N/A	1	N/A

Any error or exception identified in the areas of a procedure or forms use does not meet the Standard; therefore a recommendation is warranted.

Recommendation #4

Within 90 days of the filed date of this Report, provide the Department with documentation that when referencing a state statute the correct one is provided as well as the required fraud warning statement in 12-point type. This would include each of the claim forms cited above, in accordance with the applicable state statutes.

Subsequent Events: During the course of the Examination, the Company agreed with the finding. The Company switched to the Claims Connect system in March 2012 and all forms reviewed on the new system by the Examiners appeared to be in compliance.

Claims Processing Standard #5 - failed

Preliminary Finding-006 –Wrong Company name identified on written correspondence: -
The Company failed to identify the appropriate insuring company as Response Insurance Company on written correspondence sent to insureds/claimants on five (5) PPA closed without payment, one (1) PPA paid and three (3) PPA subrogation for a total of nine (9) documents/correspondence, which is an apparent violation of A.R.S. § 20-461(A)(1).

PRIVATE PASSENGER AUTOMOBILE CLAIMS

Failed to identify the Correct Insuring Company

A.R.S. § 20-461(A)(1)

PERSONAL AUTO	Population	Sample	Exceptions	Error Ratio
PPA CWP	14	5	5	36%
PPA Paid	32	32	1	3%
PPA Subrogation	14	14	3	21%
Totals	51	51	9	18%

An 18% error ratio does not meet the standards; therefore, a recommendation is warranted.

Recommendation # 5

Within 90 days of the filed date of this Report provide the Department with documentation that the Company's procedures are in place to identify the appropriate insuring Company on all Private Passenger Automobile correspondence including but not limited to claim forms and or letters sent by the Company.

Subsequent Events: During the course of the Examination, the Company agreed with the finding. The Company switched to the Claims Center system in March 2012 and all forms reviewed on the new system by the Examiners appeared to be in compliance.

SUMMARY OF FAILED STANDARDS

EXCEPTIONS	Rec. No.	Page No.
UNDERWRITING AND RATING		
<u>Standard #1</u> The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan.	1	13
CANCELLATIONS AND NON RENEWALS		
<u>Standard #2</u> Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	2	16
<u>Standard #2</u> Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory.	3	17
CLAIM PROCESSING		
<u>Standard #3</u> The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations.	4	20
<u>Standard #5</u> Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.	5	21

SUMMARY OF PROPERTY AND CASUALTY STANDARDS

Complaint Handling

#	STANDARD	PAGE	PASS	FAIL
1	The Company takes adequate steps to finalize and dispose of the complaints in accordance with applicable statutes, rules, regulations and contract language. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	
2	The time frame within which the Company responds to complaints is in accordance with applicable statutes, rules and regulations. (A.R.S. § 20-461 and A.A.C. R20-6-801)	8	X	

Marketing and Sales

#	STANDARD	PAGE	PASS	FAIL
1	All advertising and sales materials are in compliance with applicable statutes, rules and regulations. (A.R.S. §§ 20-442 and 20-443)	8	X	

Producer Compliance

#	STANDARD	PAGE	PASS	FAIL
1	The producers are properly licensed in the jurisdiction where the application was taken. (A.R.S. §§ 20-282, 20-286, 20-287 and 20-311 through 311.03)	8	X	
2	An insurer shall not pay any commission, fee, or other valuable consideration to unlicensed producers. (A.R.S. § 20-298)	8	X	

Underwriting and Rating

#	STANDARD	PAGE	PASS	FAIL
1	The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company Rating Plan. (A.R.S. §§ 20-341 through 20-385)	12		X

#	STANDARD	PAGE	PASS	FAIL
2	Disclosures to insureds concerning rates and coverage are accurate and timely. (A.R.S. §§ 20-259.01, 20-262, 20-263, 20-264, 20-266, 20-267 and 20-2110)	12	X	
3	All forms and endorsements forming a part of the contract should be filed with the director (if applicable). (A.R.S. § 20-398)	12	X	
4	All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations, including, but not limited to, the Notice of Insurance Information Practices and the Authorization for Release of Information. (A.R.S. §§ 20-2104, 20-2106, 20-2110 and 20-2113)	12	X	
5	Policies and endorsements are issued or renewed accurately, timely and completely. (A.R.S. §§ 20-1120, 20-1121, 20-1632 and 20-1654)	12	X	
6	Rescissions are not made for non-material misrepresentations. (A.R.S. §§ 20-463 and 20-1109)	12	X	

Declinations, Cancellation and Non-Renewals

#	STANDARD	PAGE	PASS	FAIL
1	Declinations, Cancellations and Non-Renewals shall comply with state laws and company guidelines including the Summary of Rights to be given to the policyholder and shall not be unfairly discriminatory. (A.R.S. §§ 20-448, 20-2108, 20-2109 and 20-2110)	15	X	
2	Cancellations and Non-Renewal notices comply with state laws, company guidelines and policy provisions, including the amount of advance notice required and grace period provisions to the policyholder, nonrenewal based on condition of premises, and shall not be unfairly discriminatory. (A.R.S. §§ 20-191, 20-443, 20-448, 20-1631, 20-1632, 20-1632.01, 20-1651 through 20-1656)	15		X

Claims Processing

#	STANDARD	PAGE	PASS	FAIL
1	The initial contact by the Company with the claimant is within the required time frame. (A.R.S. § 20-461 and A.A.C. R20-6-801)	19	X	
2	Timely investigations are conducted. (A.R.S. § 20-461, and A.A.C. R20-6-801)	19	X	
3	The Company claim forms are appropriate for the type of product and comply with statutes, rules and regulations. (A.R.S. §§ 20-461, 20-466.03, 20-2106, and A.A.C. R20-6-801)	20		X
4	Claim files are adequately documented in order to be able to reconstruct the claim. (A.R.S. §§ 20-461, 20-463, 20-466.03 and A.A.C. R20-6-801)	19	X	
5	Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations. (A.R.S. §§ 20-268, 20-461, 20-462, 20-468, 20-469 and A.A.C. R20-6-801)	20		X
6	The Company uses reservation of rights and excess of loss letters, when appropriate. (A.R.S. § 20-461 and A.A.C. R20-6-801)	19	X	
7	Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner. (A.R.S. §§ 20-461, 20-462 and A.A.C. R20-6-801)	19	X	
8	The Company responds to claim correspondence in a timely manner. (A.R.S. § 20-461, 20-462 and A.A.C. R20-6-801)	19	X	
9	Denied and closed without payment claims are handled in accordance with policy provisions and state law. (A.R.S. §§ 20-461, 20-462, 20-463, 20-466, 20-2110 and A.A.C. R20-6-801)	19	X	
10	No insurer shall fail to fully disclose to first party insureds all pertinent benefits, coverages, or other provisions of an insurance policy or insurance contract under which a claim is presented. (A.A.C. R20-6-801)	19	X	
11	Adjusters used in the settlement of claims are properly licensed (A.R.S. §§ 20-321 through 20-321.02)	19	X	