

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF:

New York Marine & General Ins. Co.
919 Third Avenue, 10th Floor
New York, NY 10022

Respondent.

) CASE NO. INS-2011-279

) **CONSENT AGREEMENT AND FINAL**
) **ORDER**

This Consent Agreement dated this 28th day of December, 2011 is between the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et seq. (the "Code") and New York Marine & General Insurance Company (the Company).

RECITALS

WHEREAS, the CSI discovered the Company was using forms in Montana that had not been filed or approved for use in Montana in violation of Mont. Code Ann. § 33-1-501;

WHEREAS, the CSI and the Company have agreed that the best interests of the public would be served by entering into the agreements and undertakings specified herein.

NOW THEREFORE, in consideration of the mutual undertakings herein contained, the CSI and the Company hereby agree to resolve their differences and settle this matter pursuant to the following terms and conditions:

SUMMARY OF ALLEGATIONS

The allegation against the Company indicate it was using forms in Montana that had not been filed or approved as required by Mont. Code Ann. § 33-1-501.

STIPULATIONS AND CONSENTS

The parties jointly and mutually consent and agree as follows:

A. Without admitting or denying the allegation contained in the recitals herein, the Company stipulates and consents to the following:

1. To properly file with the CSI its forms NYAEN 02i, NYAEN 02ii, NTAEN 30, NYAEN 31, and NYAEN 36c within the thirty days following the date of this consent agreement.
2. To pay a fine of \$5,000 (\$1,000 for each form not previously filed).
3. To comply with the terms and conditions of this Consent Agreement and with the insurance laws and regulations of Montana.
4. The applicable statute of limitation pursuant to Mont. Code Ann. § 33-1-707 is tolled for six months from the date of execution of this Consent Agreement with regard to the allegations set forth herein. In the event the Company violates the terms of this Consent Agreement at any time during the tolling period, the CSI reserves the right to seek fines up to \$25,000 for each violation by the Company's failure to properly file its forms.
5. The Company fully and forever releases and discharges the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the CSI, and all CSI employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries that may arise from the allegations underlying this Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the Agency Action.

B. Based on the foregoing consents and stipulations by the Company, the CSI agrees as follows:

1. The CSI, pursuant to authority of the Montana Insurance Code and the applicable statutes found in the Montana Administrative Procedures Act, agrees that if the terms and conditions of this Consent Agreement are fully met, the CSI will not initiate any civil, administrative or other judicial proceeding against the Company regarding the allegations contained in this case. Additionally, pursuant to authority of the Montana Insurance Code and the applicable statutes found in the Montana Administrative Procedures Act, the CSI agrees that if the terms and conditions of this Consent Agreement are fully met, the CSI will not refer this case for criminal prosecution regarding the allegations contained in this case.

C. All parties to this Consent Agreement agree and acknowledge:

1. This Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

2. The CSI and the Company agree that this Consent Agreement shall be incorporated and made a part of the attached Final Order issued by the Commissioner.

DATED this 28th day of December, 2011.



ROBERTA CROSS GUNS
Attorney for the CSI

NEW YORK MARINE & GENERAL INSURANCE CO.



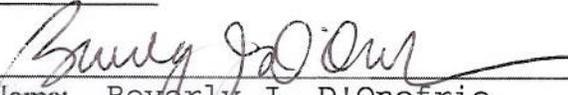
BY: Frank D. Papalia, Chief Legal Officer
Printed name and title

STATE OF New Jersey)

COUNTY OF Morris) ss.

SUBSCRIBED AND SWORN to before me this 21 day of December, 2011, by

Frank D. Papalia



Printed Name: Beverly J. D'Onofrio
Notary/Public for the State of: New Jersey
Residing at: 5 Cedar Lane, Chatham NJ
My commission expires: 08/23/2013

Beverly J. Donofrio
Notary Public of New Jersey
My Commission Expires on August 23, 2013

ORDER

Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, and upon review of the forgoing Consent Agreement and there appearing to be good cause, and for the purpose of settling this matter prior to a hearing, the Commissioner orders the Company to perform the terms set forth in the foregoing Consent Agreement, including those found at paragraphs A 1-5.

IT IS ORDERED that the foregoing Consent Agreement between the CSI and New York Marine & General Insurance Co., is hereby adopted as if set forth fully here.

Dated this 28th day of December, 2011.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: Robert W Moon
ROBERT W. MOON
Deputy Insurance Commissioner

Copies to: Roberta Cross Guns
Pro Sight Specialty