

**COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR  
STATE OF MONTANA**

<p>IN THE MATTER OF THE REPORT OF THE LIMITED SCOPE MARKET CONDUCT RE-EXAMINATION OF FLATHEAD FARM MUTUAL INSURANCE COMPANY,</p> <p style="text-align:right">Respondent.</p>	<p>CASE NO. INS-2011-56</p> <p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ADOPTING THE LIMITED SCOPE MARKET CONDUCT RE-EXAMINATION REPORT FOR THE PERIOD JANUARY 1, 2011 THROUGH MAY 16, 2011</b></p>
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Having fully considered the proposed Report of the Limited Scope Market Conduct Re-Examination of Flathead Farm Mutual Insurance Company (Company), dated May 31, 2011, the Commissioner of Securities and Insurance, Montana State Auditor, hereby makes the following Findings of Fact, Conclusions of Law, and Order adopting the limited scope market conduct re-examination report:

**FINDINGS OF FACT**

1. Kimberlee Hewitt, the Examiner representing the office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), conducted a limited scope examination of the Company's underwriting practices in order to determine compliance with statutory credit scoring laws pursuant to an order of the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), dated January 13, 2011, and prepared a Limited Scope Market Conduct Re-Examination Report (Report) covering the period from January 1, 2011, through May 16, 2011.

2. The verified written Report was completed on May 31, 2011, and served on June 1, 2011, together with a notice giving the Company 30 days to make written submission or rebuttal with respect to any matters contained in the Report.
3. A written submission response was received from the Company and the Company has acknowledged the report and requested waiver of the 30 day period before the report is made public. The Company's response is attached as Exhibit A.

### **CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. § 33-1-311, which charges the Commissioner with the duty of administering and enforcing the Montana Insurance Code, and pursuant to sections in Mont. Code Ann., Title 33, Chapter 1, Part 4, which govern examination of insurers by the CSI and Mont. Code Ann. § 33-4-315, which governs the examinations of farm mutual insurers.
2. Pursuant to Mont. Code Ann. § 33-1-409, the CSI has authority to issue a final agency determination with respect to this Report.

### **ORDER**

Having carefully and thoroughly reviewed and considered the examination report, relevant examiner workpapers, and any written submissions in this matter, IT IS ORDERED:

1. The Limited Scope Market Conduct Re-Examination Report for the period January 1, 2011 through May 16, 2011, attached hereto as Exhibit B, is hereby adopted in full.
2. Within 30 days of the mailing of this Order, each of the Company's directors shall file affidavits with the CSI stating under oath that they have received a copy of the adopted Report and related Order.

3. Pursuant to the company's request in Exhibit A to waive the confidentially period of 30 days following the issuance of the Order that is provided under Mont. Code Ann. § 33-1-409(5), this Order is public immediately.

DATED this 15<sup>th</sup> day of June, 2011.

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

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of June, 2011, I served a true and accurate copy of the foregoing Findings of Fact, Conclusions of Law and Order Adopting the Limited Scope Market Conduct Re-Examination Report for the Period Ending December 31, 2009, by U.S. mail, postage prepaid, to the following address:

Greg Ellingson  
General Manager  
Flathead Farm Mutual Insurance  
Company  
24-1st Avenue East STE E  
Kalispell MT 59901

  
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Office of the Commissioner of Securities and Insurance



**LIMITED SCOPE**

**MARKET CONDUCT RE-EXAMINATION REPORT**

**of**

**Flathead Farm Mutual Insurance Company  
Kalispell, Montana**

**For the Period January 1, 2011 through May 16, 2011**

**EXHIBIT A**

**RE-EXAMINATION  
of  
Flathead Farm Mutual Insurance Company  
Kalispell, Montana**

**SCOPE of RE-EXAMINATION**

The Montana Insurance Department conducted a re-examination of Flathead Farm Mutual Insurance Company, hereinafter referred to as the Company. The scope of the re-examination was limited to the Company's underwriting practices in order to determine compliance with statutory credit scoring laws pursuant to an order of the Commissioner of Securities and Insurance dated January 13, 2011.

The re-examination was conducted pursuant to the provisions of Mont. Code Ann. §§ 33-1-401, et seq., and 33-4-316 and in accordance with the procedures and guidelines outlined in the Market Conduct Examiners Handbook as adopted by the National Association of Insurance Commissioners and the office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI). The re-examination took place at the Company's home office, located at 24 1<sup>st</sup> Ave. East, Suite E, Kalispell, MT 59901.

It is the Company's practice to authorize producers to bind coverage on a risk only after the Company has had an opportunity to underwrite the risk and offer a quotation. The Company utilizes CLUE and credit information in the underwriting process.

The Examiners reviewed each of the written applications and requests for quote submitted to the Company between January 1, 2011, and May 16, 2011, which ultimately resulted in a denial to quote or a denial to offer coverage. There were a total of 37 submissions. In each of the 37 submissions reviewed by examiners, the Company utilized at least one of two forms which have been approved by the CSI, in order to obtain written authorization from the applicant prior to collecting personal information.

Information contained in a CLUE or credit report was a factor in declining 8 of the 37 submissions. The adverse action notification was addressed and delivered to the applicant at the last known address. The Company obtains and retains "proof of mailing" from the U.S. Postal Service. The content of the adverse action notification in use by the Company complies with the provisions of Mont. Code Ann § 33-19-301(1)(a) and (b). The notification further complies by advising a consumer of the insurer's obligation under Mont. Code Ann. § 33-18-606 should the consumer prevail in the dispute resolution and error correction process.

The Company has developed and placed into use underwriting criteria establishing the roles of CLUE and credit information in determining the eligibility of a risk. The examiners

noted no submissions denied based solely upon credit or CLUE information in accordance with the Company's underwriting criteria. No exceptions to Mont. Code Ann. § 33-18-210(3) were noted in the Company's selection of risk.

The Company utilizes a disclaimer in the event a producer requests a quote but fails to secure the applicant's signature on the written authorization necessary to obtain CLUE/credit information prior to preparation of a quote. The disclaimer appears in the comments section of the prepared quote which is delivered to the producer. The disclaimer states, "THIS QUOTE IS DEVELOPED FROM THE INFORMATION PROVIDED (sic) ON THE APPLICATION AND IS PENDING CLUE AND CREDIT REPORTS. ONCE YOU SECURE THE INSURED'S SIGNATURE FOR PERMISSION AND ASK US TO BIND, WE WILL ORDER THE REPORTS. THE INFORMATION OBTAINED ON THOSE REPORTS, COULD ADVERSELY AFFECT THE RATING, COVERAGE OR ELEGIBILITY (sic) WITH FFM."

During the time period covered by the re-examination, the examiners noted two instances wherein, at the request of a producer, the Company prepared and delivered a quotation containing the above-referenced disclaimer. In each of these instances, the Company subsequently agreed to bind coverage prior to receipt of the completed application, subject to the terms of the disclaimer. This decision was made as a courtesy to both producer and applicant. Upon receipt of the completed applications and authorizations, the Company promptly ordered CLUE and credit reports which yielded information rendering the risks ineligible for coverage with the Company. In each of these instances, the Company provided adverse action notices. No exceptions were noted as to content, timing, or delivery of the notices. In both of these instances, the underwriting decisions were made and conveyed well within the initial 60 days of the policy effective date. The cancellation notices issued by the Company placed the effective date of cancellation at least ten days after the mailing date of the cancellation notice as is required by Mont. Code Ann. § 33-4-507(2) and the language of the insurance contracts issued by the Company. As a further courtesy to both applicants and producers, the Company did not attempt to collect premium for the time period during which coverage was afforded.

The examiners also reviewed a sample representing 8.5 percent of the new business written by the Company during the time period covered by the re-examination. No exceptions were found within the sample.

The Company provided all requested records to examiners in a timely and orderly manner. The Company has altered its record retention practices in order to comply with Mont. Code Ann. § 33-3-401. Adequate records retention enabled the Company to demonstrate compliance with the provisions of Mont. Code Ann. §§ 33-18-607, 608, and 210(3).

The examiners would again like to express their appreciation for the courteous and prompt cooperation and assistance of the Company and its MGA during the course of the re-examination.

**AFFIDAVIT OF EXAMINER**

STATE OF MONTANA )  
 ) ss.  
COUNTY OF LEWIS AND CLARK )

Kimberlee Hewitt, CIE, MCM, being first duly sworn, deposes and says:

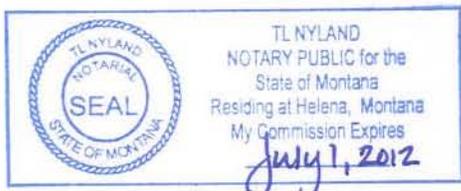
That she is an examiner representing the office of the Commissioner of Securities and Insurance, Montana State Auditor; that pursuant to authority vested in her by the Commissioner, she conducted a limited scope re-examination of the market conduct of Flathead Farm Mutual Insurance Company, Kalispell, Montana, for the period from January 1, 2011, and May 16, 2011 related to its underwriting practices.

That to the best of her information, knowledge and belief, the attached report is a true and correct report of the limited scope re-examination of the market conduct of Farmers Mutual Insurance Company related to its underwriting practices.

DATED this 31<sup>st</sup> day of May, 2011.

  
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Kimberlee Hewitt, CIE, MCM

SUBSCRIBED AND SWORN to before me this 31<sup>st</sup> day of June, 2011, by Kimberlee Hewitt.



  
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