pennsylvania
INSURANCE DEPARTMENT

COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT

MARKET CONDUCT
EXAMINATION REPORT

OF

AMGUARD INSURANCE COMPANY
WILKES-BARRE, PA

As of: June 16, 2023
Issued: August 9, 2023

BUREAU OF MARKET ACTIONS
PROPERTY AND CASUALTY DIVISION

pennsylvania
INSURANCE DEPARTMENT

PENNSYLVANIA INSURANCE DEPARTMENT
EXAMINATION VERIFICATION

I, Vernon Schmidt (Name of Examiner), Market Conduct Examiner II (Title of Examiner) from The Pennsylvania Insurance Department (Name of Vendor/Department) certify that I was the Examiner-In-Charge of the Report of Examination of AmGuard Insurance Department (Name of Examined Company) made as of 01/12/2023 (Date).

The last date of examination file review was 03/20/2023 (Date) and the written Report of Examination was reviewed and accepted by Paul E. Towsen III (Chief of Market Conduct Exams) on 6/16/2023. (Date)

I have reviewed the completed written Report of Examination and certify that the facts and figures recited therein are true and accurate, according to the records, documents and other evidence obtained during the course of the examination.

Vernon Schmidt
(Examiner-in Charge)

The Pennsylvania Insurance Department
(Name of Vendor/Department)

Bureau of Market Actions, 1321 Market St. Harrisburg,
(Address of Vendor/Department)

Vern Schmidt
(Examiner in Charge Signature)

06/14/2023
(Date)

IN ORDER TO SATISFY SECTION 40 P.S. § 323.5(b), THAT PROVIDES FOR NO LONGER THAN SIXTY (60) DAYS FROM THE COMPLETION OF THE EXAMINATION, THE EXAMINER IN CHARGE SHALL FILE WITH THE DEPARTMENT A VERIFIED WRITTEN REPORT OF EXAMINATION UNDER OATH.

AMGUARD INSURANCE COMPANY

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BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

O R D E R

AND NOW, this __3rd___ day of _July___, 2023, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate David J. Buono, Jr., Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.

Michael Humphreys
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
AMGUARD INSURANCE COMPANY	:	40 P.S. §323.3(a)
	:	
39 Public Square	:	40 P.S. §§1171.5(a)(9)
Wilkes-Barre, PA 18701	:	
	:	40 P.S. §1224(a)&(i)
	:	
	:	31 Pa. Code §§146.3, 146.5(a), 146.6, and 146.7(a)(1)
	:	
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	:	
Respondent	:	Docket No. MC23-07-013

CONSENT ORDER

AND NOW, this 9th day of August, 2023, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. §101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

(a) Respondent is AmGuard Insurance Company, and maintains its address at 39 Public Square, Wilkes-Barre, PA 18701.

(b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from July 1, 2021 to June 30, 2022.

(c) On June 16, 2023 the Insurance Department issued a Market Conduct Examination Report to Respondent ("Examination Report").

(d) Respondent provided to the Insurance Department a response to the Examination Report on July 13, 2023.

(e) The Market Conduct Examination of the Respondent revealed the violations of the following:

(i) All findings and conclusions in the Examination Report, which attached hereto, are hereby incorporated into this Consent Order.

CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

(a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.

(b) Respondent's violations of 40 P.S. §§1171.5(a)(9) are punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):

(i) cease and desist from engaging in the prohibited activity;

(ii) suspension or revocation of the license(s) of Respondent.

(c) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

(i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars ($5,000.00);

(ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars ($1,000.00).

(d) Violations of 1224(a)&(i) are punishable by the following under the Fire and Marine Insurance Act (40 P.S. §1235):

(i) imposition of a civil penalty not to exceed $50 for each violation or not more than $500 for each such willful violation;

(ii) suspension of the license of any rating organization or insurer, which fails to comply with an order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

(e) Respondent's violations of 31 Pa. Code §§146.3, 146.5(a), 146.6, and 146.7(a)(1) are punishable under Sections 1 through 5 and Section 9 of the Unfair Insurance Practices Act (40 P.S. §§1171.1 – 1171.5 and 1171.9):

(i) cease and desist from engaging in the prohibited activity;

(ii) suspension or revocation of the license(s) of Respondent.

(f) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40

P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

(i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars ($5,000.00);

(ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars ($1,000.00).

ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

(a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.

(b) Respondent shall pay Twenty-Five Thousand Dollars ($25,000) in settlement of all violations contained in the Report.

(c) Payment of this matter shall be made at https://www.bpp.ob.pa.gov/Customer. Instructions on how to do this are provided in the attached cover letter to this

order. Payment must be made no later than thirty (30) days after the date of this Order.

(d) To determine Respondent's compliance with the full and timely implementation of all recommendations in the Examination Report, the Department may inquire with the Respondent about its implementation of the Recommendations no earlier than twelve (12) months from the date of this Order.

(e) Respondent shall share the Examination Report and this Order with each of its directors and submit affidavits executed by each of its directors, stating under oath that they received a copy of the Examination Report and this Order. Such affidavits shall be submitted within thirty (30) days of the date of this Order.

(f) Respondent shall comply with all the recommendations contained in the attached Report.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

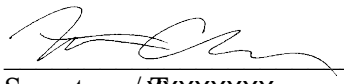
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

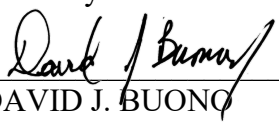
11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: AMGUARD INSURANCE COMPANY
Respondent

President / Vice President Treasurer



Secretary / Treasurer



DAVID J. BUONO
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination of AmGuard Insurance Company, hereinafter referred to as "Company", was conducted at the Pennsylvania Insurance Department beginning January 12, 2023. There was no onsite portion of the exam.

Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

In certain areas of review listed in this Report, the examiners will refer to "error ratio." This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations on 10 policies, the error ratio would be 10%.

Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

The following examiners participated in this examination and in preparation of this Report.

Paul Towsen, MCM
Market Conduct Division Chief
Pennsylvania Insurance Department

Vern Schmidt, MCM
Market Conduct Examiner II, EIC
Pennsylvania Insurance Department

Richard Barr, MCM
Market Conduct Examiner I
Pennsylvania Insurance Department

John Romano, CPA, CITP, CIA, CFE, CSM
Market Conduct Examiner, Supervisor
Baker Tilly US, LLP

Rick Buchwald, CFE, MCM, CIA, AIRC, AIE
Market Conduct Examiner
Baker Tilly US, LLP

Kyra D. Brown, MBA, ARC
Market Conduct Examiner
Baker Tilly US, LLP

Delia Geyer
Market Conduct Examiner
Baker Tilly US, LLP

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on AmGuard Insurance Company, at the Pennsylvania Insurance Department, located in Harrisburg, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act of 1921 and covered the experience period of July 1, 2021, through June 30, 2022, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Personal Property
    - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations, and declinations.
    - Rating – Proper use of all classification and rating plans and procedures.

2. Claims

3. Complaints

4. Underwriting Practices & Procedures

5. Forms

6. Data Integrity

III. COMPANY HISTORY

Formed in 1982, AmGUARD Insurance Company is one of the original GUARD companies. Now a wholly owned subsidiary of WestGUARD Insurance Company, AmGUARD Insurance Company operates under the trade name "Berkshire Hathaway GUARD Insurance Companies." With its principal place of business at 39 Public Square, Wilkes-Barre, PA 18703, AmGUARD Insurance Company is domiciled in Pennsylvania and licensed to transact business in all U.S. states and the District of Columbia. NAIC Company code is #42390. AmGUARD Insurance Company provides Commercial Auto, Commercial Excess Liability, Commercial Package, Commercial Property, Commercial Umbrella Liability, Disability, General Liability, Employment-Related Practices Liability, Homeowners, Personal Umbrella Liability, Professional Liability, and Workers' Compensation Insurance. AmGUARD Insurance Company® obtained its first license in Pennsylvania on 5/18/1983. (EastGUARD Insurance Company® and NorGUARD Insurance Company® were licensed in Pennsylvania on 07/18/2003. WestGUARD® Insurance Company was licensed in Pennsylvania on 7/16/2004).

LICENSING

AmGuard Insurance Company's last Certificate of Authority to write business in the Commonwealth was last issued on June 10, 1982. The Company is licensed in all fifty states and the District of Columbia. The Company's 2021 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as $45,860,460. Premium volume related to the areas of this review were: Homeowners Multiple Peril $17,920,425.

IV. UNDERWRITING

A. Personal Property

1. Nonrenewals

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month policy anniversary date.

The primary purpose of the review was to determined personal lines compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(9) [40 P.S. §1171.5(a)(9)], which establishes the conditions under which cancellation of a policy is permissible along with the form requirements of the nonrenewal notice.

From the universe of 249 property policies, which were nonrenewed during the experience period, 53 files were selected for review. The property policies consisted of 50 homeowners, one tenant homeowners and two condominiums. All 53 files requested were received and reviewed. The five violations noted were based on five files, resulting in an error ratio of 9%.

The following findings were made:

2 Violations 40 P.S. §323.3(a)

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the

financial condition of the company or person and ascertain whether the company or person has complied with the laws of this Commonwealth. The Company failed to maintain a complete underwriting file for the two files noted.

3 Violations 40 P.S. §1171.5(a)(9)

Prohibits canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more or refusing to renew any such policy unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the Commissioner. The Company failed to provide a valid reason of nonrenewal for the three files noted.

2. <u>Mid-term Cancellations</u>

A mid-term cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine personal lines compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(9) [40 P.S. §1171.5(a)(9)], which establishes the conditions under which cancellation of a policy is permissible along with the form requirements of the cancellation notice.

From the universe of 1,149 property policies which were cancelled midterm during the experience period, 159 files were selected for review. The property policies consisted of 100 homeowners, 35 tenant homeowners and 24 condominiums. All 159 files requested were received and reviewed. There were no violations noted.

3. 60-Day Cancellations

A 60-day cancellation is considered to be any policy, which was cancelled within the first 60 days of the inception date of the policy.

The primary purpose of the review was to determine compliance with Act 205, Unfair Insurance Practices Act, Section 5(a)(7)(iii) [40 P.S. §1171.5(a)(7)(iii)], which prohibits an insurer from canceling a policy for discriminatory reasons and Title 31, Pennsylvania Code, Section 59.9(b), which requires an insurer who cancels a policy in the first 60 days to provide at least 30 days' notice of the termination.

The universe of 41 property policies which were cancelled in the first 60 days of new business was selected for review. The property policies consisted of 31 homeowners, six tenant homeowners and four condominiums. All 41 files requested were received and reviewed. There were no violations noted.

4. Declinations

A declination is any application that is received by the Company and was declined to be written.

The primary purpose of the review was to determine compliance with Act 205, Unfair Insurance Practices Act, Section 5 [40 P.S. §1171.5], which defines unfair methods of competition and unfair or deceptive acts or practices.

From the universe of 545 property policies which were declined by the Company during the experience period, 116 files were selected for review. All 116 files requested were received and reviewed. The property policies consisted of 100 homeowners, zero tenant homeowners and 16 condominiums. There were no violations noted.

5. Rescissions

A rescission is any policy which was void ab initio by the Company.

The primary purpose of the review was to determine compliance with Act 205, which establishes conditions under which action by the insurer is prohibited. The review also determines compliance with the rescission requirements established by the Supreme Court of Pennsylvania in Erie Insurance Exchange v. Lake.

The Company reported no rescissions during the experience period.

V. RATING

A. Personal Property

1. New Business

New business, for the purpose of this examination, is defined as policies written for the first time by the Company during the experience period.

The primary purpose of the review was to measure compliance with Act 247, the Fire, Marine, and Inland Marine Rate Regulatory Act, Sections 4(a) and (i) (40 P.S. §1224(a), (i)), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time.

Homeowner Rating – New Business without Surcharges

From the universe of 1,101 homeowner policies written as new business without surcharges during the experience period, 100 files were selected for review. All 100 policy files requested were received and reviewed. The three violations noted were based on three files, resulting in an error ratio of 3%.

The following findings were made:

3 Violations 40 P.S. §1224(a)&(i)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating

plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective date of this act no insurer shall make or issue a contract or policy except in accordance with the filings or rates which are in effect for said insurer as provided in this act or in accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company used an incorrect rating territory for the three files noted.

Homeowner Rating – New Business with Surcharges

The universe of 45 homeowner policies written as new business with surcharges was selected for review. All 45 policy files requested were received and reviewed. The nine violations noted were based on the nine files, resulting in an error ratio of 20%.

The following findings were made:

9 Violations 40 P.S. §1224(a)&(i)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective

date of this act no insurer shall make or issue a contract or policy except in accordance with the filings or rates which are in effect for said insurer as provided in this act or in accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company had an incorrect surcharge that was not justified for the nine files noted.

The following concern was noted:

CONCERN: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating – New Business without Surcharges

From the universe of 118 tenant homeowner policies written as new business without surcharges during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. There were no violations noted.

Tenant Homeowner Rating – New Business with Surcharges

The Company reported no new business policies with surcharges for the experience period.

Condominium Rating – New Business without Surcharges

The universe of 40 condominium policies written as new business without surcharges during the experience period were selected for review. All 40 files selected were received and reviewed. There were no violations noted.

The following concern was noted:

CONCERN: The Company did not provide evidence that the coverage amounts were being adjusted to be different than the suggested coverage amounts per the agent/insured request.

Condominium Rating – New Business with Surcharges

The universe of two condominium policies written as new business with surcharges during the experience period were selected for review. The two files selected were received and reviewed. The three violations noted were based on the two files, resulting in an error ratio of 100%.

The following findings were made:

3 Violations 40 P.S. §1224(a)&(i)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective date of this act no insurer shall make or issue a contract or policy except in accordance with the filings or rates which are

in effect for said insurer as provided in this act or in accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company used an incorrect rating territory for the one file noted. The Company had an incorrect surcharge that was not justified for the other two files noted.

The following concern was noted:

CONCERN: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date.

The purpose of the review was to measure compliance with Act 247, the Fire, Marine, and Inland Marine Rate Regulatory Act, Sections 4(a) and (i) (40 P.S. §1224(a), (i)), which require every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time.

Homeowner Rating – Renewal without Surcharges

From the universe of 7,178 homeowner policies renewed without surcharges during the experience period, 100 were selected for review. All 100 files selected were received and reviewed. There were no violations noted.

Homeowner Rating – Renewal with Surcharges

From the universe of 658 homeowner policies renewed with surcharges during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 18 violations noted were based on the 18 files, resulting in an error ratio of 18%.

18 Violations 40 P.S. §1224(a)&(i)

> Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective date of this act no insurer shall make or issue a contract or policy except in accordance with the filings or rates which are in effect for said insurer as provided in this act or in accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company used an incorrect surcharge, that was not justified, for the 18 files noted.

The following concern was noted:

CONCERN: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

Tenant Homeowner Rating – Renewal without Surcharges

From the universe of 274 tenant homeowner policies renewed without surcharges by The Company during the experience period, 75 files were selected for review. All 75 Files requested were received and reviewed. The four violations noted were based on the four files, resulting in an error ratio of 5%.

The following findings were made:

4 Violations *40 P.S. §1224(a)&(i)*

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective date of this act no insurer shall make or issue a contract or policy except in accordance with the filings or rates which are in effect for said insurer as provided in this act or in

accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company used an incorrect rating territory for the four files noted.

Tenant Homeowner Rating – Renewal with Surcharges

The universe of three tenant homeowner policies renewed with surcharges by The Company during the experience period were selected for review. The three files requested were received and reviewed. There were no violations noted.

Condominium Rating – Renewal without Surcharges

From the universe of 156 condominium policies renewed without surcharges during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. The four violations noted were based on the four files, resulting in an error ratio of 5%.

The following findings were noted:

4 Violations 40 P.S. §1224(a)&(i)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective date of this act no insurer shall make or issue a contract or

policy except in accordance with the filings or rates which are in effect for said insurer as provided in this act or in accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company used an incorrect rating territory for the four files noted.

The following concerns was noted:

CONCERN: The Company was inconsistent in documenting the underwriting guidelines as the policy files contained incomplete underwriting questions and did not provide reference that completed underwriting questions existed in initial policy files or prior applications. Additionally, there was one incident that contained no underwriting questions in both the current policy and in the initial or "New" policy application.

CONCERN: The Company did not provide evidence that the coverage amounts were being adjusted to be different than the suggested coverage amounts per the agent/insured request.

Condominium Rating – Renewal with Surcharges

The universe of nine condominium policy renewed with surcharges during the experience period was selected for review. The nine files were received and reviewed. The two violations noted were based on two files, resulting in an error ratio of 22%.

The following findings were made:

2 Violations 40 P.S. §1224(a)&(i)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan, and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. (i) Beginning ninety days after the effective date of this act no insurer shall make or issue a contract or policy except in accordance with the filings or rates which are in effect for said insurer as provided in this act or in accordance with subsections (g) or (h) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required. The Company used an incorrect rating territory for the two files noted.

The following concerns was noted:

CONCERN: The homeowner policies are subject to surcharges for losses. Therefore, it is a concern that no surcharge disclosure plan is provided to these policyholders. The disclosure plan should state what surcharge percentage applies for paid losses as provided in the Company's rate filing. Notification of the surcharge disclosure requirement was provided to all companies, in an Important Notice dated 9/18/1998.

CONCERN: The Company did not provide evidence that the coverage amounts were being adjusted to be different than the suggested coverage amounts per the agent/insured request.

VI. CLAIMS

The Company was requested to provide copies of all established written claim handling procedures utilized during the experience period. Written claim handling procedures were received and reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The Claims review consisted of the following areas of review:

A. Homeowner Claims
B. Tenant Homeowner Claims
C. Condominium Claims

The primary purpose of the review was to determine compliance with 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, Section 4 (40 P.S. §1171.4) and Section 5(a)(10)(vi) of the Unfair Insurance Practices Act (40 P.S. §1171.5(a)(10)(vi)).

A. Homeowner Claims

From the universe of 928 homeowner claims reported during the experience period, 100 files were selected for review. All 100 files were received and reviewed. The 28 violations noted were based on 21 files, resulting in an error ratio of 21%.

The following findings were made:

1 Violation 31 Pa. Code §146.5(a)

Every insurer, upon receiving notification of a claim, shall,

within 10 working days, acknowledge the receipt of the notice unless payment is made within the period of time. If an acknowledgement is made by means other than writing, an appropriate notation of the acknowledgement shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer, dating from the time the insurer receives notice. The Company failed to acknowledge the claim within 10 working days for the claim file noted.

21 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the 21 claim files noted.

6 Violations 31 Pa. Code §146.7(a)(1)

Acceptance or denial of a claim shall comply with the following: Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. The denial shall be given to the

claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to accept or deny the claim in 15 working days for six claim files noted.

B. Tenant Homeowner Claims

The universe of 14 tenant homeowner claim reported during the experience period was selected for review. All 14 files were received and reviewed. There were no violations noted.

C. Condominium Claims

The universe of six tenant homeowner claims reported during the experience period was selected for review. All six files were received and reviewed. The four violations notes were based on three files, resulting in an error ratio of 50%.

The following findings were made:

3 Violations 31 Pa. Code §146.3

The claim files of the insurer shall be subject to examination by the Commissioner or by his appointed designees. The files shall contain notes and work papers pertaining to the claim in the detail that pertinent events and the dates of the events can be reconstructed. The Company failed to provide a complete file for the three claim files noted.

1 Violation 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such

> investigation cannot be reasonably be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the claim file noted.

The following concerns was noted:

CONCERN: No claim forms could be located in either the NARs or AmGuard systems and therefore could not be reviewed to confirm the presence of the necessary "Fraud Warning" required per 18 Pa. C.S. §4117(k)(1). Contact letters were also reviewed within the NARs system however no "Fraud Warning" was identified on these forms.

Concern: In two of the claim files reviewed, initial payments were received, however thereafter no status letters could be located in the claim file for the duration of the claim. The Company should send status letters to the insured until the claim is closed.

VII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified 24 consumer complaints received during the experience period and provided all consumer complaint logs requested. From the universe of 24 complaint files, eight files were selected for review. All eight files requested were received and reviewed. There were no violations noted.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, (40 P.S. §§1171.1 – 1171.5). Section 5(a)(11) of the Act (40 P.S. §1171.5(a)(11)), requires a company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files were reviewed for the relevancy to applicable statues and to verify compliance with 31 Pa. Code §146.5(b)(c).

The following synopsis reflects the nature of the eight complaints that were received.

8	Claims Related	100%
8		100%

VIII. UNDERWRITING PRACTICES AND PROCEDURES

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides and supplements were furnished for homeowners, renters, condominium, and manufactured homes. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. There were no violations noted.

The following concern was noted:

CONCERN: In the Underwriting Guidelines on page 8, line E37, under section titled Risks with any of the following characteristics are not eligible for renewal: Two or more claims, with the same cause of loss. Some reasons the Company may nonrenew a policy: (1) nonpayment of premium; (2) if the home is not owner occupied; (3) if the company sends a fix-it letter and the insured does not reply to the letter (substantial increase in hazard). Nonrenewal of a policy due to claims is not a valid reason. The nonrenewal must be in compliance with 40 P.S. §1171.5(a)(9).

IX. FORMS

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with the Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with 75 Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage and 18 Pa. C.S. §4117(k)(1), which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claim forms. There were no violations noted.

X. DATA INTEGRITY

As part of the examination, the Company was sent a preliminary examination packet in accordance with NAIC uniformity standards and provided specific information relative to the exam.

The purpose of the packet was to provide certain basic examination information, identify preliminary requirements and to provide specific requirements for requested data call information. Once the Company provided all requested information and data contained within the data call, the Department reviewed and validated the data to ensure its accuracy and completeness to determine compliance with Insurance Department Act of 1921, Section 904(b) (40 P.S. §323.3(a)). Several data integrity issues were found during the exam. There were no data integrity violations noted.

XI. RECOMMENDATIONS

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.3(a), so that violations noted in the Report do not occur in the future.

2. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to acknowledgement, status letters, acceptance and denials, and maintaining a complete claim file as noted in the Report do not occur in the future.

3. The Company must ensure it issues notices of cancellations with a valid reason for cancellation in compliance with 40 P.S.§1171.5(a)(9), so that the violations noted in the report do not occur in the future.

4. The Company must review 40 P.S. §1224(a)&(i) and take appropriate measures to ensure the homeowner rating violations listed in the report do not occur in the future.

XII. COMPANY RESPONSE

Berkshire Hathaway GUARD Insurance Companies

Sent via Email – ptowsen@pa.gov

July 13, 2023

Paul E. Towsen III, MCM
Chief, P&C/Life & Annuity Division
Pennsylvania Insurance Department – Bureau of Market Actions
1321 Strawberry Square
Harrisburg, PA 17120

RE – Exam Report – AmGUARD Insurance Company

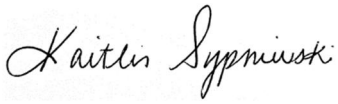
Mr. Towsen,

Hope all is well. The Exam Report for AmGUARD Insurance Company dated June 16, 2023 has been received and reviewed.

Thank you for the time and effort in completing the exam and comments received as part of the examination process. The Company takes seriously its responsibility in providing fair, accurate and timely insurance coverage. The observations and comments are used as another way for us to continue to improve our processes and policies.

Please accept this letter as the Company's response. We have no further comments. If there are additional questions or anything else is needed, please feel free to contact me.

Sincerely,



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