

**REPORT OF  
MARKET CONDUCT EXAMINATION  
OF**

**NATIONAL GUARDIAN LIFE INSURANCE  
COMPANY**

Madison, Wisconsin

**AS OF  
August 10, 2007**

**COMMONWEALTH OF PENNSYLVANIA**



**INSURANCE DEPARTMENT  
MARKET CONDUCT DIVISION**

**Issued: September 25, 2007**

NATIONAL GUARDIAN LIFE INSURANCE COMPANY

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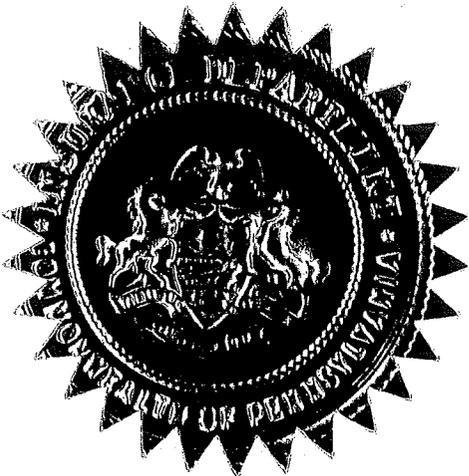
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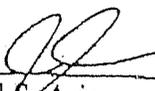
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 6<sup>th</sup> day of July, 2007, 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 Randolph L. Rohrbaugh, 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.



  
\_\_\_\_\_  
Joel S. Ario  
Insurance Commissioner

National Guardian Life Insurance Company

Docket No.  
MC07-09-028

Market Conduct Examination as of the  
close of business on August 10, 2007

## **ORDER**

A market conduct examination of National Guardian Life Insurance Company was conducted in accordance with Article IX of the Insurance Department Act, 40 P.S. § 323.1, et seq., for the period July 1, 2005 through June 30, 2006. The Market Conduct Examination Report disclosed exceptions to acceptable company operations and practices. Based on the documentation and information submitted by Respondent, the Department is satisfied that Respondent has taken corrective measures pursuant to the recommendations of the Examination Report.

It is hereby ordered as follows:

1. The attached Examination Report will be adopted and filed as an official record of this Department. All findings and conclusions resulting from the review of the Examination Report and related documents are contained in the attached Examination Report.
2. Respondent shall comply with Pennsylvania statutes and regulations.

3. Respondent shall comply with all recommendations contained in the attached Report.

4. Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

The Department, pursuant to Section 905(e)(1) of the Insurance Department Act (40 P.S. § 323.5), will continue to hold the content of the Examination Report as private and confidential information for a period of thirty (30) days from the date of this Order.

BY: Insurance Department of the Commonwealth  
of Pennsylvania



Randolph L. Rohrbaugh  
Deputy Insurance Commissioner

(September 25, 2007)

## **I. INTRODUCTION**

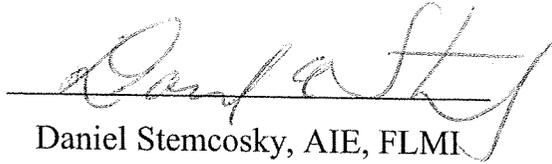
The Market Conduct Examination was conducted on National Guardian Life Insurance Company, hereafter referred to as "Company," at the Company's office located in Madison, Wisconsin, January 29, 2007, through March 16, 2007. Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. 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. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. 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 these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided 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 officials to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

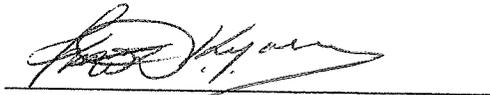
The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is acknowledged.

The undersigned participated in the Examination and in the preparation of this Report.



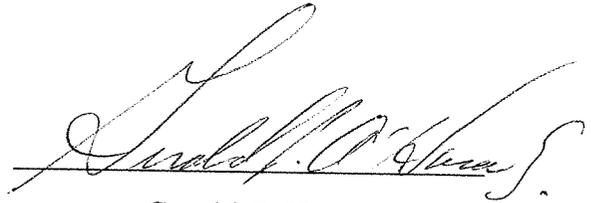
Daniel Stemcosky, AIE, FLMI

Market Conduct Division Chief



Frank W. K. Kyazze, AIE, ALHC, FLMI

Market Conduct Examiner



Gerald O'Hara

Market Conduct Examiner

## Verification

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).



Frank W. Kyazze, AIE, ALHC, FLMI  
[Examiner in Charge]

Sworn to and Subscribed Before me

This 17 Day of July, 2007



Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
THERESA M. SENECA, Notary Public  
City of Harrisburg, Dauphin County  
My Commission Expires Aug. 15, 2010

## II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act and covered the experience period of July 1, 2005, through June 30, 2006, unless otherwise noted. The purpose of the examination was to determine compliance by the Company with Pennsylvania insurance laws and regulations.

The examination focused on the Company's operation in areas such as: Advertising, Consumer Complaints, Forms, Producer Licensing, Underwriting Practices and Procedures, and Claim Handling Practices and Procedures.

The Company was requested to identify the universe of files for each segment of the review. Based on the universe sizes identified, random sampling was utilized to select the files reviewed for this examination.

During the course of the examination, for control purposes, some of the review segments identified in this Report may have been broken down into various sub-categories by line of insurance or Company administration. These specific sub-categories, if not reflected individually in the Report, would be included and grouped within the respective general categories of the Examination Report.

### III. COMPANY HISTORY AND LICENSING

National Guardian Life Insurance Company was incorporated in the State of Wisconsin on September 28, 1909, and commenced business on October 11, 1910. National Guardian Life Insurance Company (NGL) is a mutual life insurance company, controlled by its policyholders, and is licensed in all states and the District of Columbia.

NGL and its insurance subsidiaries operate under the name "NGL Insurance Group." The insurance companies within the group are National Guardian Life Insurance Company, Settlers Life Insurance Company, and Preneed Reinsurance Company of America (Preneed Re).

NGL has pursued a strategy of growth through acquisitions in order to expand its operations. NGL acquired NGLA (NGL American Life Insurance Company) in January 1997; absorbed Kentucky Home Mutual Life Insurance Company (KHM), a mutual insurer domiciled in Kentucky, through merger effective November 1998; formed Kentucky Home Life (KHL) in October 1998 to continue certain operations of KHM in Kentucky; acquired Allnation Life Insurance Company in April 1999; acquired Settlers Life Insurance Company in December 1999; merged Allnation into NGLA in April 2000; acquired Milwaukee Life Insurance Company in April 2001 and merged it into NGLA in October 2001; formed a reinsurance subsidiary, Preneed Re, in July 2001; absorbed Protected Home Mutual Life Insurance Company (PHML), a mutual insurer domiciled in Pennsylvania, through merger effective November 2003; sold KHL in January 2005; and merged Settlers Life into NGLA in July 2006, renaming the surviving entity Settlers Life.

The NGL Insurance Group offers traditional life, preneed, senior life, annuity, dental and vision products through numerous distribution channels to a growing middle-market and senior population. The company also continues to pursue alternative distribution systems, such as direct and worksite marketing, to supplement its primary wholesale and retail marketing initiatives.

NGL's current marketing strategy is one of wholesale distribution through independent marketing organizations and brokers. The company markets final expense life insurance products through insurance brokers and affinity groups. Final expense life products are also offered by the NGL's wholly-owned subsidiary, Settlers Life, in the Central East Coast area. In 2001, the company began issuing preneed policies utilizing third party marketing organizations. Prior to that time, preneed policies were issued by NGL's subsidiary, NGLA, primarily through a regional distribution system. As of the end of 2005, all new preneed sales were transitioned from NGLA to NGL to improve operational simplicity. In 2002, the company commenced marketing group dental and vision products directly and in conjunction with its strategic partners.

As of their December, 2005, annual statement for Pennsylvania, National Guardian Life Insurance Company reported direct premium for ordinary life insurance and annuities in the amount of \$24,420,533; and direct premium for accident and health in the amount of \$3,082,624.

#### **IV. ADVERTISING**

The Company was requested to provide a copy of the Company's latest Annual Statement along with the Advertising Certificate of Compliance as required by Title 31, Pennsylvania Code, Section 51.5. The information provided was reviewed to ascertain compliance with Title 31, Pennsylvania Code, Chapter 51. The following violation was noted:

##### **1 Violation - Title 31, Pennsylvania Code, Section 51.5.**

###### **Certificate of Compliance**

Each company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its annual statement a certificate of compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the Company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth. The Company did not provide a copy of the required advertising certificate of compliance.

## V. FORMS

The Company was requested to provide a list and copies of all policy and/or member forms, conversion contracts, applications, riders, amendments and endorsements used during the experience period. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with Insurance Company Law, Section 354 and Title 18, Pennsylvania Consolidated Statutes, Section 4117(k), Fraud notice. No violations were noted.

## VI. PRODUCER LICENSING

The Company was requested to provide a list of all producers active and terminated during the experience period. Section 671-A (40 P.S. §310.71) of the Insurance Department Act prohibits agents from doing business on behalf of any entity without a written appointment from that entity. Section 641.1-A (40 P.S. §310.41a) of the Insurance Department Act prohibits a company from accepting insurance applications or securing any insurance business through anyone acting without a license. Section 671.1 (40 P.S. §310.71a) of the Insurance Department Act requires the Company to report all agent terminations to the Department.

The Company provided a list of 522 active and 105 terminated producers. A random sample of 125 producers was selected, and reviewed. The list was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the producers identified on applications reviewed in the policy issued sections of the exam. No violations were noted.

## **VII. CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints received during the experience period, and to provide copies of consumer complaint logs for 2002, 2003, 2004 and 2005. The Company identified 8 consumer complaints received during the experience period. Of the 8 complaints identified 4 were forwarded from the Department. All 8 complaint files were requested, received and reviewed. The Company also provided complaint logs for 2004 and 2005. There were no Pennsylvania complaints filed in 2002 and 2003. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint log.

The complaint files and the 4 years of complaint logs were reviewed for compliance with the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171). Section 5(a)(11) of the Act requires maintenance of a complete record of all complaints received during the preceding four (4) years. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with Title 31, Pennsylvania Code, Section 146.5(b) and 146.5(c), Unfair Claims Settlement Practices. No violations were noted.

## **VIII. UNDERWRITING**

The Underwriting review was sorted and conducted in 13 general segments.

- A. Underwriting Guidelines
- B. Starmount Vision Policies Issued
- C. Starmount Dental Policies Issued
- D. Block Vision Policies Issued
- E. GroupLink Dental Policies Issued
- F. Starmount Dental Certificates Issued
- G. Starmount Vision Certificates Issued
- H. Block Vision Certificates Issued
- I. GroupLink Dental Certificates Issued
- J. Group Preneed Certificates Issued
- K. Individual NonPreneed Policies Issued
- L. Individual Whole Life Policies Issued as Replacements
- M. Individual Term Conversions

Each segment was reviewed for compliance with underwriting practices and included forms identification and agent identification. Issues relating to forms or producer licensing appear in those respective sections of the Report and are not duplicated in the Underwriting portion of the Report.

### **A. Underwriting Guidelines**

The Company was requested to provide all underwriting guidelines and manuals utilized during the experience period. The manuals and guidelines received were reviewed to that ensure underwriting guidelines were in place and being followed

in a uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following manuals and guidelines were reviewed:

1. NGL Application – New Business Procedures
2. HIV Guidelines
3. Domestic Abuse Guidelines
4. New Business Quality Check Process
5. MIB (Medical Information Bureau) Guidelines
6. Traditional Life Division (TLD) Underwriting Guidelines
7. Final Expense Underwriting Guidelines
8. Attending Physician Statement Ordering Guidelines
9. Juvenile Underwriting Guidelines
10. Junior Protector Underwriting Guidelines
11. Producer’s Underwriting Guidelines
12. Adverse Underwriting Decisions
13. Procedures For Reinstatements
14. Underwriting Guidelines – Group Division
15. Dental Underwriting Guidelines
16. Vision Underwriting Guidelines
17. Renewal Business Underwriting Methodology
18. Lincoln national Re Underwriting Guide
19. Swiss Re Underwriting Guide

#### **B. Starmount Vision Policies Issued**

The Company was requested to provide a list of all group policies issued during the experience period. The Company identified 1 Starmount vision policy issued. The policy file was requested, received and reviewed. The file was reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

### **C. Starmount Dental Policies**

The Company was requested to provide a list of all group policies issued during the experience period. The Company identified 29 Starmount dental policies issued. A random sample of 5 policy files was requested, received and reviewed. The files were reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

### **D. Block Vision Policies Issued**

The Company was requested to provide a list of all group policies issued during the experience period. The Company identified 1 Block vision policy issued. The group policy file was requested, received and reviewed. The file was reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

### **E. GroupLink Dental Policies Issued**

The Company was requested to provide a list of all group policies issued during the experience period. The Company identified 1 GroupLink dental policy issued. The group policy file was requested, received and reviewed. The file was reviewed to determine compliance to issuance statutes and regulations. No violations were noted.

#### **F. Starmount Dental Certificates Issued**

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a list of 65 Starmount dental certificate holders. A random sample of 10 certificate files was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

#### **G. Starmount Vision Certificates Issued**

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a list of 39 Starmount vision certificate holders. A random sample of 10 certificate holders enrolled was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

#### **H. Block Vision Certificates Issued**

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a list of 72 Block vision certificate holders. A random sample of 10 certificate holder files was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

### **I. GroupLink Dental Certificates Issued**

The Company was requested to provide a list of all group certificate holders enrolled during the experience period. The Company provided a list of 5 GroupLink dental certificate holders. All 5 certificate files were requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

### **J. Group Preneed Certificates Issued**

The Company was requested to provide a list of all certificate holders enrolled during the experience period. The Company provided a list of 3,181 group Preneed certificates issued. A random sample of 25 certificate holder files was requested, received and reviewed. The files were reviewed to ensure compliance with Title 18, Pennsylvania Consolidated Statutes, Section 4117(k). No violations were noted.

### **K. Individual NonPreneed Policies Issued**

The Company identified a universe of 105 individual NonPreneed policies issued during the experience period. A random sample of 50 policy files was requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### **3 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by §83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced company was not documented in the 3 files noted.

### **4 Violations - Title 31, Pennsylvania Code, Section 83.3 Disclosure Statement**

(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A. The 4 files noted did not contain evidence that a written disclosure was provided.

### **4 Violations - Title 31, Pennsylvania Code, Section 83.4a and Section 83.4b**

(a) The agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant.

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie

evidence that no disclosure statement was provided to the prospective purchaser of life insurance.

The 4 files noted did not contain a copy of the required agent's certification of disclosure.

**22 Violations - Title 31, Pennsylvania Code, Section 83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use.

The 22 files noted did not contain the required Cost Surrender Comparison Index Disclosure.

**22 Violations - Title 31, Pennsylvania Code, Sections 83.55a and 83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent's certification of the surrender comparison index disclosure delivery was not evident in the 22 files noted.

#### **L. Individual Whole Life Policies Issued as Replacements**

The Company identified a universe of 9 individual whole life policies issued as replacements during the experience period. All 9 policy files were requested, received and reviewed. The files were reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

##### **2 Violations - Title 31, Pennsylvania Code, Section 81.6(a)(2)(ii)**

An insurer that uses an agent or broker in a life insurance or annuity sale shall, if replacement is involved: Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under subparagraph (I) and in the case of life insurance, the disclosure statement as required by § 83.3 (relating to disclosure statement) or ledger statement containing comparable policy data on the proposed life insurance. This written communication shall be made within 5 working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. The replacement letter to the replaced Company was not evident in the 2 files noted.

##### **1 Violation - Title 31, Pennsylvania Code, Section 83.55**

(a) The Surrender Comparison Index Disclosure shall be given as a separate document upon delivery of the policy or earlier if requested by the life insurance

applicant. If requested earlier, the index disclosure shall be provided as soon as reasonably possible.

(b) A disclosure that is minimally satisfactory to the Insurance Department is set forth in Appendix B. If the Appendix B disclosure will be used, a letter to that effect, prior to use, is adequate notification to the Department for review prior to use.

The file noted did not contain the required cost surrender comparison index disclosure.

**1 Violation - Title 31, Pennsylvania Code, Sections 83.55a and 83.55b**

a) The agent shall submit to the insurer a statement, signed by him, certifying that the surrender comparison index disclosure was given upon delivery of the policy or earlier at the request of the life insurance applicant.

b) The insurer shall maintain the agent's certification of surrender comparison index disclosure delivery in its appropriate files for at least 3 years or until the conclusion of the next succeeding regular examination by the insurance department of its domicile, whichever is later. The absence of the agent's certification from the appropriate files of the insurer shall constitute prima facie evidence that no surrender comparison index disclosure was provided to the prospective purchaser of life insurance.

The agent's certification of the surrender comparison index disclosure delivery was not evident in the file noted.

**1 Violation - Insurance Company Law, Section 409-A (40 P.S. §625-9)**

**Replacements With the Same Insurer or Insurer Group.**

When there is solicitation for the replacement of an existing insurance policy or annuity with the same insurer or insurer group, the insurer shall, through its producers where appropriate, provide a "Notice Regarding Replacement of Life

Insurance and Annuities” in the form set forth under Title 31, Pennsylvania Code, Chapter 81 (relating to replacement of life insurance and annuities). The file noted did not contain a copy of the required notice of replacement.

**2 Violations - Insurance Company Law, Section 410D(a)(2) (40 P.S. §510c)**

Individual fixed dollar life insurance or endowment policies which are offered as replacements for an existing life insurance policy or annuity contract with the same insurer or insurer group shall not be delivered in the Commonwealth of Pennsylvania unless they shall have prominently printed on the first page of such policy or attached thereto a notice stating in substance that the policyholder shall be permitted to return the policy within at least forty-five (45) days of its delivery. The 2 policy files noted did not contain the required 45-day "free look" statement.

**M. Individual Term Conversions**

The Company identified a universe of 10 individual term conversion policies issued during the experience period. All 10 policy files were requested, received and reviewed. The files were reviewed to determine compliance to issuance and underwriting statutes and regulations. The following violation was noted:

**1 Violation - Insurance Company Law, Section 404-A (40 P.S. §625-4)**

When the producer delivers the individual policy or annuity to the policyholder by hand, a delivery receipt shall be used. This receipt must be in at least a duplicate set and state the date the policy or annuity was received by the policyholder. The receipt date shall be the date on which the policyholder and producer sign the delivery receipt, and such date shall commence any applicable policy or annuity

examination period. Copies of the delivery receipt must be provided to the policyholder on the date of policy or annuity delivery and to the issuing insurer. When the individual policy or annuity is delivered by a means other than by hand delivery by the producer, the insurer shall establish appropriate means of verifying delivery by the producer of the policy or annuity and of establishing the date from which any applicable policy or examination period shall commence. Verification of the date of policy delivery could not be established in the file noted.

## **IX. INTERNAL AUDIT & COMPLIANCE PROCEDURES**

The Company was requested to provide copies of their internal audit and compliance procedures. The audits and procedures were reviewed to ensure compliance with Insurance Company Law, Section 405-A (40 P.S. §625-5). Section 405-A provides for the establishment and maintenance of internal audit and compliance procedures, which provides for the evaluation of compliance with all statutes and regulations dealing with sales methods, advertising, and filing and approval requirements for life insurance and annuities. The procedures shall also provide for the following:

- (1) Periodic reviews of consumer complaints in order to determine patterns of improper practices.
- (2) Regular reporting to senior officers and the board of directors or an appropriate committee thereof with respect to any significant findings.
- (3) The establishment of lines of communication, control and responsibility over the dissemination of advertising and promotional materials, including illustrations and illustration explanations, with the requirement that such materials shall not be used without the approval by company employees whose compensation, other than generally applicable company bonus or incentive plans, is not directly linked to marketing or sales.

No violations were noted.

## X. CLAIMS

The claims review consisted of a review of the Company's claim manuals and a review of the claim files. The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period. The Company provided the following:

1. Death Claim Worksheet
2. Initial Claim Procedures
3. Initial Annuity Claim
4. Guidelines For Denying An ADB Benefit In Claims
5. Guidelines For Denying A Claim Due To Suicide
6. What Does The Claims Department Do When A Claim Is Contestable?
7. Spouse Assumption Of Annuity Guidelines
8. Reversing Premium On A Flexible Premium Product (UL)
9. Initial Death Claim – Graded Policy Procedures
10. Guidelines – Mailing Death Claim Payouts With Explanation Of Settlement Letter
11. NGL Final Expense Trust Guidelines
12. Paying a Death Claim
13. Paying An Annuity
14. PHL – Accelerated Death Benefit
15. PHL – Denying An ADB Benefit
16. Preneed Claims Processing Guidelines
17. Preneed Claims Documentation Requirements
18. Counsel Trust Claims Procedures
19. Guidelines – Disability Income Claims
20. Guidelines – PHL Health Care Facility Expense Rider
21. Guidelines – Pregnancy and the Disability Claim
22. Claim Guidelines - Vision Claim Administration
23. Dental Claim Process
24. GroupLink-Dental Claims Manual
25. Waiver of Premium Process Guidelines

The claim manuals and procedures were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

The Claim file review consisted of 7 areas:

- A. Starmount Vision Claims
- B. Block Vision Claims
- C. GroupLink Dental Claims
- D. Disability Claims
- E. Life Claims
- F. Annuity Claims
- G. Waiver of Premium Claims

All claim files sampled were reviewed for compliance with requirements of the Unfair Insurance Practices Act, No. 205 (40 P.S. §1171) and Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices. The claims were additionally reviewed for compliance with Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b).

#### **A. Starmount Dental Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 862 Starmount dental claims. A random sample of 25 claims was requested, received and reviewed. The claims were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The provider submitted claims were also reviewed for compliance with the Quality Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims. The following violations were noted:

#### **1 Violation - Title 31, Pennsylvania Code, Section 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 claim file noted was missing pertinent data.

**1 Violation - Title 31, Pennsylvania Code, Section 146.5**

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. The Company failed to acknowledge the claim noted within 10 working days.

**1 Violation - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot 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 failed to provide a timely status letter for claim noted.

**1 Violation - Title 31, Pennsylvania Code, Section 146.7**

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. The Company failed to provide a notice of acceptance or denial within 15 working days for the claim noted.

**2 Violations - Quality Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims**

(A) A licensed insurer or a managed care plan shall pay a clean claim submitted by a health care provider within forty-five (45) days of receipt of the clean claim. The 2 clean claims noted were not paid within 45 days of receipt.

**B. Starmount Vision Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 94 Starmount vision claims. A random sample of 15 claim files was requested, received and reviewed. Of the claims received, 14 were provider submitted, and 1 was member submitted. The claims were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The claims submitted by the provider were also reviewed for compliance with the Quality Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims. The following violations were noted:

**1 Violation - Title 31, Pennsylvania Code, Section 146.5**

Every insurer, upon receiving notification of a claim, shall within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. The Company failed to acknowledge the claim noted within 10 working days.

**1 Violation - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot 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 failed to provide a timely status letter for the claim noted.

**1 Violation - Title 31, Pennsylvania Code, Section 146.7**

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. The Company failed to provide notice of acceptance or denial within 15 working days in the claim noted.

**1 Violation - Quality Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims**

(A) A licensed insurer or a managed care plan shall pay a clean claim submitted by a health care provider within forty-five (45) days of receipt of the clean claim. The clean claim noted was not paid within 45 days of receipt.

### **C. Block Vision Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 4 Block vision claims. All 4 claim files were requested, received and reviewed. The 4 claims were provider submitted. The files were reviewed for compliance with the Quality Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims. No violations were noted.

### **D. GroupLink Dental Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 9 GroupLink dental claims. All 9 claim files were requested, received and reviewed. All 9 claims were provider submitted. The claims were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146, and the Quality Health Care Accountability and Protection Act, No. 68, Section 2166 (40 P.S. §991.2166), Prompt Payment of Claims. No violations were noted.

### **E. Disability Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 505 disability claims. A random sample of 25 claim files was requested, received and reviewed. The files

were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. No violations were noted.

#### **F. Life Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified 1,064 individual life claims received. A random sample of 75 claim files was requested, received and reviewed. The files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146 and Insurance Company Law, Section 411B, Payment of Interest (40 P.S. §511b). No violations were noted.

#### **G. Annuity Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 435 annuity claims. A random sample of 25 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violation was noted:

##### **1 Violation - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot 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 failed to provide a timely status letter for the claim noted.

#### **H. Waiver of Premium Claims**

The Company was requested to provide a list of claims received during the experience period. The Company identified a universe of 505 waiver of premium claims. A random sample of 25 claims was requested, received and reviewed. The claim files were reviewed for compliance with Title 31, Pennsylvania Code, Chapter 146. The following violation was noted:

##### **1 Violation - Title 31, Pennsylvania Code, Section 146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot 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 failed to provide a timely status letter for the claim 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 violations, noted in the Report.

1. The Company must review and revise internal control procedures to ensure compliance with requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.
2. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of Section 404-A of the Insurance Company Law of 1921 (40 P.S. §625-4).
3. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. §510c) pertaining to the “Free Look” provision requirements for life insurance and endowment insurance.
4. The Company must implement internal control procedures to ensure compliance with replacement requirements of Section 409-A of the Insurance Company Law of 1921 (40 P.S. §625-9).
5. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Section 81.
6. The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.
7. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.
8. The Company must implement procedures to ensure compliance with requirements of Section 2166 of the Insurance Company Law of 1921 (40 P.S. §991.2166), relating to prompt payment of provider claims.

## XII. COMPANY RESPONSE



# NGL Insurance Group

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September 5, 2007

Mr. Daniel Stemcosky  
Market Conduct Division Chief  
Pennsylvania Insurance Department  
1321 Strawberry Square  
Harrisburg, PA 17120

Re: Report of Examination  
National Guardian Life Insurance Company  
Examination Warrant Number: 06-M26-023

Dear Mr. Stemcosky:

Thank you for the opportunity to provide your office with our response to the above-mentioned Market Conduct Examination report received by our office, dated August 10, 2007.

Attached please find your recommendations recited, followed by National Guardian Life Insurance Company (NGL)'s response.

NGL employs an experienced management team committed to compliance with laws and regulations. NGL strives to continually improve all areas of market conduct through improved procedures as well as stronger communication to achieve full compliance in all areas of the company.

Please feel free to contact me at (608) 443-5219 should you have any additional questions regarding the information submitted.

Sincerely,

A handwritten signature in cursive script that reads "Mathew J. Dew".

Mathew J. Dew  
Vice President and General Counsel  
National Guardian Life Insurance Company

Cc: Jerie Olson

## XII. COMPANY RESPONSE

1. The company must review and revise internal control procedures to ensure compliance with requirements of Title 31, Pennsylvania Code, Chapter 146, Unfair Claims Settlement Practices.

The examiners found one policy in which they believed the required timeframe was delayed by four days. Upon receipt of the original claim notification, correspondence was sent out within two days. The delay referred to was on the letter which was sent when no response to the original correspondence was received, which was sent four days late. NGL will amend its procedures as necessary to comply with the statutory requirements outlined in Section 146.6.

Examiners also found one instance in which a copy of a letter which was sent to the beneficiary was not included in the file. It was noted that NGL had an administrative problem where its imaging system failed to download records sent through on that particular day. NGL's administrative system, ID3, does support that the check was created on 9/1/2005 and the initial letter went out with that check. NGL was able to confirm that the imaging issue was isolated to that particular day only and not an indication of a flawed procedure.

NGL ensures that its third party administrators have the proper procedures in place to comply with the requirements of Title 31, Pennsylvania Code, Chapter 146.

2. The Company must implement procedures to ensure compliance with the policy delivery receipt requirements of Section 404A of the Insurance Company Law of 1921 (40 P.S. §625-4).

NGL's policy is to have delivery receipts signed and returned to our office where required. Part of this policy includes the insertion of a recall note in our administrative system so that we can perform the appropriate follow-up if the receipt has not been signed and returned. In the one case the examiners found this note was inadvertently missing and thus was not caught when the follow-up report was run. The appropriate supervisors have reviewed this policy with their staff to ensure this error is not repeated. In addition, NGL is conducting monthly audits to ensure that state requirements as well as internal procedures are being followed.

3. The Company must review internal control procedures to ensure compliance with Section 410D of the Insurance Company Law of 1921 (40 P.S. §510c) pertaining to the "Free Look" provision requirements for life insurance and endowment insurance.

At the time the policy in question was issued, NGL was operating under its understanding that transactions within the same company were exempt from replacement requirements and therefore believed it was not required to include the 45-day free-look language. NGL has since updated its procedures to take into

**account the changes outlined in Act 154. We would like to note that we no longer issue these types of policies and therefore the risk of error in the future is mitigated.**

4. The Company must implement internal control procedures to ensure compliance with replacement requirements of Section 409A of the Insurance Company Law of 1921 (40 P.S. §625-9).

**At the time the policies in question were issued, NGL was operating under section 81.3 which exempted replacements within the same company and therefore believed it was not required to obtain a replacement form. NGL has since updated its procedures to take into account the changes outlined in Act 154.**

5. The Company must review and revise internal control procedures to ensure compliance with the replacement requirements of Title 31, Pennsylvania Code, Section 81.

**NGL does have internal procedures in place which include the requirement to send notice to existing insurers when replacement is indicated on an application. In the two cases cited by the examiners NGL was unable to provide a copy of the notification. The appropriate supervisors have reviewed this policy with their staff to ensure this error is not repeated. In addition, NGL is conducting monthly audits to ensure that state requirements as well as internal procedures are being followed.**

6. The Company must implement procedures to ensure advertising certification requirements of Title 31, Pennsylvania Code, Chapter 51.

**While NGL provides an advertising certificate of Compliance in several states, NGL was not previously aware of this requirement in Pennsylvania. The annual filing checklist provided by Pennsylvania does not include this certification requirement as it does in other states. Our accounting department states that NGL had never received a request for this document in follow-up to its annual filings.**

**NGL has updated its annual filing checklists to include this certification, which was included with the 2006 annual filing.**

7. The Company must review internal control procedures to ensure compliance with disclosure requirements of Title 31, Pennsylvania Code, Chapter 83.

**The four violations cited regarding the disclosure notice involved NGL's Junior Protector Product. These are non-illustrated modified whole life benefit policies, which are issued on children and do not begin to accumulate any cash value until the age of 25 (and only if the insured chooses to keep the policy and pay the higher premium). Because these policies do not build cash value until age 25 and most are issued to individuals at very early issue ages there was some confusion as to whether the disclosure form was required when the majority of values reported would be zero. Through discussions as well as a 2006 internal audit conducted prior to our**

on-site examination, NGL realized that the disclosure form was applicable to these policies, and implemented the required disclosure form for this policy type. NGL has also added additional information to its delivery receipts to include the required agent certification language.

In regard to the Surrender Cost Index, NGL believed that the Statement of Cost and Benefit document provided with each policy met the statutory requirements of Chapter 83. Based on the examiners findings, NGL revised its surrender index comparison form to model the Department's Appendix B. A letter was filed with the Department and the form has been integrated into our policy production system for all applicable policy types since April 2007.

8. The Company must implement procedures to ensure compliance with requirements of Section 2166 of the Insurance Company Law of 1921 (40 P.S. §991.2166), relating to prompt payment of provider claims.

**NGL ensures that its third party administrators have the proper procedures in place to comply with the requirements of Section 2166 of the Insurance Company Law of 1921 (40 P.S. §991.2166).**