

**FILED**

MAY 29 2020

INSURANCE REGULATION  
Docketed by:       



**OFFICE OF INSURANCE REGULATION**

**DAVID ALTMAIER**  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 263748-20-CO

**AZGUARD INSURANCE COMPANY**  
Application to Become an Eligible Surplus Lines Insurer

**CONSENT ORDER**

THIS CAUSE came on for consideration upon the filing of an application by AZGUARD INSURANCE COMPANY ("APPLICANT") with the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE") for eligibility as a surplus lines insurer, pursuant to Sections 626.915 and 626.918, Florida Statutes ("Application"). Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and the parties herein.
2. APPLICANT has applied for and, subject to the present and continuing satisfaction of the requirements, terms, and conditions established herein, has satisfactorily met all of the conditions precedent to be an eligible surplus lines insurer in Florida, pursuant to the requirements set forth in the Florida Insurance Code.
3. APPLICANT is a licensed stock property and casualty insurer that is domiciled in the state of Nebraska. APPLICANT is 100% owned by WestGUARD Insurance Company, a Pennsylvania-domiciled insurer, which is 100% owned by National Indemnity Company, a Nebraska-domiciled insurer, which is 100% owned by Berkshire Hathaway, Inc., a Delaware

corporation whose stock is publicly traded on the New York Stock Exchange under the ticker symbol "BRK", and is owned 15.9% by Warren Buffett, with no other 10% or greater shareholders.

4. APPLICANT has made material representations that none of its officers, directors, or 10% or greater shareholders have been found guilty of, or have pleaded guilty or nolo contendere to, a felony or a misdemeanor, other than a civil traffic offense.

5. APPLICANT shall submit, or cause to be submitted to the OFFICE, background information for Warren Buffett and Matthew O'Connor including, if applicable, Biographical Affidavit, supplemental information, third-party verification report produced by an approved vendor, and fingerprint cards, within 90 days of execution of this Consent Order.

6. APPLICANT represents that, except as noted in paragraph 5 above, it has submitted complete background information on each of the individuals referenced in paragraph 4 above. If said information has not been provided to the OFFICE within 90 days of execution of this Consent Order, or if the sources utilized by the OFFICE in its investigation process reveal that the representations made in paragraph 4 above are inaccurate, said entity shall, within 30 days of receipt of notification from the OFFICE, undertake such remedial actions with regard to the individual at issue as directed by the OFFICE. Such actions may include removing the individual as officer or director of said entity and replacing them with a person or persons acceptable to the OFFICE, as well as the entity requiring that the individual 10% or greater shareholder divest their ownership to below 10%.

7. If, upon receipt of such notification from the OFFICE, pursuant to paragraph 6 above, APPLICANT does not timely take the required corrective action, APPLICANT agrees that such failure to act would constitute an immediate serious danger to the public and the OFFICE may immediately withdraw APPLICANT's surplus lines eligibility in this state, or take other

administrative action as the OFFICE deems appropriate without further proceedings, pursuant to Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

8. The OFFICE has relied upon the representations in the Plan of Operation and supporting documents that APPLICANT has submitted with its Application. Written approval must be secured from the OFFICE prior to any material deviation from said Plan of Operation.

9. Pursuant to Section 626.918(2)(c)1.a., Florida Statutes, APPLICANT must have and maintain surplus as to policyholders of not less than \$15,000,000 U.S. Dollars. Any such surplus as to policyholders shall be represented by investments consisting of eligible investments under Part II of Chapter 625, Florida Statutes. On the basis of this requirement, APPLICANT shall comply with the requirements for admitted assets and investments contained in Part I and Part II of Chapter 625, Florida Statutes. In order to allow the OFFICE to verify that APPLICANT is in compliance with the provisions of Section 626.918(2)(c)1.a., Florida Statutes, APPLICANT shall file all financial reports with the OFFICE, via the National Association of Insurance Commissioners' electronic filing system, as required of authorized insurers, pursuant to Section 624.424, Florida Statutes. Further, non-qualifying assets or investments in excess of the limitations shall be non-admitted by the OFFICE, and APPLICANT's surplus as to policyholders adjusted accordingly.

10. APPLICANT may write all lines of property and casualty insurance for which APPLICANT is eligible, excluding health, pursuant to the surplus lines provisions in Sections 626.913 through 626.937, Florida Statutes, all other applicable provisions of the Florida Insurance Code, and Rules relating to such lines of business as set forth in the Florida Administrative Code. APPLICANT shall exercise oversight to ensure that any coverage written in Florida is exportable, pursuant to Sections 626.916 and 626.917, Florida Statutes. APPLICANT shall not write any kind

or kinds of insurance in this state for which it is not then currently authorized in its state of domicile.

11. APPLICANT affirms that all information, explanations, representations, statements, and documents provided to the OFFICE in connection with this Application, including all attachments and supplements thereto, are true and correct and fully describe all transactions, agreements, ownership structures, understandings, and control with regard to the current and future operations of APPLICANT. APPLICANT further agrees and affirms that said information, explanations, representations, statements, and documents, including all attachments thereto, are material to the issuance of this Consent Order and have been relied upon by the OFFICE in its determination to enter into this Consent Order.

12. APPLICANT shall report to the OFFICE, Property and Casualty Financial Oversight, any time that it is named as a party defendant in a class action lawsuit within 15 days after the class is certified. APPLICANT shall include a copy of the complaint at the time it reports the class action lawsuit to the OFFICE.

13. APPLICANT shall maintain an information security program for the security and protection of confidential and proprietary information under its control that complies with all applicable laws and regulations regarding information security. APPLICANT agrees that it shall continually monitor and enhance its information security program in order to mitigate data security breaches. APPLICANT further agrees that it shall notify the OFFICE within 5 business days of identifying a data breach.

14. Executive Order 13224 prohibits any transactions by U.S. persons involving the blocked assets and interests of terrorists and terrorist support organizations. APPLICANT shall maintain and adhere to procedures necessary to detect and prevent prohibited transactions with

those individuals and entities, which have been identified at the Treasury Department's Office of Foreign Assets Control website, <http://www.treas.gov/ofac>.

15. Within 60 days from the date of the execution of this Consent Order, APPLICANT shall submit, or cause to be submitted, to the OFFICE a certification evidencing compliance with all of the requirements of this Consent Order. Any exceptions shall be so noted and contained in the certification. Exceptions noted in the certification shall also include a timeline defining when the outstanding requirements of the Consent Order will be complete. Said certification shall be submitted to the OFFICE via electronic mail and directed to the attention of the Assistant General Counsel representing the OFFICE in this matter and as named in this Consent Order.

16. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OFFICE. Such written approval by the OFFICE is subject to statutory or administrative regulation limitations.

17. APPLICANT expressly waives a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings herein to which it may be entitled by law or rules of the OFFICE. APPLICANT hereby knowingly and voluntarily waives all rights to challenge or to contest this Consent Order in any forum available to them, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

18. APPLICANT affirms that all requirements set forth herein are material to the issuance of this Consent Order.

19. APPLICANT agrees that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result in the OFFICE immediately withdrawing APPLICANT's surplus lines eligibility in this state, or taking other administrative

action as the OFFICE deems appropriate without further proceedings, pursuant to Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

20. Each party to this action shall bear its own costs and fees.

21. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the signature of the authorized representative of APPLICANT, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically. Further, APPLICANT agrees that the signature of their authorized representative as affixed to this Consent Order shall be under the seal of a Notary Public.

WHEREFORE, the agreement between AZGUARD INSURANCE COMPANY and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED, and the Application of AZGUARD INSURANCE COMPANY for eligibility as a surplus lines insurer in the state of Florida is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 29 day of May, 2020.



*David Altmaier*

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David Altmaier, Commissioner  
Office of Insurance Regulation

By execution hereof, AZGUARD INSURANCE COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he or she has the authority to bind AZGUARD INSURANCE COMPANY to the terms and conditions of this Consent Order.

AZGUARD INSURANCE COMPANY

By: Sy Foguel

Print Name: Sy Foguel

Title: CEO & President

Date: 5/27/2020

[Corporate Seal]

STATE OF Pennsylvania  
COUNTY OF Luzerne

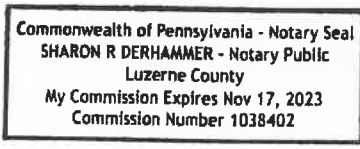
The foregoing instrument was acknowledged before me by means of  physical presence

or  online notarization. this 27 day of May 2020, by Sy Foguel  
(name of person)

as President + CEO for Azguard Insurance Company  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

Sharon R. Derhammer  
(Signature of the Notary)

Sharon R. Derhammer  
(Print, Type or Stamp Commissioned Name of Notary)



Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

My Commission Expires 11/17/2023

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