

**[IN ACCORDANCE WITH CALIFORNIA INSURANCE CODE (CIC) SECTION 12938,
THIS REPORT WILL BE MADE PUBLIC AND PUBLISHED ON THE
CALIFORNIA DEPARTMENT OF INSURANCE (CDI) WEBSITE]**

**WEBSITE PUBLISHED REPORT OF THE
MARKET CONDUCT EXAMINATION OF THE
CLAIMS HANDLING, RATING, AND UNDERWRITING PRACTICES OF**

**GUGGENHEIM LIFE AND ANNUITY COMPANY
NAIC # 83607 CDI # 5664-8**

AS OF DECEMBER 31, 2014

ADOPTED MAY 4, 2015

STATE OF CALIFORNIA



**CALIFORNIA DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION**

NOTICE

The provisions of Section 735.5(a) (b) and (c) of the California Insurance Code (CIC) describe the Commissioner's authority and exercise of discretion in the use and/or publication of any final or preliminary examination report or other associated documents. The following examination report is a report that is made public pursuant to California Insurance Code Section 12938(b)(1) which requires the publication of every adopted report on an examination of unfair or deceptive practices in the business of insurance as defined in Section 790.03 that is adopted as filed, or as modified or corrected, by the Commissioner pursuant to Section 734.1.

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DEPARTMENT OF INSURANCE

Market Conduct Division
300 Capitol Mall
Sacramento, CA 95814



May 4, 2015

The Honorable Dave Jones
Insurance Commissioner
State of California
300 Capitol Mall
Sacramento, California 95814

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under the California Insurance Code Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04; and California Code of Regulations Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a), a limited examination was made of the claims handling, rating, and underwriting practices and procedures in California of:

Guggenheim Life and Annuity Company
NAIC # 83607
Group NAIC # 0431

Hereinafter, the Company listed above also will be referred to as GLAC or the Company.

This report is made available for public inspection and is published on the California Department of Insurance website (www.insurance.ca.gov) pursuant to California Insurance Code section 12938(b)(1).

FOREWORD

This limited desk examination covered the claims handling, rating, and underwriting practices of the aforementioned Company's Annuities during the period January 1, 2014 through December 31, 2014. The limited examination was made to discover, in general, if these and other operating procedures of the Company conform to the contractual obligations in the policy forms, the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law.

This report pertains to Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. A separate report pertains to laws other than Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

The report does not present a comprehensive overview of the subject insurer's practices. The report contains a summary of pertinent information about the lines of business examined, details of the non-compliant or problematic activities that were discovered during the course of the examination and the insurer's proposals for correcting the deficiencies. When identified violations result in payments by the Company to policyholders or claimants, those amounts paid are identified as recoveries in this report. All unacceptable or non-compliant activities may not have been discovered. Failure to identify, comment upon or criticize non-compliant practices in this state or other jurisdictions does not constitute acceptance of such practices.

Alleged violations identified in this report, any criticisms of practices and the Company's responses, if any, have not undergone a formal administrative or judicial process.

SCOPE OF THE EXAMINATION

To accomplish the foregoing, the examination included:

1. A review of specified guidelines, procedures, and forms adopted by the Company for use in California.
2. A review of the California Department of Insurance's (CDI) market analysis results; a review of consumer complaints and inquiries about this Company closed by the CDI during the period January 1, 2014 through December 31, 2014; a review of reports on the previous CDI market conduct examination of this Company; and a review of prior CDI enforcement actions.

This limited examination was conducted at the offices of the California Department of Insurance in Los Angeles, California.

EXECUTIVE SUMMARY

This desk examination was limited in scope to market analysis information, including California consumer complaint information, to national enforcement activity and to information provided by the Company in response to the Department's data request. There was no review of underwriting or claims files during this examination.

The primary findings resulting in alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al., that were identified in the course of the examination include failure to include the California fraud warning on insurance forms and the failure to specify the rate of interest paid on death benefits.

Guggenheim Life and Annuity Company reported \$46,620,273 in written premiums in the Annuity line of business in California during 2014. The Company closed 137 Annuity claims during 2014.

RESULTS OF REVIEWS OF MARKET ANALYSIS, CONSUMER COMPLAINTS AND INQUIRIES, PREVIOUS EXAMINATIONS, AND PRIOR ENFORCEMENT ACTIONS

The market analysis review and the review of consumer complaints identified not specific area of concern.

This Company has not previously been the subject of a market conduct examination conducted by the Department, or the subject of an enforcement action.

DETAILS OF THE CURRENT EXAMINATION

The following tables summarize the Company’s responses, within the scope of this report, to the Department’s data request and the alleged violations under Section 790.03 and title 10, California Code of Regulations, Section 2695 et al., that resulted from the review of that data. All “NO” answers in the Areas of Review table are addressed in the Summary of Examination Results section of this report. A summary of each of the laws cited due to a “NO” answer is provided in the Cited Statutes and Regulations table.

AREAS OF REVIEW		
SPECIFIC ISSUE REVIEWED	INDICATION OF COMPLIANCE (YES/NO)	SUMMARY OF RESULTS ITEM NUMBER
Certification of claims training by a principal – CCR §2695.6(b) [CIC §790.03(h)(3)]	YES	--
Copy of written standards for claims – CCR §2695.6(a) [CIC §790.03(h)(3)]	YES	--
Compliance with Special Investigative Unit Regulations – CIC §1875.20 and CCR §§2698.30-2698.43 [CIC §790.03(h)(3)]	YES	--
Compliance of letters and forms – CIC §1879.2(a) [CIC §790.03(h)(3)]	NO	1
Compliance with requirements for acknowledgement of claims CCR §2695.5(e)(1) [CIC §790.03(h)(2)]	YES	–
Compliance with requirements for reasonable assistance- CCR §2695.5(e)(2) [CIC §790.03(h)(3)]	YES	–
Compliance with requirement to pay statutory interest from date of death for claims on contracts with a situs of California - CIC §10172.5(a) [CIC §790.03(h)(5)]	YES	–
Compliance with requirements to disclose statutory rate of interest – CIC §10172.5(c) [CIC §790.03(h)(3)]	NO	2

Compliance with requirement to explain settlement options – CCR §2695.4(a) [CIC §790.03(h)(1)]	YES	--
Compliance with required disclosure when a retained asset account is a settlement option – CIC §10170(f) [CIC §790.03(h)(1)]	N/A	--
Compliance with required written disclosures prior to establishment of retained asset account – CIC §10509.937 [CIC §790.03(h)(1)]	N/A	--
Compliance with providing supplemental contract when life insurance benefits are provided through a retained asset account – CIC §10509.935 [CIC §790.03(h)(1)]	N/A	–
Compliance with statements for retained asset accounts – CIC §10509.936 [CIC §790.03(h)(1)]	N/A	–
Compliance with requirement to reference a CDI review on denial letters – CCR §2695.7(b)(3) [CIC §790.03(h)(3)]	N/A	--

*N/A – Not applicable; the Company indicates that this law is not relevant to its particular claims handling, rating or underwriting practice.

CITED STATUTES AND REGULATIONS	
Citation	Description
CIC §1871.2(a) *[CIC §790.03(h)(3)]	The Company failed to include the California fraud warning on insurance forms.
CIC §10172.5(c) *[CIC§790.03(h)(3)]	The Company failed to notify the beneficiary of the specified rate of interest paid on the death benefit.

***DESCRIPTONS OF APPLICABLE
UNFAIR CLAIMS SETTLEMENT PRACTICES**

CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.
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SUMMARY OF EXAMINATION RESULTS

The following is a brief summary of the practices, within the scope of this report, that were alleged to be non-compliant during the course of this limited examination. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

In response to each of the Department's allegations of non-compliance, the Company was required to identify remedial or corrective action that has been or will be taken to correct the deficiency. The Company is obligated to ensure that compliance is achieved and maintained.

Any noncompliant practices identified in this report may extend to other jurisdictions. The Company was asked if it intends to take appropriate corrective action in all jurisdictions where applicable. The Company indicates that it will implement the corrective actions in all jurisdictions

Within the scope of this report, there were no claims recoveries or return premium as a result of the issues described in this report.

ANNUITY

1. GLAC reports that it does not include the required California fraud warning on claim forms sent to beneficiaries on annuity contracts. The Department alleges this act is in violation of CIC §1871.2(a) and is an unfair practice under CIC §790.03(h)(3).

Summary of Company Response: GLAC believes the fraud warning on its claim forms is in substantial compliance with the requirements contemplated by the statute. However, the Company reported to the Department that it will revise its claim forms to provide the statutory California fraud warning.

2. GLAC does not specify the interest rate used in its Explanation of Payment (EOP) settlement letters sent to beneficiaries and claimants on annuity contracts for death benefits. The Department alleges this act is in violation of CIC§10172.5(c) and is an unfair practice under CIC §790.03(h)(3).

Summary of the Company's Response: The Company reported to the Department that it will amend its EOP settlement letters to include the rate of interest on the settlement of annuity death benefits when applicable.