

SEP 28 2017

At 2:18 p M.
Velva L. Price, District Clerk

CAUSE NO. D-1-GV-08-000945

THE STATE OF TEXAS,
Plaintiff,

v.

MEMORIAL SERVICE LIFE
INSURANCE COMPANY, LINCOLN
MEMORIAL LIFE INSURANCE
COMPANY, AND NATIONAL
PREARRANGED SERVICES, INC.,
Defendants,

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

250th JUDICIAL DISTRICT

**ORDER APPROVING JOINT APPLICATION FOR
APPROVAL OF ASSUMPTION REINSURANCE AGREEMENT
REGARDING COVERED OBLIGATIONS UNDER THE LIQUIDATION PLAN
AND CERTAIN RELATED PREPAID FUNERAL CONTRACTS**

On the undersigned date, the Court considered the *Joint Application for Approval of Assumption Reinsurance Agreement Regarding Covered Obligations under the Liquidation Plan and Certain Related Prepaid Funeral Contracts* (the "Application") filed by Jo Ann Howard & Associates, P.C., Special Deputy Receiver of Memorial Service Life Insurance Company, Lincoln Memorial Life Insurance Company, and National Prearranged Services, Inc. (the "SDR" and "Lincoln," "Memorial," and "NPS" respectively) and the National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA"). Having considered the Application, the Court finds as follows:

1. The *Amended Order of Reference to Master* ("Order of Reference") entered by this Court provides that applications filed pursuant to TEX. INS. CODE § 443.154(y) are referred to the Special Master appointed in this proceeding;

2. The Application was submitted to the Special Master in accordance with the Order of Reference;

ORDER GRANTING JOINT APPLICATION

I, VELVA L. PRICE, District Clerk,
Travis County, Texas, do hereby certify that this is
a true and correct copy as same appears of
record in my office. Witness my hand and seal of
office on 9/28/2017



VELVA L. PRICE
DISTRICT CLERK
By Deputy: *[Signature]*



3. Notice of the Application was provided in accordance with TEX. INS. CODE § 443.007(d) and the Order of Reference, and no objections to the Application were filed;

4. The Texas Life & Health Insurance Guaranty Association ("TLHIGA") filed its acknowledgement and waiver;

5. No objections were filed to the Application;

6. The Special Master has issued a recommendation that the Application should be granted pursuant to Rule 171 of the Texas Rules of Civil Procedure;

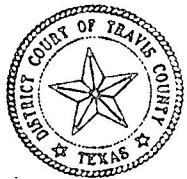
7. The Court has jurisdiction over the Application, the property and the parties affected hereunder; and

8. The Application should be GRANTED in all respects.

All terms used in this Order shall have the same meaning as used in the Application.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED as follows:

1. The Application is hereby GRANTED.
2. The SDR is authorized to execute the Assumption Reinsurance Agreement;
3. The SDR and NOLHGA are authorized to enter into other and further documents and take such steps as may be necessary to effectuate the transaction without further approval of the Court;
4. Subject to the satisfaction of the terms and conditions of the Agreement, the transaction is a legal, valid and effective assumption reinsurance of the Guaranty Associations' Covered Obligations under the Liquidation Plan;
5. The terms and conditions of the Agreement may be waived, modified, amended or supplemented by the written and signed agreement of NOLHGA, the SDR and the Assuming Insurers without further approval of the Court, provided that any waiver, modification, amendment or supplement is not material;
6. The Assigned Preneed Funeral Contracts are sold "as is, where is," without warranties or representation of any kind;
7. The Assigned Preneed Funeral Contracts are conveyed free and clear of all liens, claims, interests and encumbrances to Assuming Insurers under the terms and conditions of the Agreement;



8. By entry of this Order and the satisfaction of the terms and conditions of the Agreement, all liens, claims, interests and encumbrances on the Assigned Preneed Funeral Contracts, whether recorded or unrecorded, are declared extinguished as a matter of law;
9. Subject to the satisfaction of the terms and conditions of the Agreement, the assignment shall constitute a legal, valid and effective transfer of the Assigned Preneed Funeral Contracts notwithstanding any requirement of approval or consent by any person and shall vest Assuming Insurers with all right, title and interest of the SDR in and to the Assigned Preneed Funeral Contracts, free and clear of all encumbrances;
10. The SDR shall not be deemed to have assumed or rejected the Assigned Preneed Funeral Contracts in connection with the relief granted herein;
11. The SDR is authorized to transfer a copy of the electronic database maintained pre and post-receivership constituting the NPS business records related to the Assigned Preneed Funeral Contracts to Assuming Insurers;
12. In providing the Run-off Responsibilities, the Assuming Insurers shall not be required to pay growth, including but not limited to the difference between the amount of benefits under the Assigned Preneed Funeral Contracts and the amount of benefits for the Covered Obligations and Uncovered Obligations and no persons shall have a right or claim to any such amounts from Assuming Insurers;
13. The Assuming Insurers will continue to obtain Release, Subrogation, and Assignments as a condition for paying benefits, subject to and in accordance with the Agreement;
14. NOLHGA, the Guaranty Associations, the SDR and the Assuming Insurers are not obligated to pay commissions or any other amounts that are not otherwise expressly required in the Agreement;
15. Regardless of whether Assuming Insurers have successfully delivered a copy of the Assumption Certificate, under the circumstances, the insureds, owners and/or beneficiaries of the Covered Obligations transferred under the Agreement shall have direct rights for payment of benefits from Assuming Insurer the same as if an Assumption Certificate had been provided (and up to the amount of the Covered Obligation and Unfunded Obligation, if any);
16. Regardless of whether or to what extent, Assuming Insurer exercises its discretion and provides greater benefits based on its cost-benefit analysis under Section 4.4.2 of the Agreement, no third parties shall have rights, claims or entitlement to any benefits that would be greater than the Covered Obligations and the Unfunded Obligations;



17. This Order is not intended to and shall not create any third party beneficiaries;
18. Nothing in this Order or the Agreement purports to excuse Assuming Insurers from compliance with any and all applicable state and federal laws;
19. The Liquidation Order, the automatic stay, the Liquidation Plan, Service Agreement and Early Access Agreement and all other orders of this Court remain in full force and effect except as otherwise expressly specified in this Order;
20. NOLHGA, the Participating Associations, the SDR, LML and NPS do not assign and the Assuming Insurers do not assume or succeed to claims, causes of action or defenses of NOLHGA, the Participating Associations, the SDR, LML, or NPS that have been made or could be made in litigation, including but not limited to those asserted in Case No. 09-CV-1252-ERW, styled *Jo Ann Howard & Associates, P.C. et al v. PNC Bank, N.A. et al* formerly pending in the United States Eastern District Court of Missouri, Eastern Division, and now on appeal in Case No. 15-3872, in the United States Court of Appeals for the Eighth Circuit and any recovery of and/or rights to restitution and/or forfeiture awarded to the SDR arising out of any criminal proceedings against James Douglas Cassity, Brent Cassity, Howard Wittner, Randall Sutton, David Wulf, and Nekol Province;
21. Nothing in this Order or any related proceeding or filing shall affect, in any way the Receiver's, the SDR's, NOLHGA's, and the Guaranty Associations' immunities from suit and shall not give rise to any right to sue or create any causes of action against the Receiver, the SDR, NOLHGA and the Guaranty Associations;
22. The Assuming Insurers are assuming only those obligations specified in the Agreement and that neither Assuming Insurers, nor any of their officers, directors, employees, agents, third party administrators, or representatives shall be responsible for any action or failure to act of LML, NPS, the SDR, NOLHGA or the Guaranty Associations, or any of their officers, directors, employees, agent or other representatives; and
23. This Order constitutes a final judgment fully resolving all issues relating to the Application, provided that this Court shall retain jurisdiction to issue further orders pursuant to TEX. INS. CODE CHAPTERS 443 AND 463, including but not limited to this Court retaining sole and exclusive jurisdiction to resolve any and all disputes related to the Agreement.

SIGNED this 28th day of September, 2017.

PROPER NOTICE GIVEN
NO OBJECTION FILED.
SUBMITTED
RECOMMENDED
SIGNED ON 27th DAY OF Sept., 2017

TOM COLLINS
TOM COLLINS, RECEIVERSHIP SPECIAL MASTER

Judge
JUDGE PRESIDING

T M SOLAR

