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FILED

APR 11 1991
JAMES H. DEMPSEY, CLERK

L. Rivas
BY L. RIVAS, DEPUTY
LR

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BS006912

INSURANCE COMMISSIONER OF)	Case No.
THE STATE OF CALIFORNIA,)	
)	ORDER APPOINTING CONSERVATOR,
Applicant,)	ESTABLISHMENT OF PROCEDURES,
)	ISSUANCE OF INJUNCTIONS AND
v.)	RELATED ORDERS
)	
EXECUTIVE LIFE INSURANCE)	
COMPANY, a California)	
Corporation, and DOES 1)	
THROUGH 1000,)	
Respondents)	

The verified Application for Order of Conservation of Respondent, Executive Life Insurance Company ("ELIC") came on regularly for hearing on APR 11 1991 1991 in Department 67 at 9:00 a.m., the Honorable KURT J. LEWIN, judge presiding. Applicant appeared by his above-captioned counsel and Respondent appeared by its counsel, and the Court, having considered the said Application, the circumstances of the Respondent, the applicable law and the arguments of counsel has found that the condition of Respondent is such that the further transaction of its business outside of a conservation proceeding would be

1 hazardous to its policyholders, creditors and to the public and,
2 therefore

3 IT IS HEREBY ORDERED THAT:

4 1. - The Insurance Commissioner of the State of California
5 is, in his official capacity and pursuant to the provisions of
6 the California Insurance Code, hereby appointed Conservator of
7 Respondent, Executive Life Insurance Company, and he and his
8 successors in office are hereby vested with all title, both legal
9 and equitable to all of Respondent's assets, books, records,
10 property, real and personal, including all property or ownership
11 rights, choate or inchoate, whether legal or equitable of any
12 kind or nature, wherever situated and however held, including but
13 not limited to all letters of credit relating to the Respondent
14 or its business, all stocks, bonds, certificates of deposit,
15 cash, cash equivalents, contract rights, reinsurance contracts
16 and reinsurance recoverables, in force insurance contracts and
17 business, deeds, mortgages, leases, book entry deposits, bank
18 deposits, certificates of deposit, evidences of indebtedness,
19 bank accounts, securities of any kind or nature,
20 both tangible and intangible and, without limitation, all of the
21 property listed in Exhibit "A" hereto which is hereby
22 incorporated herein. All of the above-described items, property
23 and assets are hereinafter collectively called the "Property."
24 In addition to vesting title to all such Property in the
25 Commissioner or his successors (hereinafter jointly called
26 "Conservator"), the said Property is hereby placed in the
27 *custodia legis* of this Court and this Court hereby assumes and
28 exercises sole and exclusive jurisdiction over all the Property

1 and any claims or rights respecting such Property to the
2 exclusion of any other court or tribunal, such exercise of sole
3 and exclusive jurisdiction being hereby found to be essential to
4 the safety of the public and of the policyholders and other
5 creditors of Respondent.

6 2. The Conservator is hereby authorized to take possession
7 of or order the disposition of any of the said Property, and to
8 conduct the business of Respondent, or so much thereof as he may
9 deem appropriate, and to act in all ways and exercise all powers
10 necessary or convenient for the purpose of carrying out this
11 Order. Further, the Conservator is authorized to appoint such
12 agents, deputies, attorneys, accountants, actuaries or other
13 assistants or consultants as he may deem appropriate to assist
14 him in carrying out his duties hereunder;

15 3. It being found that it is essential to the safety of
16 the public and is in the best interest of the shareholders,
17 policyholders and other creditors of Respondent and to the
18 orderly administration of these proceedings, Respondent and its
19 officers,¹ directors,² shareholders,³ attorneys and attorneys-

21 ¹ The term "officers" as used throughout this order shall include, but not
22 be limited to, the following individuals: Fred Carr, William Jack Adams, William
23 Louis Sanders, Chong Ping Chan, Steven William Turner, William Carrolton Adams,
24 Allan Leslie Chapman, Raul Apolinario Cruz, Robert Leonard Feigenbaum, Merle
Arthur Horst, George Rodney John Letts, Douglas Frank Marcian, and Gary Richard
Schulte.

25 ² The term "director" as used herein shall, without limitation, include
26 the following: Fred Carr, Robert Leonard Feigenbaum, William Louis Sanders,
27 William Carrolton Adams, Albert Gustave Handschumacher, Gray Richard Schulte,
Allan Leslie Chapman, Merle Arthur Horst, Alan Carthart Snyder, Raul Apolinario
Cruz, and George Rodney John Letts.

28 ³ The term "shareholder" as used herein shall, without limitation, include:
First Executive Corporation, a Delaware corporation.

1 at-law,⁴ agents, affiliates, subsidiaries, reinsurers, brokers,
2 third-party administrators, servants and employees and all other
3 persons, agencies, associations and entities are hereby enjoined
4 and restrained from:

5 a. transacting any of the business of Respondent or the
6 disposition of any of the Property except in accordance with
7 the written instructions of the Conservator until further
8 order of this Court;

9 b. interfering with the acquisition of possession by or
10 the exercise of dominion and control over the Property by
11 the Conservator, with the jurisdiction of this Court, or
12 with these proceedings;

13 c. the sale, hypothecation, mortgaging, waste, conveyance,
14 or dissipation, of the Property or the assertion of dominion
15 or control over the Property other than as permitted by
16 prior orders of this Court;

17 d. the seeking or obtaining of any preferences of any kind
18 or nature, the obtaining of any judgments, foreclosures,
19 attachments, levies or liens of any kind or nature, the
20 exercise of any powers of sale or any rights of set-off,
21 rescission or the like against respondent or the Property
22 except pursuant to the prior orders of this Court, this
23 Court having exercised its exclusive jurisdiction with
24

25
26 ⁴ The terms "attorneys" or "attorneys-at-law" as used herein include,
27 without limitation, the following law firms: Barger & Wolen; Bass & Dysart;
28 Coudert Brothers; Dykema Gossett; Fulbright & Jaworski; Hufstedler, Kaus &
Beardsley; Kennedy, Holland, Delacy & Svoboda; Latham & Watkins; Leboeuf, Lamb,
Leiby & MacRae; Munger, Tolles & Olson; Steptoe & Johnson; Stutman, Treister &
Glatt; and Williams & Jensen.

1 respect to the Property and any claims and rights asserted
2 with respect to it;

3 e. the filing, commencement or prosecution of any new
4 suits, arbitration proceedings, mediations, alternate
5 dispute resolutions or demands or claims or the continued
6 prosecution of any pending suits, arbitration proceedings,
7 mediations, alternate dispute resolutions or claims with
8 respect to Respondent or the Property other than in this
9 proceeding before this Court unless the prior approval of
10 this Court has been granted upon good cause shown; and

11 f. from interfering with the possession, title and rights
12 of the Commissioner, as Conservator, in and to the assets of
13 Respondent, and from interfering with the Conservator in the
14 conducting of the business of Respondent, and

15 g. institution of suits to collect any of the Property or
16 institution of suits which purport to assert derivative
17 rights on behalf of respondent.

18 5. A moratorium is hereby imposed upon all policy loans,
19 and payment of cash surrender values, surrenders, funds
20 transfers, lapses, cash-outs, conversions or options and upon the
21 payment of any benefits or periodic payments of any kind, pending
22 the further order of this Court. These moratoria shall take
23 effect immediately so that any checks or other payments which
24 have, as of the date of this order, been actually mailed or
25 actually made to Contract-holders will, provided same are
26 otherwise proper and in compliance with relevant law, be honored;
27 any checks not actually mailed or payments not actually made
28 shall be subjected to the moratoria as will all other payments,

1 policy-loans, and other benefit payments of any kind. It is
2 further provided, however, that the Conservator may, upon being
3 satisfied that an individual contract holder who would otherwise
4 be permitted to obtain cash pursuant to the terms of his or her
5 contract, shall upon a demonstration to the Conservator of a
6 circumstance of extreme hardship be permitted to obtain payments
7 in accordance with his or her contract in an aggregate amount not
8 to exceed \$30,000. In this regard a circumstance of extreme
9 hardship shall be deemed to exist only when two or more of the
10 following facts and circumstances are established to the
11 satisfaction of the Conservator by adequate documentation upon a
12 sworn or other verified affidavit from or on behalf of the
13 contract-holder:

- 14 a) terminal illness or permanent disability;
15 b) substantial incurred medical expenses not covered by
16 medical insurance;
17 c) financial difficulties resulting in inability to pay
18 for essential life support needs such as food and shelter;
19 or
20 d) imminent removal from a hospital, nursing home or other
21 medical care facility.

22 Adequate documentation includes, as appropriate, letters
23 from banks, physicians, creditors, attorneys or accountants, or
24 checking and savings account statements attached to such sworn or
25 other verified affidavit. The Conservator is further authorized,
26 in his discretion, to require as to any contract-holder seeking
27 payments under this hardship provision to require such other
28 evidence or to impose such other conditions upon approval of such

1 payment as he, in his sound discretion, may deem appropriate.
2 Further, the Conservator is hereby authorized to advance such
3 lesser amounts than the said \$30,000 as he, in his sound
4 discretion, shall deem appropriate. Any sums obtained pursuant
5 to this hardship provision shall be taken into account when
6 determining the benefits to which the contract-holder may be
7 entitled under any further distributions of the assets of ELIC.

8 6. All officers, directors, attorneys, attorneys-at-law,
9 agents, solicitors, brokers, third-party administrators, servants
10 and employees of Respondent are hereby ordered immediately to
11 deliver, at his request, to said Conservator all assets, books,
12 records, files, legal files, documents, equipment and other
13 property of Respondent which is in their possession or subject to
14 their control and to provide to the Conservator, upon demand, a
15 full accounting as to all of such items and other property which
16 is or has been in their possession or subject to their control;

17 7. All banks⁵, savings and loan associations, thrift
18 associations, depositories, custodians, sub-custodians, brokerage
19 organizations, and any other entity holding any of the funds or
20 securities or any other of the Property are, in addition to being
21 subject to the foregoing orders, expressly ordered to not permit
22 any withdrawal, offset, transfer or any other disposition of same
23 except upon the prior written instructions of the Conservator or
24 order of this Court. Security Pacific National Bank, which is
25

26 ⁵ The term "banks" as used herein shall include, without limitation,
27 Security Pacific Bank, First Interstate Bank, State Street Bank, City National
28 Bank, Connecticut National Bank, Texas Commerce Bank, Imperial Bank, Bank Of
America, Puget Sound Bank, Valley Bank Of Nevada, Southeast Bank, NCNB National
Bank, and Merchants' National Bank.

1 one of the principal banks of Respondent, and the other banks
2 listed in footnote 5 are expressly so instructed and enjoined,
3 but the failure to expressly name any other bank or institution
4 shall not limit the general application of the injunctions
5 contained herein which are intended to have universal and general
6 application.

7
8 8. Said Conservator is hereby authorized to initiate such
9 equitable or legal actions or proceedings in this or other
10 states, and may obtain the assistance of such peace officers,
11 attorneys, consultants and other assistance as the Conservator
12 may deem appropriate to assist him, all as may appear to him
13 necessary to carry out his functions as Conservator. The
14 Conservator and all Deputies, Special Deputies, Attorneys,
15 Accountants, Peace Officers and other consultants are deemed to
16 be public officers acting in their official capacities on behalf
17 of the state and shall have no personal liability for or arising
18 out of their acts or omissions performed in good faith in
19 connection with their services performed in connection with these
20 or related proceedings or pursuant to this or related orders.

21 9. No judgment, order, attachment, garnishment sale,
22 assignment, transfer, hypothecation, lien, security interest or
23 other legal process of any kind with respect to or affecting the
24 Respondent or the Property shall be effective or enforceable or
25 form the basis for a claim against Respondent or the Property
26 unless entered by this Court or unless this Court has issued its
27 specific order, upon good cause shown and after due notice and
28 hearing, permitting same.

10. All costs, expenses, fees or any other charges

1 of the Conservation, including but not limited to fees and
2 expenses of accountants, peace officers, actuaries, attorneys,
3 special deputies, and other assistants employed by the
4 Conservator, the giving of the Notice required herein, and other
5 expenses incurred in connection herewith shall be paid from the
6 assets of Respondent. Provided, further, that the Conservator
7 may, in his sole discretion, require third parties, if any, who
8 propose rehabilitation plans with respect to Respondent to
9 reimburse the estate of Respondent for the expenses, consulting
10 or attorney's fees and other costs of evaluating and/or
11 implementing any such plan. The Conservator is hereby authorized
12 to employ and set the compensation of, such accountants,
13 actuaries, attorneys, special deputies and other assistants as he
14 may deem necessary to assist him in carrying out his duties and
15 authority as Conservator.

16 11. This is clearly a complex matter and involves the vital
17 public interest of the State of California. It is imperative
18 that streamlined procedures be implemented in order to permit the
19 Conservator to proceed with the kind of dispatch that the
20 situation and the modern fast-paced business environment require.
21 It is therefore appropriate that the following special procedures
22 be, and they are hereby, implemented with respect to these
23 proceedings:

24 a. The Conservator is hereby authorized to file herein, on
25 an Ex Parte basis and without a specific declaration
26 supporting the need for an Ex Parte procedure in each
27 separate instance, such Motions For Instructions as he may
28 deem necessary.

1
2 b. This Court shall, upon the filing of any such Motion
3 For Instructions (the "Motion") forthwith consider same on
4 an Ex Parte basis.

5 c. - Upon such consideration, the Court shall issue an Order
6 of Instructions (the "Order") which shall instruct and
7 authorize the Conservator to act or refrain from acting as
8 the Court deems appropriate.

9 d. Immediately upon the entry of the Order, the Court
10 shall set a hearing (the "Confirmation Hearing") and provide
11 for twenty (20) days' notice thereof to the shareholders of
12 ELIC and to such other persons or other legal entities that
13 shall, as of the entry of the Order, have entered
14 appearances in these proceedings. This Court hereby finds
15 and determines that such notice and hearing are fair,
16 reasonable and sufficient in regard to the said Confirmation
17 Hearing and are adequate to protect all rights of interested
18 persons or other legal entities.

19 e. At the said Confirmation Hearing the Court shall
20 consider such evidence, arguments, comments, suggestions or
21 other factors as may be appropriate and, unless the Court
22 shall order otherwise, the Order shall become a judgment for
23 all purposes within the meaning of Rule 40, California Rules
24 of Court, ten (10) days after the Confirmation Hearing, and
25 the provisions of Rule 2 California Rules of Court shall
26 apply thereto. Any order issued with respect to or as a
27 result of matters considered at the Confirmation Hearing,
28 shall, likewise, become a judgment for all purposes ten (10)
days after entry, and as said Rules of Court shall apply

1 thereto.

2 f. This Order and the procedures established hereby are
3 reasonable and equitable and are necessary to provide for
4 the efficient administration of the conservatorship. The
5 same are in addition to the rights and powers of the
6 Conservator and his Deputies and Assistants and are
7 discretionary with him. Thus, the Conservator and his
8 Deputies and Assistants shall continue to have all authority
9 granted to them by prior orders entered herein and by
10 relevant statutory and case law. Notwithstanding this
11 Order, the Conservator shall never be required to file a
12 Motion for Instructions herein nor is he required to obtain
13 the order of this Court in order to take any action or
14 exercise any power already granted to him pursuant to such
15 laws including, but not limited to Sections 1011, 1013,
16 1016, 1036, 1037, 1041, 1043, 1044, 1064.2 and any other
17 Code Section.

18 12. Due to the complex nature of these proceedings and the
19 limited resources of the Conservator, the Conservator shall,
20 notwithstanding any other procedural rule, be entitled to at
21 least ten (10) days' prior notice of any hearings. This rule
22 shall also apply to ex parte matters, provided that in the event
23 of a dire emergency an ex parte matter may be noticed upon forty-
24 eight (48) hour prior notice to the Conservator. In the event
25 any person or entity shall seek ex parte relief on the basis of a
26 dire emergency and it shall appear to the Court that a dire
27 emergency did not exist, such party shall be subject to
28 sanctions.

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2 13. A hearing (the "Hearing") is hereby set for
3 6-6-91 at 9:30 a.m. before this Court at which time
4 all suggestions, arguments, objections or other matters relating
5 to this Order shall be considered. Any objections hereto or to
6 any provision hereof which are not presented at such hearing
7 shall be denied and deemed forever waived. Given the complex
8 nature of these proceedings and the large number of persons and
9 entities that are interested herein, it is ordered that any
10 person or entity wishing to appear at the Hearing or to present
11 suggestions, arguments, objections or other matters at the
12 Hearing shall provide written notice of such intent and a summary
13 of the matter to be presented as well as copies of any documents
14 to be presented, to the Conservator at least ten (10) days prior
15 to the Hearing. Such notice to the Conservator shall provide a
16 brief statement of the suggestions, arguments, objections or
17 other matters to be presented. Any person or entity failing to
18 provide such notice and description to the Conservator may be
19 barred from appearing at the Hearing and from presenting same at
20 the Hearing.

21 14. Notice of the Hearing shall be given by certified mail,
22 return receipt requested, to the Shareholders of ELIC, and a
23 Notice in the form of Exhibit "B" hereto shall be published in
24 the national edition of *The Wall Street Journal* and *U.S. Today*
25 for a period of at least two days and in a newspaper of general
26 circulation, published in Los Angeles County, once a week for

27 ///

28 ///

///

1 four successive weeks. The Court hereby finds that such notice,
2 including the form and contents of Exhibit "B" hereto are
3 reasonably calculated to and do provide fair, reasonable and
4 adequate notice of these proceedings, this Order and the Hearing.
5

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7 DATED: APR 11 1991
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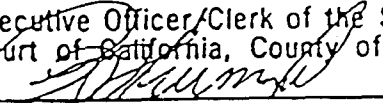
9 
10 Judge of the Superior Court

11 THE DOCUMENT TO WHICH THIS CERTIFICATE IS
12 ATTACHED IS A FULL, TRUE, AND CORRECT COPY
13 OF THE ORIGINAL ON FILE AND OF RECORD IN
14 MY OFFICE.

APR 11 1991

14 ATTEST _____

JAMES H. DEMPSEY

15 Executive Officer/Clerk of the Superior
16 Court of California, County of Los Angeles.
17 By  Deputy

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