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Los Angeles Superior Court

AUG 31 2005

John A. Clarke, Executive Officer/Clerk
By R. Arraiga, Deputy
R. Arraiga

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA,

Applicant,

v.

EXECUTIVE LIFE INSURANCE COMPANY, a California corporation, and DOES 1 through 1000,

Respondents.

No. BS 006912

DECLARATION OF LAUREN ROBERSON IN SUPPORT OF MOTION OF INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA FOR AN ORDER APPROVING DISTRIBUTION OF $100 MILLION OF ALTUS LITIGATION PROCEEDS PURSUANT TO ELIC REHABILITATION PLAN

Date: October 12, 2005
Time: 8:30 a.m.
Dep't: 36

I, Lauren Roberson, declare as follows:

1. I am a consultant employed by EAB Associates ("EAB"). EAB has been retained by the Insurance Commissioner of the State of California, in his capacity as the conservator, liquidator and rehabilitator (the "Commissioner") of Executive Life Insurance Company ("ELIC"), in connection with, among other things, various distribution-related matters pursuant to the Rehabilitation Plan. EAB has acted as an advisor to the Commissioner relative to financial, accounting and distribution matters throughout the entire conservation, liquidation and rehabilitation period of ELIC. During the period from 1994 through 1995, at the request of the Commissioner's staff, I took a leave of absence from EAB and became a direct employee of the ELIC estate. Both as an employee and through EAB, I acted as chief financial and administrative officer of the ELIC Enhancement Trusts (including the ELIC Trust) and Assistant to the Special Deputy Insurance Commissioner for Financial Affairs for the ELIC estate. As such, I have actively supervised the distribution, pursuant to the ELIC Rehabilitation Plan, of billions of dollars to ELIC's former policyholders from various sources. I submit this declaration in support of the motion of the Commissioner for an order approving the distribution of $100,000,000 of Altus Litigation Proceeds pursuant to the ELIC Rehabilitation Plan (the "Motion"). I have personal knowledge of the matters set forth herein (except as to any matters stated on information and belief, and as to such matters, I am informed and believe they are true) and could and would competently testify to the truth thereof, if necessary. I have reviewed the Motion, and except as otherwise expressly stated herein, capitalized words or terms used herein have the meanings ascribed to them in the Motion and/or the Rehabilitation Plan, as applicable.

2. As a part of the Rehabilitation Plan, ELIC claimants either elected to receive a Restructured Policy (the "Non-Opt Out Contract Holders") from Aurora National Life Assurance Company ("Aurora"), or instead elected to receive payments approximating the liquidation value of their former ELIC policies (the "Opt-Out Contract Holders").

Enhancement trusts were established as a part of the liquidation of ELIC estate assets, and the net proceeds of the liquidation of trust assets have been distributed from time to time to the Opt Out Trust for the benefit of the Opt-Out Contract Holders and to Aurora for the benefit of the Non-Opt Out Contract Holders (and their subrogees, if applicable) to enhance the policy values of the Non-Opt Out Contract Holders.

3. Under the Rehabilitation Plan, the Opt Out Trust is entitled to receive the Opt Out Percentage of any distributions from the ELIC Trust. The Opt Out Percentage is approximately 33.9%, which is the claim value of the former ELIC contracts held by Opt-Out Contract Holders, as a percentage of the total claim value of all of the former ELIC contracts held by Opt-Out Contract Holders and Non-Opt Out Contract Holders.

4. Accordingly, under the Commissioner's proposed distribution of the $100 million of Altus Litigation Proceeds, approximately $33.9 million will be distributed by the Commissioner to the Opt Out Trust, to be distributed pro rata based on relative claim values to the approximately 27,000 Opt-Out Contract Holders that are the beneficiaries of the Opt Out Trust, pursuant to the terms of the Opt Out Trust Agreement.

5. Under the Rehabilitation Plan, the Non-Opt Out Percentage of any distribution by the ELIC Trust is paid to Aurora for distribution for the benefit of Non-Opt Out Contract Holders (and their subrogees, if applicable). Pursuant to the terms of the Rehabilitation Plan, the Non-Opt Out Percentage is approximately 66.1%, which is the claim value of the former ELIC contracts held by Non-Opt Out Contract Holders, as a percentage of the total claim value of all of the former ELIC contracts (including those held by Opt-Out Contract Holders and those held by Non-Opt Out Contract Holders). Accordingly, approximately $66.1 million of the proposed $100 million distribution is distributable to Aurora, which in turn must distribute the $66.1 million for the benefit of the Non-Opt Out Contract Holders (and their subrogees, if applicable) as provided in the Enhancement Agreement. Such distribution by Aurora takes the form of cash distributions (by checks) to some Non-Opt Out Contract Holders, and credits to Restructured Account Values of other

Non-Opt Out Contract Holders, depending on the type of policy. Rehabilitation Agreement §9.1 (last sentence).

6. All distributions by the Opt Out Trust to Opt Out Contract Holders are in cash (effected by the issuance of checks to the Opt-Out Contract Holders). As noted above, when Aurora makes a distribution to Non-Opt Out Contract Holders, whether or not a Non-Opt Out Contract Holder receives cash for his or her allocation of the distribution (effected by the issuance of a check to such Non-Opt Out Contract Holder) or receives a credit to his or her Restructured Account Value depends upon the type of policy held by such Non-Opt Out Contract Holder. For any cash distributions by either the Opt Out Trust (for the benefit of Opt-Out Contract Holders) or Aurora (for the benefit of Non-Opt Out Contract Holders or their subrogees, if applicable), there are significant costs associated with cash distributions effected by checks. Those costs include check-printing costs, mailing costs, costs associated with provision of annual tax forms (1099s) and escheatment costs. Based on an analysis of costs incurred in making various prior distributions, these costs are estimated to be approximately $2.00 per check issued. Accordingly, in order to provide that the cost of a cash distribution to any Opt-Out Contract Holder or Non-Opt Out Contract Holder does not exceed the cash amount distributable to such contract holder, the Motion proposes that no check shall be issued by the Opt Out Trust to any Opt-Out Contract Holder, or by Aurora to any Non-Opt Out Contract Holder, where the cash amount distributable to such contract holder is less than $2.00. Further, because such amount is de minimis, and because the cost of carrying a future credit for the account of any affected Opt-Out Contract Holder or Non-Opt Out Contract Holder would be disproportionate to the de minimis benefit, the Motion also proposes that no credit or future benefit with regard to any such undistributed amount of less than $2.00 shall be maintained or provided by either the Opt Out Trust or Aurora, and instead that any such undistributed amounts shall be distributed by the Opt Out Trust and Aurora back to the Commissioner/ELIC and maintained as part of the ELIC estate, and included in the next or final distribution by the Commissioner/ELIC to the Opt Out Trust

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(for the benefit of Opt-Out Contract Holders) and to Aurora (for the benefit of Non-Opt Out Contract Holders or their subrogees, if applicable).

7. Pursuant to companion motions of the Commissioner and the ELIC Trust, this Court approved the termination of the ELIC Trust effective as of August 31, 1999 by Orders dated September 23, 1999 and November 15, 1999 (separately referred to, respectively, as the "September 23, 1999 Trust Termination Order" and the "November 15, 1999 Trust Termination Order," and collectively referred to as the "Trust Closing Orders").

8. In late 1999, the ELIC Trust was fully administered and terminated pursuant to the Trust Closing Orders.

9. The purpose of the ELIC Trust was to receive various securities and other assets of ELIC, including certain litigation claims, and liquidate those assets into cash under an orderly plan of liquidation. The cash proceeds were to be utilized to pay costs of ELIC Trust administration, pay or provide adequate reserves to meet obligations relative to indemnities in favor of Aurora and certain other non-operating obligations of ELIC under the Rehabilitation Plan and related agreements, and to make distributions both to Aurora for the benefit of Non-Opt Out Contract Holders (and, if applicable, their subrogees) and to the Opt Out Trust for the benefit of Opt-Out Contract Holders.

10. Pursuant to the ELIC Trust Agreement, the ELIC Trust had three trustees, one appointed by the Commissioner, one appointed by the National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA") and one appointed by a committee of contract holder representatives (the "Trustees"). The ELIC Trust was formed on February 15, 1994, at which time the Trustees received control over all decisions affecting the operations and disposition of the "Trust Retained Assets" as defined in the ELIC Trust Agreement and the right to receive all proceeds from the Trust Retained Assets. Certain assets, which were designated "Excluded Assets" and related liabilities were not to be transferred to the ELIC Trust in accordance with the Rehabilitation Plan at that date, except in the discretion of the Commissioner, but the Trust had the right to receive all proceeds

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from the Excluded Assets upon receipt by ELIC. In addition, any payments by the Trust to the Commissioner for specified costs, expenses and obligations that, in the Commissioner's judgment, were not necessary for the payment of such costs, expenses and obligations were to be transferred to the ELIC Trust for distribution.

11. In addition to its distributive functions for the benefit of ELIC's former policyholders, the ELIC Trust was required to remain open to fund certain indemnity obligations of ELIC. After satisfactory arrangements were made with the principal indemnitee for settling such indemnity obligations, the ELIC Trust was terminated effective August 31, 1999 with Court approval, as set forth in paragraphs 6 and 7 above. At the time the ELIC Trust applied for termination, the ELIC Trust had distributed approximately $367.4 million to its beneficiaries, including approximately $171,440,000 to Aurora for the benefit of Non-Opt Out Contract Holders, approximately $114,360,000 to the Opt Out Trust for the benefit of Opt-Out Contract Holders, $55,500,000 to Aurora and its affiliates in settlement of certain indemnity claims pursuant to the Settlement Agreement entered as of June 27, 1998, and approximately $26,275,000 to the Commissioner for ELIC costs, expenses and obligations. In addition, the Trustees established a Wind-Up Reserve of approximately $1.1 million for the payment of the costs and expenses of the final administration of the ELIC Trust after its termination. At the time the ELIC Trust was terminated, any remaining ELIC Trust assets were transferred back to the Commissioner for liquidation and distribution.

12. I am informed that the Commissioner believes that the $66.1 million (of the subject $100 million) that is to be distributed by Aurora for the benefit of Non-Opt Out Contract Holders is properly treated as an Article 10 Distribution, rather than an Article 17 Distribution, and intends to distribute the $66.1 million in that manner. Following the calculation applicable to an Article 10 Distribution, approximately $64.1 million of such $66.1 million would be distributable by Aurora (by a combination of cash distributions and credits to Restructured Account Values) for the direct benefit of Non-Opt Out Contract

Holders (or their non-PGA, third-party subrogees as applicable), and approximately $2 million (the amount that remains due to the PGAs pursuant to Section 17.1.2.2.2(iv) of the Enhancement Agreement) would be distributable to the PGAs. By way of contrast, if the $66.1 million distributable to Aurora were distributed by Aurora as an Article 17 Distribution rather than an Article 10 Distribution, Aurora would distribute approximately $48.3 million to the PGAs pursuant to their subrogation rights, and would distribute the remaining approximately $17.8 million (by a combination of cash distributions and credits to Restructured Account Values) for the direct benefit of Non-Opt Out Contract Holders (or their non-PGA, third-party subrogees, as applicable).

I declare that the above statements are true under penalty of perjury under the laws of the State of California. Executed this 22 day of August, 2005, at Phoenix, Arizona.

By: [signature]
Lauren Roberson

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