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Davidson County Chancery Court

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

LESLIE A. NEWMAN,)
Commissioner of the Tennessee)
Department of Commerce and Insurance,)
)
Petitioner,)
)
v.)
)
NATIONAL FOUNDATION OF)
AMERICA, a Tennessee corporation,)
RICHARD K. OLIVE, an individual,)
SUSAN L. OLIVE, an individual,)
BREANNA MCINTYRE, an individual,)
)
Respondents.)

NE
No. 07-1163-IV

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[Signature]

**ORDER APPROVING FINAL
DISTRIBUTION TO CLASS 2 CLAIMANTS**

Leslie A. Newman, Commissioner of the Department of Commerce and Insurance and statutory Liquidator for National Foundation of America (“NFOA”), filed on September 22, 2010 a motion for an order approving the final distribution to Class 2 claimants. There has been no filing of opposition to this motion pursuant to Rule 26.04 (d) and (e) of the Local Rules of Practice. Based upon the Court’s review of the motion and the affidavit of Special Deputy Paul Eggers and its accompanying exhibits, the Court finds that:

1. As of June 30, 2010, the NFOA estate had \$1,087,385.00 available in cash assets for distribution.
2. The total amount of all remaining, unpaid Class 2 claims after the first and second partial interim distributions is approximately \$4,077,865.99.

3. The Liquidator's request, pursuant to Tenn. Code Ann. § 56-9-332, to distribute \$861,385.00 to Class 2 claimants by making a pro rata partial interim distribution at the rate of an additional 4.4% of the approved total claim amount as set forth in Exhibit 1 to the Special Deputy Liquidator's Affidavit, which is attached hereto and incorporated by reference herein, should be approved. Upon receipt of the final distribution, each Class 2 claimant will have received an 83.4% pro rata payment of the total approved claim amount.

4. The proposed final distribution ensures that each Class 2 claimant will receive the same pro rata distribution and that no subclasses will be created within Class 2 as required by Tenn. Code Ann. § 56-9-330.

5. The Liquidator will retain \$226,000.00 to cover Class 1 administrative expenses that have been incurred and that will be incurred through the close of the Liquidation.

6. At this time, Class 2 claims will not be paid in full, so claims below Class 2 will not receive any distributions.

7. Once the final distribution has been made, the Liquidator will proceed with winding down the Liquidation. When these activities are close to completion, the Liquidator will seek an order to terminate and discharge the Liquidation.

8. As the Liquidation winds down, if the Liquidator should identify additional assets that can profitably be marshaled into the estate and that justify a subsequent distribution, the Liquidation will move this Court for a subsequent distribution.

9. The Liquidation is entitled to disgorgement of commissions that Mr. Baconrind improperly received from the marketing and sales of NFOA illegal insurance products to the victims of NFOA. Mr. Baconrind has not returned any of his commissions to the Liquidation. The first partial distribution amount of \$31,695.98, the second partial interim distribution amount

of \$6,826.83, and the proposed final distribution amount of \$2,163.09 do not exceed the amount of debt (\$41,904.99) owed to the Liquidation by Mr. Baconrind. Therefore, no distributions are owed by the Liquidation on Mr. Baconrind's Class 2 claim. The total offset amount of \$40,685.90 has been included as part of the estate assets available for payment of the final distribution and of Class 1 administrative expenses through the close of the Liquidation.

10. The Liquidation has received a request and an affidavit of heirship from the beneficiaries of deceased Class 2 claimant, Willie Boulton Clark, asking the Liquidation to make the approved final distribution payment on the Class 2 claim in the names of people other than the claimant or the claimant's estate. The Liquidator has filed a separate motion requesting that this Court enter an order directing to whom the Liquidator must make the final pro rata distribution on this Class 2 claim. As the pro rata distribution amounts proposed in the Liquidator's motion for final distribution will not be affected, the separate motion should not delay the Liquidator from making the pro rata final distributions to all other Class 2 claimants as set forth in Exhibit 1 of the Affidavit of Paul Eggers.

Accordingly, the instant motion is hereby APPROVED and the Court hereby ORDERS the following:

1. Pursuant to Tenn. Code Ann. § 56-9-332, the Liquidator shall distribute \$861,385.00 of NFOA's assets to pay remaining Class 2 claims totaling \$4,077,865.99, by making a pro rata final distribution at the rate of an additional 4.4% of the approved total claim amount as set forth in the column titled "Final Distribution at 4.4%" of Exhibit 1 to the Special Deputy Liquidator's Affidavit, which is attached hereto and incorporated by reference herein.

2. The Liquidator is authorized to retain \$226,000.00 to cover Class 1 administrative expenses that have been incurred and that will be incurred through the close of the Liquidation.

3. As Class 2 claims will not be paid in full, no claims below Class 2 will receive any distributions.

4. The Liquidator is authorized to offset, pursuant to Tenn. Code Ann. § 56-9-319, the total pro rata distributions from the first, second, and final distribution in the amount of \$40,685.90 on Mr. Baconrind's Class 2 claim against the amount owed to the Liquidation by Mr. Baconrind (\$41,904.99). Thus, no distributions are owed by the Liquidation on Mr. Baconrind's claim. The total offset amount of \$40,685.90 is included as part of the estate assets available for payment of the final distribution and of Class 1 administrative expenses through the close of the Liquidation.

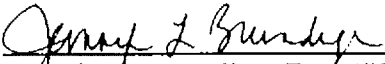
5. The Liquidator is authorized to hold the approved pro rata final distribution for the Willie Boulton Clark claim until the Liquidator receives an order from the Court directing the Liquidator how to proceed with the final distribution on the Willie Boulton Clark claim.

IT IS SO ORDERED, this the ____ day of October, 2010.



CHANCELLOR RUSSELL PERKINS

Approved for entry by:



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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded via U.S. Mail, postage pre-paid, to the parties and interested entities listed below on this the 13th day of October, 2010.

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