

**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.)

No. 07-1163-IV

FILED
 2008 MAY -2 AM 10:51
 CLERK & MASTER
 DAVIDSON CO. CHANCERY CT.
 D.C. & M.

AFFIDAVIT OF PAUL EGGERS

STATE OF TENNESSEE)
)
 COUNTY OF DAVIDSON)

I, Paul Eggers, being duly sworn, hereby state as follows:

1. I am a certified public accountant, duly licensed in the State of Tennessee since 1983. I have served as a Special Deputy Receiver for the rehabilitation and liquidation of insurance companies in Tennessee.
2. I have served as Special Deputy Receiver for the Rehabilitation of National Foundation of America ("NFOA") and as Special Deputy Liquidator for the Liquidation of NFOA.
3. Utilizing the accounting data and other business records of NFOA, I have compiled a list of all known individuals and entities who were issued illegal annuity contracts by NFOA and of all known creditors of NFOA.
4. Promptly after September 11, 2007, I prepared and mailed notices of the Liquidation Order, along with Proof of Claim ("POC") forms, to all known annuity contract holders and creditors of NFOA. I caused the notice to be published in the newspaper of general circulation in Nashville, Tennessee; Topeka, Kansas; Austin, Texas; Tallahassee, Florida; Sacramento, California; Montgomery, Alabama; Springfield, Illinois; Olympia, Washington; St. Paul, Minnesota.

5. Based on my review of all of the financial accounting data and business records of NFOA, I was able to determine the value of refunds due to the known individuals and entities who were issued illegal annuity contracts by NFOA. I based the value of these refunds on the amount of the surrendered annuities, cash, real estate and other investments that was actually received by NFOA prior to the entry of the Liquidation Order, less any installment payments received by the annuity contract holder from NFOA and charitable contributions made at the request and/or on behalf of the holders of the illegal annuity contracts. Some of the annuity contract holders received installment payments from NFOA greater than the amount of cash that was received by NFOA on their behalves. In those instances, I determined that the annuity contract holders owed money to the NFOA Liquidation estate. These individuals were requested to refund the negative amount to the NFOA Liquidation estate or return an installment payment agreement by February 29, 2008.

6. Further, as directed by the Liquidation Order, I determined that the claims of individuals and entities whose annuities had not been surrendered to NFOA by the issuing insurers as of the date of entry of the Liquidation Order had \$0 value. On September 18, 2007, I sent letters to all insurance companies who originally held annuities related to an illegal NFOA annuity contract that had not been surrendered to NFOA. The letter explained that the Liquidation was relinquishing any and all rights to the annuity and directed the insurance company to place ownership of the annuity back into the name of the original annuitant.

7. On or before November 1, 2007, I mailed to each known individual or entity that was issued an illegal contract by NFOA a Notice of Annuity Refund Claim Against NFOA ("NARC"), setting forth the amount of any refund claim and the Class 2 priority of any claim for payment from the assets of the NFOA Liquidation estate pursuant to Tenn. Code Ann. § 56-9-330(a)(2).

8. By the December 3, 2007 deadline for filing proofs of claims ("POCs") and objections to the NARCs as set forth in the Liquidation Order, I had received 37 POCs from all known claimants of NFOA and 26 objections to the NARCs from Class 2 claimants.

9. I mailed a Final Liquidation Advice to each claimant and objector, explaining the Liquidator's valuation of each claim.

10. I received one objection to the Final Liquidation Advice from Kaufman & Canoles, P.C., a Class 5 claimant, who objected to the Liquidator's determination of the value, not the Class 5 payment priority, of the claim. I am currently reviewing this objection. At this time, I do not anticipate that there will be sufficient assets in the Liquidation estate to make any distributions to claims with lower priority than Class 2. If I should determine in the future that claims below Class 2 priority will receive payment, I will resolve the objection to the value of this Class 5 claim in accordance with Tenn. Code Ann. § 56-9-327.

11. All of the objections to the NARCs by the Class 2 claimants were withdrawn except for 3 objections that were filed by contract holders of unsurrendered policies. I have informed these individuals that their policies were never surrendered and are not assets of the NFOA Liquidation estate. I have continued to work with these 3 contract holders of

unsurrendered annuities to confirm from the issuing insurers that the ownership of the unsurrendered policies are correctly titled in the original annuitant's name. In response to the repeated inquiries from the Liquidator and me, I have received confirmation from two of the issuing insurers that the ownership of two of the unsurrendered policies has been correctly titled in the original annuitant's name. I have provided this information to the two annuitants and have requested that they withdraw their objections as the ownership issue has been resolved. The third issuing insurer is requiring that a change of ownership form be completed by the original annuitant. I have sent the change of ownership form to the annuitant but have not received the executed form. I anticipate that the third objection will be resolved upon the execution of the proper paperwork by the annuitant. Since these unsurrendered annuity policies are not assets of the NFOA Liquidation estate as determined by the Court in the Liquidation Order and the Liquidator is working to confirm that the ownership of the policies is not with NFOA, I have determined that the resolution of these objections will have no effect on the distributions of NFOA and should not prevent the partial interim distributions being sought in this Motion. I am reserving an amount sufficient to cover a pro rata distribution at the rate of 65% for the third policy in the event that the annuitant fails to complete the change of ownership paperwork and the Liquidator has to seek permission to bring the unsurrendered policy into the NFOA estate.

12. All Class 2 claims of the annuity contract holders whose assets were surrendered to NFOA have been resolved as to value and Class 2 priority and are set forth in Exhibit 1 hereto.

13. As the value of all known Class 2 claims that are entitled to assets of the NFOA Liquidation estate have been determined and resolved, I have set forth each Class 2 claim and its value in Exhibit 1 hereto.

14. Based upon my determinations, the total amount of Class 2 claims is approximately \$19,418,409.40.

15. The NFOA Liquidation estate currently has \$15,202,097.00 available in cash assets. Exhibit 2 which is attached hereto sets forth the schedule of assets and liabilities as of April 30, 2008.

16. The average age of individuals who invested money in NFOA's illegal annuity contracts is seventy-six (76) years old. I talk regularly with these individuals who are in need of distributions to pay tax liabilities associated with their investments in NFOA and to pay for living expenses.

17. It is my recommendation that approximately \$12,621,966.11 of the Liquidation estate be immediately distributed to the Class 2 claimants using a pro rata percentage of 65% of the value of the claim as set forth in Exhibit 1.

18. Upon making the proposed interim distributions, NFOA will have remaining cash assets totaling approximately \$2,580,130.89.

19. The Liquidation is in the process of seeking recovery of approximately \$2,000,000 in commissions paid to the approximately sixty-five agents and investment advisors

who were unjustly enriched and benefited improperly from the issuance of NFOA's illegal insurance contracts. The Liquidation is also in the process of evaluating other claims against third parties, including Richard and Susan Olive, the former President and Vice President respectively of NFOA. The Liquidation continues to seek purchasers for two pieces of real estate owned by NFOA.

20. The proposed partial interim distribution plan ensures that adequate funds have been retained to pay Class 1 administrative costs and expenses of the Liquidation going forward and to pay the same pro rata distribution to any future claimants determined to have Class 2 payment priority. In the future, I will seek an order to make a final distribution from estate assets once the Liquidator determines that either all of the available estate assets have been marshaled or that the costs of continuing to marshal any additional assets are greater than any additional assets that might be recovered.

21. In addition to the service list, I will cause the motion for partial interim distributions and this affidavit along with its exhibits (collectively the "pleadings") to be served on the claimants of the estate as set forth in Exhibit 1. In addition, I will post the pleadings on the websites of the NFOA Liquidation and the Tennessee Department of Commerce and Insurance.

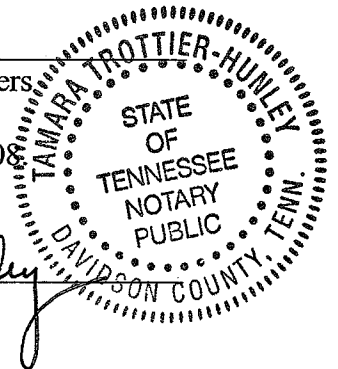
FURTHER AFFIANT SAITH NOT.

Paul Eggers

Special Deputy Liquidator Paul Eggers

SWORN TO AND SUBSCRIBED before me this 2nd day of May, 2008

Tamara Trotter-Hunley
Notary Public



My Commissioner Expires: 3-7-11

Respectfully submitted,

By: *Jennifer L. Brundige*
Jennifer L. Brundige, Esq. (#020673)
FARMER & LUNA, PLLC
333 Union Street, Suite 300
Nashville, TN 37201
(615) 254-9146
Special Counsel to Liquidator

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 2nd day of May, 2008.

Sarah Hiestand, Esq.
Lyndsay Fuller, Esq.
Laura T. Kidwell, Esq.
Office of the Attorney General and Reporter
P.O. Box 20207
Nashville, TN 37202-0207

Robert M. Garfinkle, Esq.
Garfinkle, McLemore & Walker, PLLC
2000 Richard Jones Rd., Suite 250
Nashville, TN 37215-8249
Special Counsel to Liquidator

H. Richard Bisbee
Bill Reeves
H. Richard Bisbee, P.A.
1882 Capitol Circle N.E., Suite 206
Tallahassee, FL 32308
Attorneys for Creditor H. Richard Bisbee, P.A.

David H. King
King, Turnbow and Brisby
203 Third Avenue South
Franklin, TN 37064
Attorney for Richard and Susan Olive and King, Turnbow, and Brisby

Breanna McIntyre
8658 Gauphin Place
Nashville, TN 37211

Phillip G. Young, Jr.
T. Stephen C. Taylor
Bass, Berry & Sims, PLC
315 Deaderick Street, Suite 2700
Nashville, TN 37238-3001
Attorneys for American Equity Investment Life Insurance Company

And all of the Claimants Listed in Exhibit 1 hereto.

