

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT  
INGHAM COUNTY

ANITA G. FOX, DIRECTOR OF THE  
MICHIGAN DEPARTMENT OF  
INSURANCE AND FINANCIAL SERVICES,

Petitioner,

v

PAVONIA LIFE INSURANCE  
COMPANY OF MICHIGAN,

Respondent.

Case No. 19-504-CR

HON. WANDA M. STOKES

**[IN REHABILITATION]**

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**APPLICATION FOR APPROVAL OF REHABILITATOR'S  
AMENDED PLAN OF REHABILITATION**

Anita G. Fox, Director (the "Director") of the Michigan Department of Insurance and Financial Services ("DIFS") and Court-appointed and statutory Rehabilitator (the "Rehabilitator") of Pavonia Life Insurance Company of Michigan ("Pavonia" or the "Company"), by and through her attorney, Assistant Attorney General Christopher L. Kerr, in support of her Application for Approval of

Rehabilitator's Amended Plan of Rehabilitation pursuant to MCL 500.8114(4) (this "Application"), states as follows:

**HEARING**

1. This Application is scheduled for hearing on **Wednesday, January 12, 2022, at 1:00 p.m.** At that time, Special Deputy Rehabilitator James Gerber will be available to verify the facts set forth in this Application.

**FILING OF REHABILITATOR'S  
AMENDED PLAN OF REHABILITATION**

2. Filed contemporaneously with this Application is the Rehabilitator's Amended Plan of Rehabilitation (the "Amended Plan"), for which the Rehabilitator seeks this Court's approval pursuant to MCL 500.8114(4).

**BACKGROUND AND LEGAL AUTHORITY**

3. On July 9, 2019, this Court entered a Stipulated Order Placing Pavonia Life Insurance Company of Michigan into Rehabilitation, Approving Compensation of Special Deputy Rehabilitators, and Providing Injunctive Relief (the "Rehabilitation Order"). The Rehabilitation Order appointed the Director as the Rehabilitator of Pavonia, as required by MCL 500.8113(1), and further approved the compensation of the Rehabilitator's appointed Special Deputy Rehabilitators, James Gerber, Janice Sylvertooth, and Julieanne Gulliver, under MCL 500.8114(1).

4. In accordance with MCL 500.8113(1), the Rehabilitation Order directed the Rehabilitator to take immediate possession of all the assets of Pavonia and to administer those assets under the Court's general supervision, thereby creating the Pavonia rehabilitation estate (the "Rehabilitation Estate"). Pursuant

to MCL 500.8113(1), the Rehabilitation Order further vested legal title to all assets, accounts, and moneys of Pavonia in the Rehabilitator by operation of law.

5. The Rehabilitation Order and MCL 500.8114(2) authorize the Rehabilitator to take such action as she considers necessary or appropriate to reform and revitalize Pavonia. Additionally, the Rehabilitation Order and MCL 500.8114(2) vest the Rehabilitator with “all the powers of the directors, officers, and managers” of Pavonia, while entrusting the Rehabilitator with “full power to direct and manage” Pavonia and “to deal with the property and business of the” Company.

6. Greg Lindberg is the sole upstream owner of Pavonia and the Company’s ultimate controlling person, through his ownership of GBIG Capital, LLC, which in turn owns GBIG Holdings, LLC (“GBIG Holdings”), which in turn owns Pavonia.

7. As of August 6, 2019, when the Rehabilitator filed her original Plan of Rehabilitation, the U.S. Department of Justice had unsealed a federal criminal indictment in the Western District of North Carolina charging Mr. Lindberg with felony counts of conspiracy to commit wire fraud and bribery of the North Carolina Insurance Commissioner. On March 5, 2020, a federal jury in the Western District of North Carolina convicted Mr. Lindberg on both felony counts. Thus, for purposes of the Rehabilitator’s Amended Plan, Mr. Lindberg is now a convicted felon and remains Pavonia’s upstream owner and ultimate controlling person, which as discussed below and in the Amended Plan is prohibited under both Michigan and federal law.

8. Under MCL 500.8114(4), if the Rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of Pavonia is appropriate, she must prepare a plan to effect those changes.

9. Upon the Rehabilitator's application for approval of the plan, and after notice and hearings as the Court may prescribe, the Court may either approve or disapprove the plan proposed or may modify it and approve it as modified. (*Id.*)

10. The standard for Court approval of a rehabilitation plan is whether, in the Court's judgment, the plan is fair and equitable to all parties concerned. (*Id.*)

11. When the Court approves the Rehabilitator's plan, the Rehabilitator must then implement the plan. (*Id.*)

12. The Rehabilitator filed her original Plan of Rehabilitation with this Court on August 6, 2019, and the Court approved that Plan of Rehabilitation by order entered on June 25, 2020. However, the original Plan of Rehabilitation relied upon the now-terminated Stock Purchase Agreement ("SPA") that provided for the sale of Pavonia by its current owner, GBIG Holdings, to a non-affiliated third party, Aspida Holdco LLC ("Aspida").

13. On October 15, 2021, GBIG Holdings and Aspida filed a joint notice with the Court stating that they had reached a settlement, resulting in the termination of their SPA and Aspida's withdrawal from this rehabilitation proceeding. Accordingly, Aspida is no longer going to purchase Pavonia, the original Plan of Rehabilitation is now defunct, and the Rehabilitator is hereby submitting her Amended Plan for approval by the Court.

**AMENDED PLAN DETAILS**  
**SUBMITTED FOR THE COURT'S APPROVAL**

14. The Rehabilitator's Amended Plan is designed to effect Pavonia's transformation and rehabilitation for the benefit of the Company, its policyholders, and creditors, and is summarized in the paragraphs that follow.

15. As an initial matter, the Amended Plan expands the bases for the rehabilitation of Pavonia by adding three more statutory bases because it is undisputed that Greg Lindberg is now a convicted felon and remains Pavonia's upstream owner and ultimate controlling person. As explained in the Amended Plan, this is flatly prohibited under both Michigan and federal law.

16. Furthermore, the Amended Plan adds another basis for Pavonia's rehabilitation founded on GBIG Holdings' ownership of four North Carolina insurance companies, which are therefore affiliated with Pavonia through GBIG Holdings' common ownership (the "NC Insurer Affiliates"). On June 27, 2019, the North Carolina Insurance Commissioner placed the NC Insurer Affiliates in rehabilitation due to their financial trouble stemming from loans/investments directed by Mr. Lindberg with various non-insurance affiliate companies that he owns. As explained in the Amended Plan, the financial instability of the NC Insurer Affiliates provides yet another statutory basis for the rehabilitation of Pavonia.

17. Because these four additional grounds for Pavonia's rehabilitation now exist, the Amended Plan requests this Court to approve and adopt these additional bases for rehabilitation in its Order approving the Amended Plan.

18. Next, the Amended Plan proposes an alternative process for ending Mr. Lindberg's prohibited ownership and control of Pavonia.

19. Generally speaking, and as explained in greater detail in the Amended Plan itself, the Amended Plan proposes a sale process whereby the Rehabilitator will solicit bids for a third-party entity(ies) to purchase and/or reinsure all or a portion of Pavonia's business (while assuming responsibility for the Permitted Outstanding Claims, defined below), after which the Rehabilitator will select the successful bidder(s) following separate Court approval. The Rehabilitator will then prepare transaction contract(s) with the successful, Court-approved bidder(s), and following any required Form A approval by DIFS, the Rehabilitator will file another petition requesting Court approval to close on these transaction contract(s).

20. In addition, to ensure a robust sale process with multiple qualified bidders, assist with determining the successful bidder(s), and ensure that the successful bidder(s) pay fair compensation for the required transaction(s) involving Pavonia, the Amended Plan seeks this Court's approval to compensate three separate professional consultants that the Rehabilitator has arranged to retain.

21. The first retention contract is with Willis Towers Watson ("Willis Towers"), under which Willis Towers will assist the Rehabilitator with performing an updated valuation of Pavonia for the required future transaction(s) involving the Company.

22. The second retention contract is with Willis Securities, Inc. ("Willis Securities"), under which Willis Securities will assist the Rehabilitator with the sale process in connection with any prospective sale of Pavonia to a third-party bidder(s).

23. The third retention contract is with Willis Re Inc. (“Willis Re”), under which Willis Re will assist the Rehabilitator with the sale process in connection with any prospective reinsurance transaction(s) submitted by a third-party bidder(s).

24. Lastly, the Amended Plan does not provide for a proof of claim process because that process was completed under the Rehabilitator’s original Plan of Rehabilitation. However, the Rehabilitator was additionally put on notice of four other claims that remain unresolved and must therefore be assumed by the eventual purchaser(s) and/or reinsurer(s) of Pavonia under the Amended Plan.

25. These four unresolved claims are: (1) the Internal Revenue Service’s claim for any potential, outstanding tax liabilities of Pavonia (the “Potential IRS Claim”); (2) the lawsuit served on Pavonia on or about March 30, 2020 relating to a third-party claim against Pavonia in the matter known as *LSF10 Master Participation Trust v. Woodrow W. Lasher, Jr. et al.*, No. CJ-2018-45, pending in the District Court for Lincoln County, Oklahoma (the “Sharp Litigation”); (3) the lawsuit entitled *Amy Kathryn Copelin Lantz, Personal Representative of the Estate of David L. Copelin v. Pavonia Life Insurance Company*, No. 11-2021-CA-000998-0001-XX, pending in the Circuit Court for Collier County, Florida (the “Copelin Litigation”); and (4) the lawsuit entitled *Jennifer B. DelRio vs. Pavonia Life Insurance Company of Michigan*, No. 46D02-2006-CT-000755, pending in the Superior Court No. 2 for La Porte County, Indiana (the “DelRio Litigation,” and together with the Potential IRS Claim, the Sharp Litigation, and the Copelin Litigation, the “Permitted Outstanding Claims”).

**THE REHABILITATOR'S AMENDED PLAN SATISFIES  
THE STANDARD FOR COURT APPROVAL**

26. As stated, the standard for Court approval of a rehabilitation plan is whether, in the Court's judgment, the plan is fair and equitable to all parties concerned. MCL 500.8114(4).

27. The Rehabilitator's Amended Plan satisfies this standard. First, the sale process contained in the Amended Plan is completely transparent and any currently interested, prospective purchasers and/or reinsurers will be provided the opportunity to be a bidder under this sale process. Accordingly, the sale process is designed to identify multiple prospective purchasers and/or reinsurers for Pavonia (with the assistance of two highly qualified professional brokers, as discussed above), which will yield the best possible transaction(s) involving Pavonia for the benefit of its owner, GBIG Holdings, as well as fully protect the Company, its policyholders, its creditors, and the public. Moreover, the Amended Plan is not reliant upon the closing of only one specific SPA as was the original Plan of Rehabilitation, which ensures the efficiency of the rehabilitation process going forward and a predictable timeline for ending Mr. Lindberg's prohibited ownership of Pavonia and the ultimate termination of this rehabilitation proceeding.

28. Additionally, the sale process retains Willis Towers to assist the Rehabilitator with performing an updated valuation of Pavonia, which will ensure that the successful bidder(s) pay fair compensation for the required transaction(s) involving the Company.

29. As indicated, the hearing on this Application is scheduled for January 12, 2022, at 1:00 p.m. By that time, the Court will know whether GBIG Holdings' prospective sale to Axar Capital, LLC ("Axar"), which GBIG Holdings has discussed in various court filings, has been memorialized in a binding, fully executed Stock Purchase Agreement. Although GBIG Holdings initially represented that any Stock Purchase Agreement with Axar must be completed by November 30, 2021, GBIG Holdings' counsel informed the Rehabilitator's staff on December 1, 2021 that GBIG Holdings and Axar had agreed to extend this deadline through at least December 10, 2021. Thus, the Axar deal is not complete and this recent extension of the deadline to fully execute the Stock Purchase Agreement calls into question whether the Axar deal will ever be consummated.

30. Even assuming the deal with Axar has been reduced to a binding contract by the now-extended deadline of December 10, 2021, the Court may also know by the January 12, 2022 hearing whether Axar has secured Form A approval from DIFS, which is a necessary precondition to Axar acquiring Pavonia. This additional contingency again calls into question whether the Axar deal will ever be consummated.

31. Because the Axar deal is completely conditional at this time and may never occur, the Rehabilitator is legally obligated to submit her Amended Plan for this Court's approval to ensure that a viable, alternative process is in place and can proceed without delay to end Mr. Lindberg's prohibited ownership of Pavonia.

32. For each of the foregoing reasons, the Rehabilitator's Amended Plan is "fair and equitable to all parties concerned," warranting this Court's approval.

### AUTHORIZATION OF SERVICE

33. As stated, Aspida has withdrawn as a party to this matter and the SPA between Aspida and GBIG Holdings has been terminated. Accordingly, the remaining individuals or entities having the strongest potential interest in this matter, which the Rehabilitator will personally serve via e-mail with a copy of the Amended Plan, this Application, the Notice of Hearing, and any resulting Order, are as follows:

- (a) Zachary Larsen, counsel for GBIG Holdings, at [ZLarsen@clarkhill.com](mailto:ZLarsen@clarkhill.com);
- (b) Robert D. Heitmeyer, counsel for U.S. Internal Revenue Service, at [robert.d.heimmeyer@irsounsel.treas.gov](mailto:robert.d.heimmeyer@irsounsel.treas.gov);
- (c) Steve Ferguson, counsel for Sharp Litigation, at [fergatty@aol.com](mailto:fergatty@aol.com);
- (d) C. Christopher Muth, counsel for Copelin Litigation, at [Chris@ccmuth.com](mailto:Chris@ccmuth.com);
- (e) Nicholas Otis, counsel for DelRio Litigation, at [ntotis@nlkj.com](mailto:ntotis@nlkj.com); and
- (f) Mike Dinius, Deputy Rehabilitator for NC Insurer Affiliates, at [MDinius@noblecon.net](mailto:MDinius@noblecon.net).

34. Beyond the individuals and entities identified above (the "Personal Service Entities"), personally serving the Amended Plan, this Application, the Notice of Hearing, and any resulting Order on other individuals or entities that may have a general interest in the Pavonia rehabilitation would be time-intensive and costly to the Rehabilitation Estate, and is not deemed by the Rehabilitator to be necessary or appropriate. For these reasons, the Rehabilitator requests that the Court authorize, approve, and/or ratify service of the Amended Plan, this Application, the Notice of Hearing, and any resulting Order on the Personal Service

Entities via e-mail as provided above, and on any other potentially interested individuals or entities by posting electronic copies on the DIFS website, [www.michigan.gov/difs](http://www.michigan.gov/difs), under the section “Who We Regulate,” the subsection “Receiverships,” and the sub-subsection “Pavonia Life Insurance.”

35. The Rehabilitator has determined that service in the foregoing manner is reasonably calculated to give the Personal Service Entities, together with any other potentially interested individuals or entities, actual notice of these proceedings and is otherwise reasonable under the circumstances.

**RELIEF REQUESTED**

WHEREFORE, for the reasons stated above, the Rehabilitator respectfully requests the Court to grant this Application and enter an Order approving her Amended Plan of Rehabilitation, which was filed contemporaneously herewith.

Respectfully submitted,



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