

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

ANITA G. FOX, DIRECTOR
OF THE 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]

Christopher L. Kerr (P57131)
Aaron W. Levin (P81310)
Assistant Attorneys General
Attorneys for Petitioner
Corporate Oversight Division
P. O. Box 30736
Lansing, MI 48909
(517) 335-7632

EX PARTE PETITION FOR
APPROVAL TO SETTLE LAWSUIT AGAINST
PAVONIA LIFE INSURANCE COMPANY OF MICHIGAN
BY CLAIMANT JAYNEEN MANN

Anita G. Fox, Director of the Michigan Department of Insurance and Financial Services (“DIFS”), as Rehabilitator of Pavonia Life Insurance Company of Michigan (the “Rehabilitator”), by and through her attorneys, Dana Nessel, Attorney General, and Christopher L. Kerr and Aaron W. Levin, Assistant Attorneys General, petitions this Court pursuant to MCL 500.8115(1) to approve the settlement of a lawsuit filed against Pavonia Life Insurance Company of

Michigan (“Pavonia”) related to a credit life insurance policy. In support of this *Ex Parte* Petition, the Rehabilitator states as follows:

1. On July 9, 2019, this Court entered a Stipulated Order placing Pavonia into Rehabilitation and appointing the DIFS Director as the Rehabilitator of Pavonia (“Rehabilitation Order”). The Rehabilitator further appointed James E. Gerber, Janice Sylvertooth, and Julianne Gulliver as Special Deputy Rehabilitators, whose compensation this Court approved.

2. MCL 500.8115(1) governs legal actions or proceedings involving Pavonia that were pending when the Rehabilitation Order was entered. The statute provides, *inter alia*, that “[t]he rehabilitator shall take action respecting the pending litigation as he or she considers necessary in the interests of justice and for the protection of creditors, policyholders, and the public.”

3. With respect to claims against Pavonia arising after entry of the Rehabilitation Order, MCL 500.8114(2) and the Rehabilitation Order authorize the Rehabilitator to “take such action as she considers necessary or appropriate to reform or revitalize Pavonia.” (Rehabilitation Order, p 13, ¶ 11.) In addition, this statute, as incorporated by the Rehabilitation Order, grants the Rehabilitator “full power and authority to direct and manage Pavonia . . . and to deal in totality with the property and business of’ the company. (Rehabilitation Order, p 13, ¶ 8.)

4. The Rehabilitator seeks the Court’s approval to settle the following lawsuit filed against Pavonia:

Jayneen Mann v Pavonia Life Insurance Co of Michigan and Household Finance Corporation III. On July 13, 2017, Jayneen Mann (“Claimant”) commenced a lawsuit entitled *Jayneen Mann, Plaintiff v. Pavonia Life Insurance Company of Michigan and Household Finance Corporation III, Defendants* in the 17th Judicial Circuit Court for Broward County, Florida, Case No. CACE-17-013185 (the “Lawsuit”). The Lawsuit is based on a credit life insurance policy, identified with account number ending 7018 effective June 21, 2007, that was issued to Claimant by Pavonia’s predecessor, Household Life Insurance Company (the “Credit Life Policy”).

On September 10, 2019, Claimant filed a Proof of Claim in the Pavonia rehabilitation proceeding claiming that as of the date of filing, Pavonia owed Claimant “\$181,473.90 plus interest/fees” in connection with the Lawsuit and the Credit Life Policy (“Claimant’s Proof of Claim”).

Through negotiations, Claimant and all other persons acting on her behalf, including but not limited to her agents, representatives, attorneys, employees, heirs, and assigns, have agreed to release and forever discharge Pavonia and all other persons acting on its behalf, including but not limited to the Rehabilitator, Special Deputy Rehabilitators, its directors, officers, shareholders, employees, insurers, attorneys, agents, representatives, parent companies, subsidiaries, affiliates, predecessors, successors, and assigns (but expressly excluding the Co-Defendant in the Lawsuit, Household Finance Corporation III), from all causes of action, debts, choses in action, claims, damages, or demands, in law or in equity, whether known or unknown, that Claimant has or has ever had, relating to or arising out of the Lawsuit, the Credit Life Policy, or Claimant’s Proof of Claim, in exchange for Pavonia’s payment of \$9,500.00 to Claimant.

5. Paragraph 23 of the Rehabilitation Order provides that “[a]ll Creditor claims against Pavonia are within the exclusive jurisdiction of this Court and will be determined, resolved, paid, and/or discharged, in whole or in part, according to the terms and conditions approved by the Court.” Further, paragraph 25 of the Rehabilitation Order provides that “[a]ny and all claims by Creditors against Pavonia must be raised or asserted within the rehabilitation proceeding before this Court and are subject to this Court’s orders regarding the submission and

determination of claims.” Accordingly, an order approving this proposed settlement is needed from the Court.

6. The Rehabilitator believes that settlement of the foregoing Lawsuit in the amount indicated above and on the terms contained in the parties’ settlement agreement (which is not attached due to confidentiality provisions and/or concerns) is necessary and appropriate, is in the interests of justice, and will promote the protection of Pavonia’s creditors, policyholders, and the public. A comparison of the settlement amount to the amount of Claimant’s Proof of Claim evidences that this settlement is reasonable and will limit potential liability to the Pavonia rehabilitation estate. Moreover, this settlement is relatively modest in amount and would likely be exceeded by legal and other costs if the case were adjudicated in this rehabilitation or otherwise.

7. Personally serving this *Ex Parte* Petition and any resulting Order on all parties that may have a general interest in Pavonia’s rehabilitation would be impractical at this time because there is no risk, given Pavonia’s solvent financial condition, that the Court’s approval of this settlement and authorization to serve this *Ex Parte* Petition and any resulting Order by posting electronic copies on DIFS’ website would negatively affect any of Pavonia’s creditors, policyholders, or the public. Moreover, attempting to identify and personally notify every party having such a general interest would be time-intensive and costly to Pavonia’s rehabilitation estate. For these reasons, the Rehabilitator requests that the Court authorize and ratify service of this *Ex Parte* Petition and any resulting Order by

posting electronic copies on the DIFS website, www.michigan.gov/difs, under the section “Who We Regulate,” the subsection “Receiverships,” and the sub-subsection “Pavonia Life Insurance.” Service in this manner is reasonably calculated to give potentially interested parties actual notice of these proceedings and is otherwise reasonable under the circumstances.

8. As further protection for this Court and any potentially interested parties, the settlement agreement and proposed Order expressly provide that Pavonia (through the Deputy Rehabilitators) will only pay the Court-approved settlement amount to Claimant after twenty-one (21) calendar days have elapsed following entry of this Court’s approval Order, which is the applicable appeal period (the “Appeal Period”). Accordingly: (a) any potentially interested party will receive notice of this *Ex Parte* Petition and any resulting Order through the DIFS website posting; (b) any such party having standing can timely object to or appeal the Court’s approval Order during the Appeal Period; and (c) Pavonia (through the Deputy Rehabilitators) will not pay the Court-approved settlement amount to Claimant until the Appeal Period has expired, or if a valid objection or appeal has been timely filed, until such objection or appeal is fully and finally resolved. This procedure provides additional due process and ensures the ability of parties having standing to timely object to or appeal the Court’s approval Order, although no such objection or appeal is anticipated.

WHEREFORE, for the reasons stated above, the Rehabilitator respectfully requests this Court to enter the *Ex Parte* Order in the form attached as Exhibit A, which: (a) approves the settlement reached in the above-referenced matter, in the amount and on the terms more fully set forth in the settlement agreement; and (b) authorizes and ratifies service of this *Ex Parte* Petition and the attached *Ex Parte* Order by posting electronic copies on the "Pavonia Life Insurance" section of the DIFS website.

Respectfully submitted,

Dana Nessel
Attorney General



Christopher L. Kerr (P57131)
Aaron W. Levin (P81310)
Assistant Attorneys General
Attorneys for Petitioner
Corporate Oversight Division
P. O. Box 30736
Lansing, MI 48909
(517) 335-7632

Dated: March 10, 2020

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EX PARTE ORDER
APPROVING SETTLEMENT OF LAWSUIT AGAINST
PAVONIA LIFE INSURANCE COMPANY OF MICHIGAN
BY CLAIMANT JAYNEEN MANN

At a session of said Court
held in the Circuit Courtrooms
for the County of Ingham,
State of Michigan, on the
_____ day of March, 2020.

PRESENT: HONORABLE WANDA M. STOKES, CIRCUIT COURT JUDGE

WHEREAS, Anita G. Fox, Director of the Michigan Department of Insurance and Financial Services (“DIFS”) and duly appointed Rehabilitator of Pavonia Life Insurance Company of Michigan (the “Rehabilitator”), has filed an *Ex Parte* Petition for Approval to Settle Lawsuit against Pavonia Life Insurance Company of Michigan by Claimant Jayneen Mann (the “*Ex Parte* Petition”). Specifically, on July 13, 2017, Jayneen Mann (“Claimant”) commenced a lawsuit against Pavonia Life Insurance Company of Michigan (“Pavonia”) and another defendant entitled *Jayneen Mann, Plaintiff v. Pavonia Life Insurance Company of Michigan and Household Finance Corporation III, Defendants* in the 17th Judicial Circuit Court for Broward County, Florida, Case No. CACE-17-013185 (the “Lawsuit”);

WHEREAS, MCL 500.8115(1) governs legal actions or proceedings involving Pavonia that were pending when the Rehabilitation Order was entered and provides, *inter alia*, that “[t]he rehabilitator shall take action respecting the pending litigation as he or she considers necessary in the interests of justice and for the protection of creditors, policyholders, and the public”;

WHEREAS, with respect to claims against Pavonia arising after entry of the Rehabilitation Order, MCL 500.8114(2) and the Rehabilitation Order authorize the Rehabilitator to “take such action as she considers necessary or appropriate to reform or revitalize Pavonia.” In addition, this statute, as incorporated by the Rehabilitation Order, grants the Rehabilitator “full power and authority to direct and manage Pavonia . . . and to deal in totality with the property and business of the company; and

WHEREAS, the Rehabilitator has determined that settlement of the Lawsuit in the amount indicated in the *Ex Parte* Petition and on the terms contained in the parties' settlement agreement is necessary and appropriate, is in the interests of justice, and will promote the protection of Pavonia's creditors, policyholders, and the public;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Court APPROVES the settlement of the Lawsuit described above and in the *Ex Parte* Petition, authorizes payment of the settlement amount from the funds of Pavonia, and authorizes the Rehabilitator and/or Special Deputy Rehabilitators to execute any necessary documentation and take such other action required to finalize the settlement.

IT IS FURTHER ORDERED that due to the difficulty and prohibitive cost associated with personally serving the *Ex Parte* Petition and this Order on all parties that may have a general interest in Pavonia's rehabilitation, the Court authorizes, approves, and/or ratifies the Rehabilitator's service of the *Ex Parte* Petition and this Order by posting electronic copies on the DIFS website, www.michigan.gov/difs, under the section "Who We Regulate," the subsection "Receiverships," and the sub-subsection, "Pavonia Life Insurance." The Court finds that service in this manner is reasonably calculated to give interested parties actual notice of these proceedings and is otherwise reasonable under the circumstances.

IT IS FURTHER ORDERED that as provided in the settlement agreement, Pavonia (through the Deputy Rehabilitators) will only pay the Court-approved

settlement amount to Claimant after twenty-one (21) calendar days have elapsed following entry of this approval Order, which is the applicable appeal period (the “Appeal Period”). Accordingly: (a) any potentially interested party will receive notice of the *Ex Parte* Petition and this Order through the DIFS website posting; (b) any such party having standing can timely object to or appeal this Order during the Appeal Period; and (c) Pavonia (through the Deputy Rehabilitators) will not pay the Court-approved settlement amount to Claimant until the Appeal Period has expired, or if a valid objection or appeal has been timely filed, until such objection or appeal is fully and finally resolved. The Court finds that this procedure provides additional due process and ensures the ability of parties having standing to timely object to or appeal this approval Order.

IT IS SO ORDERED.

This Order does not resolve the last pending claim and does not close this case.

Honorable Wanda M. Stokes
Circuit Court Judge