

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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**REHABILITATOR'S REPLY TO  
GBIG HOLDINGS, INC.'S RESPONSE TO  
REHABILITATOR'S MOTION FOR FINAL ORDER**

Anita G. Fox, Director ("Director") of the Michigan Department of Insurance and Financial Services ("DIFS"), in her capacity as the statutory and Court-appointed Rehabilitator (the "Rehabilitator") of Pavonia Life Insurance Company of Michigan ("Pavonia"), by and through her attorneys, Dana Nessel, Attorney General, and Christopher L. Kerr and Aaron W. Levin, Assistant Attorneys General, submits this Reply to the June 11, 2020 Response Brief filed by the Seller,

GBIG Holdings, Inc. (“Seller”), to the Rehabilitator’s “Motion for Final Order . . .” (“Rehabilitator’s Motion”) filed on May 18, 2020.

Put simply, the Rehabilitator’s position is that the Court should grant final approval to the Plan of Rehabilitation and should not further delay or adjourn this matter while the Seller and the Buyer, Aspida Holdco, LLC (“Buyer”), work out any remaining differences to consummate the Closing on the sale. The Plan of Rehabilitation (“Plan”) incorporates the related Stock Purchase Agreement (“SPA”), which the Seller and the Buyer fully executed nearly one year ago on July 9, 2019. The SPA binds the Seller to sell and the Buyer to buy the Pavonia Entities pursuant to the terms stated therein. Although the parties are discussing potential last-minute amendments to the pricing terms of the SPA, these changes do not implicate the Rehabilitator’s support for the Plan or in any way undermine the Plan’s full protection of the Pavonia Entities’ policyholders and creditors. Moreover, neither party has terminated the SPA, which remains in full effect.

Under these circumstances, the Court should at a minimum proceed with the June 25, 2020 hearing on the Rehabilitator’s Motion and grant final approval to the Plan of Rehabilitation. Thereafter, the Seller and Buyer can resolve any remaining differences and ultimately consummate the Closing on the sale. During this interim period between Plan approval and Closing, the Pavonia Entities will remain in rehabilitation and the case will remain open until the Closing occurs, but the important step of final Plan approval will be accomplished. After the parties consummate the Closing, the Rehabilitator will then file another motion with the

Court seeking entry of a final order closing this case. The Rehabilitator has prepared an Order to this effect, which is attached hereto as Exhibit A.

The Court should not place this matter on hold merely because the Seller and Buyer are discussing certain pricing terms prior to Closing the transaction. Important progress can be made right now, namely, final approval of the Plan. Taking this step will also place pressure on the parties to resolve their remaining differences and consummate the Closing. For these reasons, the Rehabilitator respectfully requests the Court to: (a) not further adjourn or delay this matter; (b) proceed with the hearing on June 25, 2020; and (c) after oral arguments at the June 25, 2020 hearing, enter the Rehabilitator's proposed Order in the form attached as Exhibit A hereto.

Respectfully submitted,

Dana Nessel  
Attorney General

/s/Christopher L. Kerr  
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Dated: June 19, 2020

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Case No. 19-504-CR

HON. WANDA M. STOKES

**[IN REHABILITATION]**

**ORDER**  
**(i) APPROVING PLAN OF REHABILITATION AND RELATED CLOSING**  
**OF STOCK PURCHASE AGREEMENT;**  
**(ii) APPROVING ACTIONS OF THE REHABILITATOR;**  
**AND UPON CLOSING OF STOCK PURCHASE AGREEMENT**  
**(iii) TERMINATING REHABILITATION; AND**  
**(iv) DISCHARGING THE REHABILITATOR AND**  
**GRANTING RELATED RELIEF**

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

PRESENT: HONORABLE WANDA M. STOKES, CIRCUIT COURT JUDGE

WHEREAS, Petitioner 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 Life**”), and its wholly-owned subsidiary Global Bankers Insurance Group, LLC (“**ServiceCo**,” and collectively with Pavonia Life, the “**Pavonia Entities**”), by and through her attorneys, Dana Nessel, Attorney General of the State of Michigan, and Christopher L. Kerr and Aaron W. Levin, Assistant Attorneys General, has filed a Motion for Final Order: (i) Approving Plan of Rehabilitation and Related Closing of Stock Purchase Agreement; (ii) Terminating Rehabilitation; (iii) Approving the Actions of the Rehabilitator; and (iv) Discharging the Rehabilitator, Closing the Case, and Granting Related Relief (the “**Motion**”);

WHEREAS, the Court has reviewed the Motion and any objections or responses filed thereto, together with the terms of this order (“**Order**”), a prior version of which was attached to the Motion as Exhibit B;

WHEREAS, MCL 500.8116(2) authorizes the Rehabilitator to petition this Court at any time “for an order terminating rehabilitation of an insurer,” and the Court finds that, effective upon Closing,<sup>1</sup> it is appropriate to terminate the rehabilitation of the Pavonia Entities for the reasons stated in the Motion;

WHEREAS, the Court further finds that pursuant to MCL 500.8146(1), it is proper to grant the discharge of the Rehabilitator and to make other appropriate orders;

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<sup>1</sup> Certain capitalized terms adopt the meanings per documents previously filed with the Court (e.g., “**Closing**”).

WHEREAS, James E. Gerber having verified the facts set forth in the Motion, the Court having heard oral argument on the Motion on Thursday, June 25, 2020, at 1:45 p.m., and the Court being otherwise fully advised;

WHEREAS, based on the Motion and oral argument, the Court makes the following additional Findings and Conclusions and enters the following Orders; and

WHEREAS, if any of the following Findings constitute Conclusions, the Court deems them as such, and *vice versa*. Any and all other or further Findings and Conclusions that the Court may have or may further set forth on the record at the oral argument on the Motion are hereby incorporated in this Order.

### **FINDINGS & CONCLUSIONS**

1. 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 Life, including ServiceCo, as required by MCL 500.8113(1), and further approved the compensation of the Rehabilitator’s appointed Special Deputy Rehabilitators, James E. Gerber, Janice Sylvertooth, and Julieanne Gulliver, under MCL 500.8114(1) (the “**Deputy Rehabilitators**”).

2. Unlike most insurer receiverships, this matter has not involved a financially troubled insurance company. Rather, the Pavonia Entities are, and at all times material have been, solvent, and are affiliates and wholly-owned subsidiaries of GBIG Holdings, Inc. (“**GBIG Holdings**”), which also owns several North Carolina domiciled affiliated insurance companies that were placed in

rehabilitation by the North Carolina Insurance Commissioner on June 27, 2019 (the “**NC Insurer Affiliates**”).

3. Further, the Pavonia Entities are wholly-owned subsidiaries of GBIG Capital, LLC, which in turn is wholly owned by Greg E. Lindberg, a North Carolina resident. At this time, and until the Closing of the transaction that is an integral component of the Plan of Rehabilitation (“**Plan**”) for the Pavonia Entities, Mr. Lindberg remains their upstream owner. On March 5, 2020, a federal jury in the Western District of North Carolina convicted Mr. Lindberg on allegations of bribing the North Carolina Insurance Commissioner. Sentencing and various post-trial motions are pending.

4. Pursuant to MCL 500.8114(4), the Rehabilitator prepared the Plan to effectuate the reorganization and transformation of the Pavonia Entities for the protection and benefit of the companies, their policyholders, and creditors. The Plan proposes the sale of the Pavonia Entities by GBIG Holdings, as Seller, to a non-affiliated third party, Aspida Holdco LLC (“**Aspida**”), a Delaware holding company that is an affiliate of Ares Management Corporation, as Buyer.

5. The Plan effects a change in ownership, management, and control of the Pavonia Entities, and implements a process for resolving claims for “**Unscheduled Liabilities**” as defined in the Plan, other submissions to the Court, and this Court’s Orders.

6. Prior to entry of the Rehabilitation Order, GBIG Holdings transferred ServiceCo to, and it became a wholly-owned subsidiary of, Pavonia Life. The transfer was effected with full disclosure to DIFS. Buyer and Seller communicated

the terms of the Stock Purchase Agreement (“SPA”) to DIFS prior to the rehabilitation and reported that ServiceCo would be transferred in light of Buyer’s acquisitions pursuant to the terms and conditions of the SPA.

7. The Plan and the transaction are being undertaken as part of and pursuant to the State of Michigan’s regulation of the business of insurance, in order to protect the interests of policyholders and to secure their contractual coverage.

8. On July 9, 2019, GBIG Holdings and Aspida entered into the SPA immediately prior to the institution of these rehabilitation proceedings. The SPA is part of and fully integrated into the Plan, and was subject to both DIFS’ Form A regulatory approval pursuant to MCL 500.1311 – 500.1319 and this Court’s approval of the Plan.

9. During these proceedings and consistent with the Plan, the Rehabilitator caused the Pavonia Entities to conduct their business in the ordinary course and in accordance with Chapter 81 of the Michigan Insurance Code, MCL 500.8101 – 500.8159 (“**Chapter 81**”), and with the Plan, and at times has consulted with the parties in anticipation of the transaction ultimately Closing.

10. Pursuant to the SPA, Seller agreed to sell to Buyer, free and clear of any security interest, claim, restriction, encumbrance, lien, or adverse right, and Buyer agreed to acquire from Seller, all of Seller’s right, title, and interest in and to all of the issued and outstanding capital stock of Pavonia Life and, indirectly, ServiceCo, on the terms and conditions stated therein.

11. At the Rehabilitator’s request, on August 8, 2019, the Court entered an Order Preliminarily Approving Plan of Rehabilitation to: (i) Set Bar Date and

Establish Mandatory Procedures For Claims For Unscheduled Liabilities by any and all persons who may assert such Unscheduled Liabilities Claims (hereinafter, “**Unscheduled Liabilities Potential Claimants**”); (ii) Establish Procedures for Notice, Comment and Hearing Concerning Final Approval of Plan of Rehabilitation; and (iii) Authorize Combined Notice (the “**Procedural Order**”).

12. The Rehabilitator issued the required combined notice and implemented the claims procedure.<sup>2</sup> Seven proofs of claim were timely filed. Those persons who filed such claims are referred to hereinafter as the “**Unscheduled Liabilities Claimants**” and the claims they filed are referred to hereinafter as the “**Unscheduled Liabilities Claims.**” All but three of the claims have been resolved:

- a. POC No. 2, filed by claimant United States of America, which for purposes of this Order shall be deemed not to include potential claims of the Internal Revenue Service (“**US Claim**”);
- b. POC No. 5, filed by claimant Andesa Services, Inc., a data processing company located in Allentown, Pennsylvania (“**Andesa Claim**”); and
- c. POC No. 7, filed by claimant Charles Schwab & Co., Inc. and Charles Schwab Corporation, a Delaware Corporation (“**Schwab Claim**”).

13. In addition to the timely filed proofs of claim, on or about March 30, 2020, the Rehabilitator received notice of a summons and pleadings relating to a third-party claim against Pavonia Life in a 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 (“**Sharp Litigation**”).

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<sup>2</sup> The Seller has represented that it provided the combined notice to several additional lenders and investors in entities owned by the controlling shareholder out of an overabundance of caution.

14. In addition to the timely filed proofs of claim, the Rehabilitator received notice of potential claims of the U.S. Internal Revenue Service (“**IRS Claim**”).

15. Collectively, the Andesa Claim, the Schwab Claim, the Sharp Litigation, and the IRS Claim are referred to hereinafter as the “**Permitted Claims.**”

16. Two objections to the Plan were timely filed. One was filed by Charles Schwab & Co., Inc. and Charles Schwab Corporation which was subsequently withdrawn. The other was filed by Independent Insurance Group, LLC (“**Independent**”), which objection was exhaustively briefed and is discussed further below.

17. The Rehabilitator does not have cause to believe that the universe of Unscheduled Liabilities Potential Claimants is material in number or value. Except for the Sharp Litigation, the Rehabilitator does not know of any Unscheduled Liabilities Potential Claimant that has not filed a proof of claim or otherwise participated in the claim procedure. The Rehabilitator determined that Unscheduled Liabilities might arise out of or relate to affiliate investments engaged in by the NC Insurer Affiliates and/or the controlling shareholder. The class of Unscheduled Liabilities was narrowly circumscribed to reflect the risk that such affiliate investments and Mr. Lindberg represent to the Pavonia Entities, their policyholders, other creditors, and the public, whether in the form of a potential claim against the stock or other assets of the companies, to avoid or set aside the

transaction, or otherwise. The Plan uses a narrowly tailored approach to resolve and extinguish that risk, which ensures the continued coverage of policyholders.

18. The rehabilitation did not effect at any time, and the restoration provisions of this Order will not effect, any assignment of rights or obligations due or owing under any policy or other Pavonia Entities contract.

19. On January 13, 2020, Deputy Rehabilitator James E. Gerber submitted his First Report and Accounting to the Court. Therein the Deputy Rehabilitator summarized all significant developments since the initiation of these proceedings, and provided a detailed background about Pavonia Life, its history, business, financial circumstances, the Rehabilitator's actions and accomplishments, the proposed transaction between GBIG Holdings and Aspida, pending litigation, regulatory matters, administrative matters, and other financial matters. As described in the conclusion, the "major goal" for 2020 was "to resolve the United States Government claim," and "contingent upon DIFS's Form A approval, proceed with the Court's final approval of the sale" as outlined in the Plan.

20. On January 16, 2020, the Court held a hearing concerning the Plan and the one pending objection filed by Independent.

21. On March 9, 2020, the Court denied Independent's objection and indicated its intention to grant final approval to the Plan. Specifically, the Court stated that "Pending Form A approval, this Court sees no reason to deviate from the Rehabilitation Plan . . . and no reason to delay the consummation of the SPA any longer."

22. On March 12, 2020, Director Fox issued Order No. 2020-08-M approving Aspida's Form A Statement and the acquisition of the Pavonia Entities by Aspida. As a result, the sole major goal that remained for the Rehabilitator as described in the Deputy Rehabilitator's January 13, 2020 report to the Court was to resolve the US Claim for an "Unknown" amount.

23. The Rehabilitator advised the Court during the hearing that the U.S. Department of Justice ("**DOJ**"), as counsel for the U.S. Internal Revenue Service, contacted the Rehabilitator's counsel in response to the Motion, referenced potential claims of the U.S. Internal Revenue Service, and stated its "legal position . . . that the Ingham County Circuit does not have jurisdiction over the United States and that entry of the proposed order would not bind the United States."

24. The Rehabilitator further advised the Court that DOJ counsel for the U.S. Internal Revenue Service has accepted the revisions reflected in this Order relating to potential claims of the U.S. Internal Revenue Service.

25. After consulting with the Buyer and Seller, the Rehabilitator recommends that the Closing proceed and that the US Claim be resolved via a two-pronged approach: (a) denial of the US Claim for failure to timely substantiate its content in compliance with MCL 500.8136; and (b) the Pavonia Entities by agreement will satisfy and hold the Director, the Rehabilitator, and/or the Deputy Rehabilitators harmless against the US Claim, based on the remote contingency that the DOJ later attempts to pursue the US Claim against the Rehabilitator and/or Deputy Rehabilitators, as described further below.

26. With respect to the first prong, on April 13, 2020 Deputy Rehabilitator James E. Gerber sent a letter to the DOJ representative who filed the US Claim advising that the claim is deficient because it states as “Unknown” all relevant information required to support the claim, and therefore does not comply with MCL 500.8136. (See Motion, Exhibit A.) The letter afforded the DOJ representative ten calendar days, or until April 23, 2020, to provide the missing information required to substantiate the US Claim, otherwise the claim would be automatically denied. The DOJ representative did not provide the missing information or otherwise respond to the letter, therefore the Rehabilitator denied the US Claim effective as of April 23, 2020. Although the DOJ representative had thirty days, or until May 26, 2020, to object in writing to the Rehabilitator’s denial of the US Claim, she did not so object. Accordingly, pursuant to MCL 500.8139(1) and the Procedural Order, the Rehabilitator’s determination to deny the US Claim is a final determination as to the validity, distribution priority, and allowed amount of the claim and the United States cannot further object to the Rehabilitator’s determination to deny the US Claim. Moreover, on May 26, 2020, the DOJ representative advised the Rehabilitator’s counsel that she had not identified any potential civil claim against the Pavonia Entities by a branch, agency, or department of the United States other than possibly the U.S. Internal Revenue Service.

27. With respect to the second prong, the Pavonia Entities will by agreement: (a) hold the Director, the Rehabilitator, and/or the Deputy Rehabilitators harmless against the US Claim, in the unlikely event that the DOJ later attempts to pursue the US Claim against the Rehabilitator and/or Deputy

Rehabilitators; and (b) satisfy the US Claim, in the unlikely event that the Rehabilitator's denial of the US Claim, together with the releases, discharges, injunctions, and other protections provided in this Order, or for any other reason, are deemed ineffective by a court of competent jurisdiction to bar the US Claim, and such claim is awarded in a final, non-appealable order.

28. Consistent with Sections 2.04, 7.05 and 7.06(a) of the SPA, the Pavonia Entities may be executing two agreements with the companies' affiliates, including the NC Insurer Affiliates and the upstream owner: (i) a Termination of Cost Sharing Agreement; and (ii) a Termination and Release Agreement. These agreements would memorialize the termination in their entirety of intercompany agreements between the Pavonia Entities, the NC Insurer Affiliates, all other wholly-owned subsidiaries and affiliates of GBIG Capital, LLC, including Greg E. Lindberg personally, and settle all payables accrued under intercompany agreements, other than a tax sharing agreement, which is separately addressed. The Seller and Buyer may execute an amendment to the SPA to address certain transactional points prior to Closing, and any such amendment, if any, shall be deemed part of the SPA for all purposes of this Order.

29. In light of DIFS' Form A approval and subject to the Court's final approval of the Plan as provided herein, the Rehabilitator believes that the transaction between the parties should proceed to Closing.

30. The concluding phase of this rehabilitation involves the Closing and restoration to the Pavonia Entities of possession of their property and control of their business which form the Estate (as defined below) that is the subject of the

rehabilitation proceedings. To complete the transaction, the assets to be purchased include those supporting direct and assumed insured liabilities (here, “**Scheduled Liabilities**”). As a result, the reformation of the Pavonia Entities involves their resumption of only Scheduled Liabilities, and the adjudication and final determination of Unscheduled Liabilities Claims, including the US Claim, the Andesa Claim, the Schwab Claim, and the Sharp Litigation, as discussed further below.

31. The Plan effects the separation of the Pavonia Entities from the NC Insurer Affiliates and Mr. Lindberg so that their business and property may be safely restored to the Pavonia Entities for the protection of their respective policyholders, creditors, and the public. Restoration ensures the continuity of insurance coverage to policyholders and minimizes disruptions to operations. The separation is achieved, at least in part, by restoring to the Pavonia Entities the Scheduled Liabilities and the Assets of the Pavonia Entities (defined below) after all Unscheduled Liabilities have been adjudicated through the Claims Procedure (regardless whether a claim was filed). The restoration of assets and liabilities (along with control of the Pavonia Entities’ business) are express and integral conditions of, and will facilitate, the Plan and the transaction.

32. The Buyer has represented that it would not enter into the transaction or proceed with the Closing without the restoration provisions, releases, discharges and extinguishment of liability, and injunctive relief that are set forth in this Order, as required by the SPA. These restoration provisions, releases, discharges and extinguishment of liability, and injunctions are provided for in MCL 500.8105(1)

and 500.8121, are narrowly tailored to effectuate the transaction and implement the Plan, and are fair, equitable, and just under the facts and circumstances of this case.

33. The Rehabilitator has determined that effective upon Closing, the purposes of the rehabilitation will have been accomplished and the grounds for rehabilitation will no longer exist, as provided in MCL 500.8116(2). The Rehabilitator has therefore requested that the Court enter this Order approving the Plan and directing that simultaneously with the Closing: (a) the Scheduled Liabilities will be restored to the Pavonia Entities and become the obligation of the companies under the Buyer's ownership; (b) no liabilities beyond the Scheduled Liabilities will be restored to the Pavonia Entities, except as otherwise provided for herein (*i.e.*, the Permitted Claims); and (c) after Closing the Pavonia Entities will not have any obligations for any Unscheduled Liabilities. The Rehabilitator has further requested, based on the adjudication of any and all filed claims for Unscheduled Liabilities, unless otherwise specifically addressed herein, that the Court bar the assertion of any further Unscheduled Liabilities that could have been filed, but were not, and forever release, discharge, bar, and extinguish any liability for unfiled claims (if any) for Unscheduled Liabilities against the Pavonia Entities and the transaction parties.

34. The Rehabilitator has further requested that this Order provide for the release and discharge from, and extinguishment of, any pre-rehabilitation and pre-Closing liability or responsibility for the Pavonia Entities, Seller, Buyer, and their respective parents, owners, equity holders, subsidiaries, affiliates, officers, and

directors (collectively, “**Affiliates**”) for any Unscheduled Liabilities; and include injunctions issued in favor of the Pavonia Entities, Seller, Buyer, and their Affiliates precluding the assertion against them of any claims for Unscheduled Liabilities by any and all Unscheduled Liabilities Claimants and Unscheduled Liabilities Potential Claimants (except for the Permitted Claims).

35. The Court provided a full and fair opportunity for all policyholders, creditors, and interested persons to interpose objections or comments to the Plan.

36. The Legislature vested the Court with exclusive subject matter jurisdiction over this rehabilitation, MCL 500.8104(3), and the power to enter this Order on the Plan that is binding on the Pavonia Entities, their policyholders, creditors, and the transaction parties.

37. Entry of the Rehabilitation Order transferred control of the operations and vested the Director as Rehabilitator “by operation of law [with] title to all [of the Pavonia Entities’] assets,” MCL 500.8113, and created an estate that comprises all of the Pavonia Entities’ assets and liabilities (“**Estate**”). The Court has *in rem* jurisdiction over the Estate.

38. The Court has *in personam* jurisdiction through the Rehabilitator’s general representation of all the Pavonia Entities’ creditors (including policyholders), the receipt of and payment for insurance contracts, the filing of claims, the lodging of objections, and any and all other acts by which creditors have invoked the benefits and protections of Michigan law.

39. Subject to interim disputes or objections that may have arisen, the Rehabilitator represents the interests of all policyholders, creditors, and

shareholders of the Pavonia Entities in developing and implementing a rehabilitation plan that is fair and equitable and protects the interests of all parties concerned.

40. All contracts issued or executed by the Pavonia Entities are deemed to include Chapter 81 in their provisions and to have been entered into subject to Chapter 81.

41. It is fair and reasonable for the Court to assert jurisdiction over policyholders, creditors, and other interested persons of the Pavonia Entities and the Estate in respect of their respective rights and interests, as well as those who may have a right to a direct or indirect claim against or involving the assets and liabilities of the Pavonia Entities and the Estate.

42. All non-insured creditors (including, without limitation, Unscheduled Liabilities Claimants) who objected to the Plan or who sent a claim, request, reminder, notice, or demand of any kind or nature seeking or referencing any amount or obligation due or payment from the Pavonia Entities at any time after entry of the Rehabilitation Order have therefore made a claim against the Estate and invoked the benefits and protections of Michigan law.

43. The Court's final approval of the Plan, as provided herein, constitutes adjudication of the rights of all policyholders, actual and potential creditors, and other interested persons in accordance with Chapter 81. This Order applies to all policyholders, actual and potential creditors, and interested persons and binds them to this Order.

44. The Plan is lawful, appropriate, fair and equitable to all parties concerned, and a reasonable exercise of the Rehabilitator's authority and the State's police power.

45. Assets of the Pavonia Entities, as defined herein, include but are not limited to capital and surplus, and will be restored to the Pavonia Entities specifically for concomitant Scheduled Liabilities.

46. Upon Closing, neither Mr. Lindberg nor any other Global Group controlling person will have, nor may they exercise, any control whatsoever over the Pavonia Entities.

47. The Buyer has represented, and the Rehabilitator believes, that the Buyer acted in good faith in the transaction.

48. The Seller has represented in the SPA that it is, and following the transaction will be, solvent, and it has provided to the Pavonia Entities an opinion that the consideration the Buyer will pay for the Pavonia Life shares and assets is financially fair to the Seller. No evidence has been presented to the Rehabilitator or the Director that the Seller is, or was at the time of signing the SPA, insolvent, or that the transaction will render the Seller insolvent.

49. The SPA transactions are not payments on account of antecedent debt and are not made with intent to hinder, defraud, or delay any creditor of the Seller, the Pavonia Entities, or the Estate. Upon Closing, the Pavonia Entities will have been acquired in compliance with applicable law.

50. The consideration that Buyer is providing is fair and constitutes reasonably equivalent value for the stock it is acquiring. As referenced in Order No.

2020-08-M approving the Form A Statement, DIFS separately obtained an Embedded-Value Opinion from an independent actuarial firm to determine the reasonableness of the purchase price under the SPA. The Embedded-Value Opinion supports the Seventy-Five Million Dollar (US \$75,000,000) purchase price. In addition, the SPA is supported by a Fairness Opinion that was obtained pursuant to Section 7.14 of the SPA.

51. The consideration provided by the Buyer under the SPA (*i.e.*, \$75 million in cash plus numerous covenants) is good, valid, and valuable and allows for the transaction to close and protects all Pavonia Life policyholders. The release, discharge, and extinguishment of the Buyer's liability from all Unscheduled Liabilities, reinforced by injunctive relief, are necessary and appropriate to facilitate and protect the transaction that forms the foundation of the Plan.

52. Similarly, the consideration provided by the Seller under the SPA (*i.e.*, selling all the issued and outstanding stock of Pavonia Life to Buyer) is good, valid, and valuable and allows for the transaction to close and protects all Pavonia Life policyholders. The release, discharge, and extinguishment of the Seller's liability from all Unscheduled Liabilities, reinforced by injunctive relief, are necessary and appropriate to facilitate and protect the transaction that forms the foundation of the Plan.

53. Restoration of the Assets of the Pavonia Entities (defined below) to the Pavonia Entities after the Closing of the transaction and termination of rehabilitation under MCL 500.8116(2) will not violate any applicable fraudulent

transfer, voidable preference, voidable transaction, or other avoidance statute under federal (including title 11 of the United States Code) or state law.

54. As a result of the transaction, upon Closing the Rehabilitator has requested that the Court declare, order, and decree the Buyer the owner of legal and beneficial title to the acquired shares free and clear of any liens, claims, interests, charges, and any other encumbrances (including but not limited to Unscheduled Liabilities, except for the Permitted Claims).

55. The Plan, the transaction, and this Order are all undertaken as part of and pursuant to the State of Michigan's regulation of the business of insurance, and thus to protect the interests of policyholders to secure their contractual coverage, and to protect the interests of creditors and the public.

56. The provisions of the Plan, the transaction, and this Order are supported by, follow, and do not violate federal law and Michigan state law in general and the Insurance Code in particular, including, but not limited to, Chapter 81.

### **ORDER**

#### **NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

A. The Court GRANTS the Motion.

#### **Approval of Plan of Rehabilitation and Related Closing of Stock Purchase Agreement**

B. The Court formally and finally approves the Plan of Rehabilitation.

C. The Court authorizes the Pavonia Entities to enter into and execute for purposes of Closing agreements that memorialize the termination in their entirety

of intercompany agreements between the Pavonia Entities, the NC Insurer Affiliates, all other wholly-owned subsidiaries and affiliates of GBIG Capital, LLC, including Greg E. Lindberg personally, and settle all payables accrued under intercompany agreements, other than for tax liabilities and obligations.

D. Upon Closing, the foregoing terms and the terms of the SPA and the Plan are and forever will be binding on and enforceable against the Estate, Pavonia Life's policyholders, all actual and potential creditors of the Pavonia Entities, any assigns, the Seller, the Buyer, and other potentially interested persons even if: (i) the transaction, the SPA, or the Plan affects or impairs any rights or claims of such person; (ii) such person has responded to the Plan or the petition for its approval; and/or (iii) such person makes a later demand for payment of any claim or has made (or attempted to make) an appearance in this rehabilitation proceeding at any time.

E. Upon Closing, and pursuant to MCL 500.8116(2), the Rehabilitator's conduct of the Pavonia Entities' business as provided for in the Rehabilitation Order will terminate, and the Pavonia Entities will resume ownership and possession of their property and the conduct of their business as provided in this Order and the SPA.

F. For purposes of Closing and effective prior to Closing, and with this Court's express approval under authority granted by applicable law, the Pavonia Entities' liabilities and assets will be restored to the companies, such that, effective upon Closing:

The Pavonia Entities' "**Post-Closing Liabilities**" shall include only Scheduled Liabilities and not any Unscheduled Liabilities, except for the Permitted Claims.

The Pavonia Entities shall be restored with, and vested in, and hold all right, title, and interest in and to their respective properties and assets, including, without limitation, all of the Pavonia Entities' rights, title, and interest in any and all: (i) owned and leased real property; (ii) accounts and notes receivable; (iii) all tangible personal property; (iv) contracts to which the Pavonia Entities or either of them is a party; (v) intellectual property; (vi) licenses, permits, franchises, approvals, registrations, authorizations, and consents; (vii) books and records, ledgers, files, documents, correspondence, and business and accounting records of every kind (including all financial, business, and marketing plans), all advertising, marketing, and promotional materials, all invoices, bills of sale, and other instruments and documents; (viii) claims (including insurance benefits), causes of action, choses in action, rights of recovery, rights of recoupment, and rights of set-off; (ix) guarantees, warranties, indemnities, and similar rights in favor of the Pavonia Entities; (x) goodwill as going concerns and all other intangible property; (xi) all prepaid expenses, credits, advance payments, security deposits, charges, sums, and fees; (xii) cash, cash equivalents, securities, and investments; (xiii) prepayments, prepaid expenses (including, without limitation, prepaid insurance premiums), deferred charges, advance payments, and security deposits; (xiv) insurance, reserves, and deposits; and (xv) all other property not referred to above which is either represented on the Pavonia Entities' balance sheets or acquired by the Pavonia Entities thereafter (collectively, **"Assets of the Pavonia Entities"**).

G. Effective upon Closing, the restoration to the Pavonia Entities of the Assets of the Pavonia Entities, and sale of the shares to the Buyer, along with the Assets of the Pavonia Entities, shall be purchased free and clear of all Unscheduled Liabilities (including, but not limited to, liens, encumbrances, claims, charges, and other interests of any nature, type, or kind whatsoever, whether arising under any contract, common law, statute, law, in equity, or otherwise) that have or could have been asserted against the Pavonia Entities or the respective shares of the Pavonia Entities at any time before or during the Rehabilitation or when such companies

and assets and liabilities were within the title, possession, or control of the Rehabilitator or were part of the Estate, except for the Permitted Claims.

H. Upon Closing, the Pavonia Entities shall be vested, good, valid, and marketable title, free of any and all liens, security interests, or encumbrances of whatever kind or nature, adverse claims, defenses (including, without limitation, rights of setoff and recoupment), and interests of third parties of any kind or nature, other than the Scheduled Liabilities and except for the Permitted Claims, in and to all Assets of the Pavonia Entities.

I. Effective upon Closing, the Pavonia Entities, Seller, Buyer, and their Affiliates and each of their officers and directors in such capacities shall be fully and unconditionally released and discharged from, and have absolutely no responsibility or liability whatsoever for any Unscheduled Liabilities, except as provided herein in relation to the Permitted Claims, and the Assets of the Pavonia Entities shall not be chargeable for any Unscheduled Liabilities. No person or entity shall have a valid claim or cause of action against the Assets of the Pavonia Entities, the Pavonia Entities, Seller, Buyer or their Affiliates' past, present, or future directors, officers, managers, employees, successors, or assigns in such capacities for any claim related to, or arising in connection with, directly or indirectly, any Unscheduled Liabilities, except as provided herein in relation to the Permitted Claims, and neither the Pavonia Entities, Seller, Buyer, their past, present, or future directors, officers, managers, employees, successors, or assigns in such capacities, or their representatives in the transaction shall have any future responsibility or liability

whatsoever, and are hereby fully released and discharged therefrom, except as provided herein in relation to the Permitted Claims.

J. Effective upon Closing, to protect the transaction and effect the Plan, and consistent with MCL 500.8105(1)(c), (f), and (k), the Court issues the following injunctions, which complement the Rehabilitation Order's injunctions entered previously in these proceedings:

All persons and entities, including, but not limited to, Estate creditors, contract counterparties, and other interested persons, and without limitation their respective owner members, directors, officers, affiliates, representatives, agents, employees, parents, subsidiaries, successors, and assigns, and all persons in active concert or participation with any of them, whether in the State of Michigan or elsewhere, except as permitted by this Order, are permanently restrained and enjoined from: (i) pursuing in any manner any claim or commencing or continuing in any manner or in any place any suit, action, or other proceeding, whether legal, equitable, administrative, or otherwise, whatsoever relating directly or indirectly to **Unscheduled Liabilities (except for the Permitted Claims)** as defined in the Rehabilitator's Plan, submissions to the Court, and this Court's Orders, against Seller, the acquired shares, the Assets of the Pavonia Entities, the Pavonia Entities, Buyer, any of their respective Affiliates, or their respective representatives in the transaction; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the acquired shares, the Seller, the Assets of the Pavonia Entities, the Pavonia Entities, Buyer, or their respective Affiliates or representatives in the transaction relating directly or indirectly to **Unscheduled Liabilities (except for the Permitted Claims)** as defined in the Rehabilitator's Plan, submissions to the Court, and this Court's Orders; or (iii) creating, perfecting, or enforcing any lien or encumbrance with respect to the acquired shares or the Assets of the Pavonia Entities relating directly or indirectly to **Unscheduled Liabilities (except for the Permitted Claims)** as defined in the Rehabilitator's Plan, submissions to the Court, and this Court's Orders.

All persons and entities are hereby forever prohibited and

enjoined from taking any action or omitting to act that would adversely affect or interfere with the ability of the Rehabilitator to effect the Plan, and to authorize the transfer of shares and restoration of the Assets of the Pavonia Entities or Post-Closing Liabilities.

Any person or entity attempting to pursue a claim or commence or continue any action or proceeding in violation of these injunctions in this Order shall cause such persons and/or entities to be subject to contempt proceedings before this Court, applicable fines, and other sanctions.

K. The Andesa Claim and the Schwab Claim were timely-filed claims for Unscheduled Liabilities that remain unadjudicated. They shall be the only, timely-filed Unscheduled Liabilities Claims that are restored by this Order to Pavonia Life upon the Closing. In addition, Pavonia Life will assume full responsibility for the Sharp Litigation and each Pavonia Entity will assume full responsibility for any applicable IRS Claim post-Closing. All other timely-filed claims for Unscheduled Liabilities were either resolved with the Court's approval (*i.e.*, Plymale, Gendaszek, and Mann) or were denied by the Rehabilitator and are therefore released and discharged.

L. Nothing in this Order will affect, relinquish, modify, or waive any Closing condition, termination right, or other right or obligation due under or set forth in the SPA and any related agreements.

M. The SPA (and each of the instruments or agreements contemplated by it and delivered pursuant to it) may be modified, amended, or supplemented in a writing signed by the parties to the SPA and in accordance with its terms and with notice to the Director, but without notice to or order of this Court; provided, however, that any such modification, amendment, or supplement will not have a

material adverse effect on the Plan or the Estate unless such modification, amendment or supplement is submitted to and approved by separate order of this Court.

N. The Court will retain exclusive jurisdiction over this matter for all purposes necessary to effectuate and enforce its orders, including this Order.

Without limiting the generality of the above, the Court's continuing jurisdiction will include:

The right to hear and determine all claims, controversies, disputes, and demands arising out of or relating to this Order and the Pavonia Entities' rehabilitation proceedings; and

The taking of any action necessary to ensure the continued vitality and legality of the SPA, the transaction, the Plan, and this Order.

O. This Order constitutes the Rehabilitation Court Confirmation and Approval Order for purposes of the SPA and shall have effect upon the Closing.

P. The Court hereby orders that the Pavonia Entities will by agreement: (a) hold the Director, the Rehabilitator, and/or the Deputy Rehabilitators harmless against the US Claim, in the event that the DOJ later attempts to pursue the US Claim against the Rehabilitator and/or Deputy Rehabilitators; and (b) satisfy the US Claim, in the event that the Rehabilitator's denial of the US Claim together with the releases, discharges, injunctions, and other protections provided in this Order, or for any other reason, are deemed ineffective by a court of competent jurisdiction to bar the US Claim, and such claim is awarded in a final, non-appealable order.

**Approval of All Actions Taken or Not Taken by the  
Director as Rehabilitator of the Pavonia Entities**

Q. All actions taken or not taken by the Rehabilitator and her Deputy Rehabilitators, representatives, agents, accountants, attorneys, successors, predecessors, officers, directors, and assigns, both past and present, throughout the rehabilitation of the Pavonia Entities are hereby approved, and such actions taken or not taken have been properly executed and have met the requirements of Chapter 81 and the laws of the State of Michigan in general, as ascertained by and reviewed by this Court through the date of this Order.

**Discharge of Rehabilitator and Release of All Claims against  
the Director as Rehabilitator of the Pavonia Entities**

R. Effective upon Closing, the Rehabilitator and her Deputy Rehabilitators, representatives, agents, accountants, attorneys, successors, predecessors, officers, directors, and assigns, both past and present, are fully, finally, and unconditionally discharged and released from any duties, obligations, claims, and liabilities relating to or arising out of the rehabilitation of the Pavonia Entities.

**Bar Order for All Claims against the Rehabilitator**

S. Effective upon Closing, all claims and causes of action against the Rehabilitator and her Deputy Rehabilitators, representatives, agents, accountants, attorneys, successors, predecessors, officers, directors, and assigns, both past and present, for any and all actions taken or not taken throughout the rehabilitation of the Pavonia Entities are completely and forever barred, and from and after entry of this Order terminating the rehabilitation effective upon Closing, these persons shall

have no further responsibility, obligations, or liability under Chapter 81 or the laws of the State of Michigan with respect to any matter relating to or arising out of the Pavonia Entities' rehabilitation.

**Approval of Destruction of  
Retained Pavonia Entities Records**

T. Effective upon Closing, the Court authorizes the Rehabilitator (or DIFS Director as former Rehabilitator) to destroy any Retained Pavonia Entities Records, as that term is defined in the Motion, on a rolling, yearly basis, such that every year all documents more than seven (7) years old will be destroyed unless their retention is otherwise required by law, without further request to the Court by the Rehabilitator/DIFS Director as former Rehabilitator and without further review or order of this Court.

**Termination of Rehabilitation, Closing of Case, and  
Discharge of All Reporting Obligations**

U. Effective upon Closing, the rehabilitation of the Pavonia Entities is terminated, and the Rehabilitator is discharged pursuant to MCL 500.8146(1). Following the Closing, the Rehabilitator/DIFS Director as former Rehabilitator will file a separate motion notifying the Court that the Closing has occurred and seeking a final order closing both this case and the Pavonia Entities' rehabilitation Estate.

V. Effective upon Closing, no further reports regarding the rehabilitation of the Pavonia Entities are required of the Rehabilitator to any person or entity, including but not limited to reports to this Court and reports to DIFS.

### Authorization of Service

W. The Court authorizes, approves, and/or ratifies the Rehabilitator's service of the Motion and attached Exhibits (which included a copy of a prior version of this Order as Exhibit B), the Notice of Hearing, and this Order:

- a. Via electronic mail on the following individuals or entities:
- GBIG Holdings, Inc., c/o counsel Zachary Larsen
  - Aspida Holdco LLC, c/o counsel Stephen Schwab
  - U.S. Department of Justice, c/o counsel Sharon Williams
  - U.S. Internal Revenue Service, c/o counsel Robert D. Heitmeyer
  - Mike Dinius, Deputy Rehabilitator of the NC Insurer Affiliates
  - Andesa Claim, c/o counsel Elliott Stein
  - Schwab Claim, c/o counsel Stephen Scott
  - Sharp Litigation, c/o counsel Steve Ferguson
  - Independent Insurance Group, c/o counsel Jonathan Raven

and

- b. 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."

The Court finds that service in the foregoing manner is reasonably calculated to give the listed individuals and entities, together with any other potentially interested individuals or entities, actual notice of these proceedings and is otherwise reasonable under the circumstances.

### **Additional Provisions**

X. This Order shall be binding on all persons that may have an interest in the Pavonia Entities and all persons that received actual or constructive notice of the Motion, and while specifically excepting claims by the U.S. Internal Revenue Service, include without limitation the United States and its agencies (other than the U.S. Internal Revenue Service), all parties in interest, all federal, state, and local governmental entities and fiscal intermediaries thereof, and any other holders of Unscheduled Liability claims of any kind, whether known or unknown, asserted or unasserted, disputed or undisputed, matured or unmatured, liquidated or unliquidated, fixed or contingent, arising in law or equity. This Order and the foregoing terms hereof shall bind each and every one of the foregoing persons or entities, without limitation, regardless of whether or not: (a) this Order impairs any rights or claims of such persons or entities; (b) such persons or entities have responded to the Motion or participated in any hearing thereon; and/or (c) such persons or entities make a later demand for payment of any claim or have made (or attempted to make) an appearance in the rehabilitation proceeding at any time.

Y. This Order should be given full faith and credit in all courts in the United States.

**IT IS SO ORDERED.**

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

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Honorable Wanda M. Stokes  
30th Circuit Court Judge