

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----x     Index No.: 452041/16

**AFFIRMATION**

In the Matter of

the Liquidation of

AMERICAN MEDICAL AND LIFE  
INSURANCE COMPANY.

-----X

Melvin Browning, an attorney licensed to practice law in the State of New York, affirms under penalty of perjury as follows:

1. I am an attorney employed by the New York Liquidation Bureau, the organization that acts as the staff of Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent") as liquidator ("Liquidator") of American Medical and Life Insurance Company ("AMLI"), and submit this affirmation, upon information and belief based upon my review of the files maintained by my office and conversations I have had, in support of the Liquidator's motion for an order (i) approving a procedure for judicial review of the Liquidator's classification and adjudication of claims in this proceeding ("Adjudication Procedure") and (ii) appointing a referee ("Referee") to hear and take evidence on issues raised by the Liquidator's determinations and claimants' objections, and to report thereon.

2. By this Court's order, entered on December 28, 2016, (the "Liquidation Order"), AMLI was placed into liquidation under Article 74 of the New York Insurance Law (the "Liquidation Proceeding") and the Liquidator was vested with all powers and authority expressed or implied by New York Insurance Law ("Insurance Law") Article 74 and directed to liquidate AMLI's business and affairs in accordance with those statutes. A copy of the

Liquidation Order is annexed hereto as Exhibit A. The Liquidator is responsible for, among other things, the handling of claims against the estate<sup>1</sup>.

3. Claims against the estate fall into one of the categories, known as classes of claim, as set forth in New York Insurance Law Section 7435, and are summarized below:

Class One – Administrative Claims

Costs and expenses of administration incurred by the Liquidator, The Life Insurance Guaranty Corporation, or The Life Insurance Company Guaranty Corporation of New York;

Class Two – Employee Claims

Debts due to employees for services not to exceed \$1,200 and rendered within one year before commencement of liquidation;

Class Three – Provider Claims

Claims for payment for goods furnished or services rendered to the insolvent insurer within 90 days prior to the date the insurer was determined to be insolvent;

Class Four – Policyholder Claims

Claims under insurance policies, annuity contracts and funding agreements, and all claims of The Life Insurance Company Guaranty Corporation of New York or any other guaranty corporation or association, other than claims under class one above and claims for interest;

Class Five – Federal, State and Local Government Claims

Federal, state or local government claims, including those for a penalty or forfeiture only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby (the remainder of such claims are in Class Eight);

Class Six – General Creditor and Miscellaneous Claims

Claims of general creditors and any other claims other than claims under classes seven and eight below;

Class Seven – Capital Obligations

Surplus, capital or contribution notes, or similar obligations; and

---

<sup>1</sup> It does not appear that there are policyholder claims against AMLI that could trigger the Life Insurance Company Guaranty Corporation of New York or other state life insurance guaranty funds.

Class Eight – Shareholder and Miscellaneous Policyholder Claims

Claims of policyholders, other than claims under class four above, and claims of shareholders or other owners.

4. As currently enacted, Section 7435 of the Insurance Law does not comply with the United States Supreme Court's decision in *U.S. Dept. of Treasury v Fabe*, 508 U.S. 491 (1993), which addressed the federal priority statute's pre-emption of states' priority of claims in proceedings to liquidate insolvent insurance companies. Under the federal priority statute, a claim of the United States Government shall be paid first when a company indebted to the Government is insolvent and an act of bankruptcy is committed. 31 U.S.C. § 3713(a)(1)(A)(iii). In *Fabe*, the Supreme Court held that a state's priority statute escapes federal pre-emption to the extent that it protects policyholders, but not to the extent it furthers the interests of creditors other than policyholders. *Id.* at 491 - 492. Under Section 7435, federal claims are a class five, behind the claims of employees (class two) and the providers of goods and services (class three), and on par with the claims of state and local governments (also class five). Under *Fabe*, only policyholder claims (class four under Section 7435) and administrative claims (class one) should be prioritized over federal claims. However, the Liquidator has not received any federal claims in the AMLI liquidation proceeding. The Liquidation Order set September 28, 2017 as the bar date by which all claims by any claimant against AMLI or its insureds (other than administrative claims) had to be submitted. *See* Exhibit A, paragraph 13. Therefore, the Liquidator will apply the priority scheme provided in Section 7435. However, should the Federal Government submit a claim in the AMLI liquidation proceeding, the Liquidator will return to this Court for guidance on how to prioritize claims under the Adjudication Procedure to insure compliance with the *Fabe* decision.

5. Once claims are classified, the Liquidator advises claimants of the classification. A copy of the template letter to be used by the Liquidator is attached hereto as Exhibit B ("Classification Letter"). When claims are adjudicated, the Liquidator reviews each claim and determines the amount to be allowed or disallowed. A notice of determination ("NOD") is then issued to the claimant, which is subject to objection under the Adjudication Procedure. Templates of the NODs for allowance and disallowance are attached hereto as Exhibit C.

#### **THE ADJUDICATION PROCEDURE**

6. The Adjudication Procedure is as follows:
- a) This Adjudication Procedure shall apply to disputes arising out of the issuance of a Classification Letter and/or NOD to a claimant.
  - b) References to "claimant" shall mean those individuals or entities with the legal standing to maintain a claim against AMLI. Nothing contained herein shall or shall be deemed to confer standing upon any individual or entity or expand any right of an individual or entity under applicable law or any provision of an insurance policy or contract.
  - c) The Liquidator shall serve either or both a Classification Letter and NOD, as the case may be, on each claimant with a claim timely filed or deemed timely filed in the liquidation proceeding. Service of the Classification Letter and/or NOD will be made by first class mail, or such other form of communication as may have been agreed to by the Liquidator and the claimant in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The Classification Letter and NOD may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Liquidator.
  - d) The Classification Letter advises each claimant of the following:
    - i. The Liquidator's determination of the specific class of claim under Insurance Law Section 7435 in which the claim falls;
    - ii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the Classification Letter;
    - iii. The claimant has the right to object to the Classification Letter, and may do so by serving a written objection on the Liquidator within sixty (60)

days after the date of mailing of the Classification Letter, as set forth in the Classification Letter;

- iv. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
  - v. The court-appointed Referee will hear and report to the Court on the validity of the claimant's unresolved objections; and
  - vi. Either the claimant or the Liquidator may petition the Court supervising the AMLI liquidation proceeding ("Supervising Court"), on notice, for an order confirming or denying the Referee's report.
- e) The NOD advises each claimant of the following:
- (i) The Liquidator's determination of the specific class of claim under Insurance Law Section 7435 in which the claim falls;
  - (ii) The Liquidator's recommendation that the claim be allowed and the amount of the recommended allowance, or that the claim be disallowed, in whole or in part, and the reason therefor;
  - (iii) No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the NOD;
  - (iv) The claimant has the right to object to the NOD, and can do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing the NOD, as expressly set forth in the NOD;
  - (v) Unless the claimant objects, the Liquidator's recommendation in the NOD will be presented to this Court for approval and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law Section 7435, will be fully and finally determined;
  - (vi) If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
  - (vii) The court-appointed Referee will hear and report to the Court on the validity of the claimant's unresolved objections; and

- (viii) Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order confirming or denying the Referee's report.
- f) The Liquidator shall move, ex-parte, at least seventy-five (75) days (or a lesser period if agreed upon by the claimant) after the date of the NOD, for an order approving the Liquidator's recommendations for adjudication of all claims for which no objections are timely received.
- g) In the event that a claimant requests a hearing, the Liquidator will contact the claimant in writing at the address set forth on the Classification Letter or NOD (or such other address as the claimant has provided to the Liquidator in writing for the purpose of providing communication in respect of such Classification Letter or NOD) to schedule a pre-hearing conference. If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five (5) business days prior to the pre-hearing conference and the claimant fails to show up for the pre-hearing conference, then the claimant's objection to the Classification Letter or NOD is forfeited and the Classification Letter or NOD is deemed accepted.
- h) If a claimant fails to take the steps necessary to have its objection heard, the court-appointed Referee may issue a dismissal of the objection and deem the Classification Letter or NOD to be accepted.
- i) The Liquidator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee; however, any settlement above \$25,000 is subject to approval by this Court, in accordance with New York Insurance Law Section 7428(b).
- j) In the event the Liquidator fails to timely meet any of the time periods set for mailing or delivering a notice required by the Order, it shall not affect the validity of the denial/determination but shall entitle the party that did not receive timely notice to toll its further obligations under the Adjudication Procedure until it receives the required notice.

#### **THE APPOINTMENT OF A REFEREE**

7. The Liquidator respectfully requests that this Court appoint a Referee to hear and take evidence on objections raised by claimants in accordance with the Adjudication Procedure and to report the Referee's findings to the Supervising Court. Either the claimant or the Liquidator may petition this Court, on notice, for an order confirming or denying the Referee's report.

8. The Liquidator further respectfully requests that the Referee be paid an hourly rate of \$200 as a loss adjustment expense of the AMLI estate.

9. In addition, in order to reduce administrative expenses, the Liquidator respectfully requests that the Referee be directed to conduct all hearings at the place of business of the Superintendent of Financial Services as Liquidator of AMLI, currently located at 110 William Street, Borough of Manhattan, City, County and State of New York.

#### MISCELLANEOUS

10. The Liquidator also requests that this Court issue the accompanying Order to Show Cause approving: (i) a return date ("Return Date") for a hearing ("Hearing") on the application to be held before this Court at least forty-five (45) days after the date of issuance of the Order to Show Cause; (ii) the form of notice to be given to AMLI's policyholders, creditors and others interested in the affairs of AMLI regarding the application and the Hearing ("Notice"), a copy of which is attached hereto as Exhibit D; and (iii) the method of service of the Notice, i.e., by: (a) posting the Notice, Order to Show Cause and its supporting papers on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least fifteen (15) days before the Return Date; and (b) publication in the *Insurance Advocate*, or a publication of similar circulation, in the next available issue prior to the Return Date, such service shall be deemed good and sufficient service.

11. There has been no previous application for the relief requested herein.

WHEREFORE, it is respectfully requested that this Court enter an order: (i) approving the Adjudication Procedure, and (ii) appointing a Referee to hear and take evidence on issues raised by the Liquidator's determinations and claimants' objections, and to report thereon, and grant the Liquidator such other and further relief as is just and proper.

Dated: New York, New York  
August 17, 2018

By: Melvin Browning  
Melvin Browning



Index No. 452041

Year 2016

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

In the Matter of

the Liquidation of

AMERICAN MEDICAL AND LIFE INSURANCE COMPANY.

**ORDER TO SHOW CAUSE AND AFFIRMATION FOR AN ORDER  
APPROVING THE PROCEDURE FOR THE LIQUIDATOR'S ADJUDICATION  
OF CLAIMS AND APPOINTMENT OF A REFEREE**

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial Services of the State of New York as Liquidator

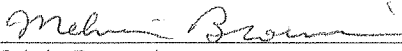
*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
(212) 341-6755  
Fax (212) 608-3398

**ATTORNEY CERTIFICATION**

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: August 12, 2018  
New York, New York

  
Melvin Browning

☐ NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on the      day of      20

☐ NOTICE OF SETTLEMENT

that an order  
settlement to the HON.

of which the within is a true copy will be presented for  
one of the judges of the within named court, at  
20      at

Dated:

, on

Yours, etc.

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial  
Services of the State of New York as  
Liquidator

*Office and Post Office Address, Telephone*  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
(212) 341-6755  
Fax (212) 608-3398

## Exhibit A

# SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: JOAN M. KENNEY  
J.S.C. Justice

PART 8

Vullo, MARIA T.

INDEX NO. 452041-16

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 221

American Medical AND Life Insurance Company

The following papers, numbered 1 to 10, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause Affidavits Exhibits No(s). 1-10

Answering Affidavits — Exhibits No(s). \_\_\_\_\_

Replying Affidavits No(s). \_\_\_\_\_

Upon the foregoing papers, It is ordered that ~~this motion is~~ the relief sought in the Petition  
is granted in its entirety. The motion is granted as per  
the terms of the attached Order.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING REASON(S):

Dated: 12/21/16

Joan M. Kenney J.S.C.  
JOAN M. KENNEY J.S.C.

1. CHECK ONE: ..... ☒ CASE DISPOSED ☐ NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: ..... MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER
3. CHECK IF APPROPRIATE: ..... ☐ SETTLE ORDER ☐ SUBMIT ORDER
- ☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

At IAS Part 8 of the Supreme Court  
of the State of New York, County of  
New York, at the courthouse located  
at 71 Thomas Street, New York City,  
New York, on the 21<sup>st</sup> day of  
December, 2016.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

Index No. 452041/2016

the Application of

**ORDER**

Maria T. Vullo, Superintendent of Financial Services  
of the State of New York, for an order to take  
possession and liquidate the business and affairs of

AMERICAN MEDICAL AND LIFE  
INSURANCE COMPANY.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York  
("Superintendent"), having moved this Court by order to show cause ("Order to Show Cause")  
for an order placing American Medical and Life Insurance Company ("AMLI") into liquidation,  
appointing the Superintendent and her successors in office as liquidator ("Liquidator") of AMLI,  
and directing the Liquidator to take possession of the property of AMLI and to liquidate its  
business and affairs, and upon reading and filing the petition of the Superintendent, duly verified  
on October 14, 2016 (the "Petition"), the affidavit of James Regalbuto, sworn to on October 14,  
2016, and the exhibits and schedules annexed thereto, this Court finds that:

1. AMLI is insolvent within the meaning of New York Insurance Law ("Insurance  
Law") § 1309(a); and

*without  
opposition*  
*[Signature]*  
JOAN M. KENNEY  
J.S.C.

2. AMLI should be placed into liquidation under Insurance Law Article 74 because: (i) AMLI's board of directors unanimously consented to the entry of an order of liquidation; (ii) AMLI is insolvent; and (iii) AMLI has been found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, creditors or the public.

NOW, on motion of the Honorable Eric T. Schneiderman, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Petition for an order of liquidation ("Order") is granted;
2. The Superintendent and her successors in office are appointed Liquidator of AMLI;
3. The Liquidator is directed to take possession of AMLI's property and liquidate AMLI's business and affairs in accordance with Insurance Law Article 74;
4. The Liquidator is vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in this Order and with title to AMLI's property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of this Order;
5. The Liquidator may deal with the property and business of AMLI in AMLI's name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of AMLI, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting AMLI's business or disposing of AMLI's property;
7. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or this proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against AMLI, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, AMLI, the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to this proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;

8. The Liquidator is vested with all rights in AMLI's contracts and agreements, however described, and is permitted to, in her discretion, reject any executory contracts to which AMLI is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
9. Any bank, savings and loan association, other financial institution, or any other entity or person, that has on deposit or in its possession, custody, or control any of AMLI's funds, accounts (including escrow accounts), or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution; and (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;
10. All persons or entities having property, papers (including attorney work product and documents held by attorneys), and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to AMLI shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over, and deliver such property and/or information to the Liquidator;
11. The Liquidator is authorized, permitted, and allowed to sell, assign, or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in her discretion, she deems to be in the best interest of the creditors of AMLI, and is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers, and assignments, without the further approval of this Court;
12. All existing insurance policies of AMLI will be cancelled as of 12:01 a.m. local time on the date that is 180 days after the entry of this Order;
13. The date that is nine months after the entry of this Order is established as the bar date by which all claims by any claimant against AMLI or its insureds (other than the Liquidator's claim or the claims of the Life Insurance Guaranty Corporation of New York, including those described in Insurance Law Section 7713(d), for administrative expenses (collectively, "Administrative Claims")), and all supporting documentation evidencing such claims, must actually be received by the Liquidator (the "Bar Date"), and all claims and supporting documentation served upon the Liquidator after the Bar Date are time-barred;
14. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims other than Administrative Claims or policyholder claims unless and until (a) she reasonably believes that adjudication of such claims would be in the best interests

of the estate; or (b) it is certain that the AMLI estate will have sufficient assets to pay claims of such class;

15. Immunity is extended to the Superintendent in her capacity as Liquidator of AMLI, her successors in office, the New York Liquidation Bureau, and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74;
16. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
17. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) Sydney Tucker Taylor, President, American Medical and Life Insurance Company, 299 Park Avenue, 6<sup>th</sup> Floor, New York, New York 10171; (b) each policyholder as shown on AMLI's books and records under AMLI policies that, to the best of the Liquidator's knowledge, remain in force as of the date of entry of this Order; and (c) any person or entity who or that timely filed and served papers in opposition to the relief sought;
18. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (i) publication of notice of this Order, in a form substantially similar to the one attached hereto as Annex A, in *Insurance Advocate*, for two consecutive publication periods, commencing within 30 days of entry of this Order; and (ii) posting this Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
19. This Court shall retain jurisdiction over this matter for all purposes;
20. The caption for this proceeding is hereby amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

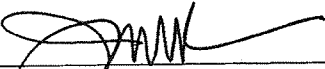
the Liquidation of

AMERICAN MEDICAL AND LIFE  
INSURANCE COMPANY.  
-----X

21. All further papers in this proceeding shall bear the above amended caption.

ENTER

12/21/16

  
\_\_\_\_\_  
J.S.C.



ANNEX A

[Form of Notice of Liquidation Order]

NEW YORK LIQUIDATION BUREAU  
110 WILLIAM STREET  
NEW YORK, NEW YORK 10038  
(212) 341-6400

To all persons or entities interested in the affairs of  
AMERICAN MEDICAL AND LIFE INSURANCE COMPANY

Notice is Hereby Given:

Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of New York ("Court"), entered on \_\_\_\_\_, 2016, as the liquidator (the "Liquidator") of American Medical and Life Insurance Company ("AMLI") and, as such, has been: (i) directed to take possession of AMLI's property and liquidate AMLI's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to AMLI's property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the "Special Deputy"), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of AMLI in AMLI's name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of AMLI, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting AMLI's business or disposing of AMLI's property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against AMLI, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, AMLI, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in AMLI's contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any executory contracts to which AMLI is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. Any bank, savings and loan association, other financial institution, or any other entity or person, that has on deposit or in its possession, custody, or control any of AMLI's funds, accounts (including escrow accounts), or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution; and (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;

- VI. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to AMLI shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator;
- VII. The Liquidator is authorized, permitted, and allowed to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in her discretion, she deems to be in the best interest of the creditors of AMLI, and is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments, without the further approval of the Court;
- VIII. All existing insurance policies of AMLI will be cancelled as of 12:01 a.m. local time on the date that is 180 days after the entry of the Order;
- IX. The date that is nine months after the entry of the Order is established as the bar date by which all claims by any claimant against AMLI or its insureds (other than the Liquidator's claim or the claims of the Life Insurance Guaranty Corporation of New York, including those described in Insurance Law Section 7713(d), for administrative expenses (collectively, "Administrative Claims")), and all supporting documentation evidencing such claims, must actually be received by the Liquidator (the "Bar Date"), and all claims and supporting documentation served upon the Liquidator after the Bar Date are time-barred;
- X. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class other than Administrative Claims or policyholder claims unless and until (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is certain that the AMLI estate will have sufficient assets to pay claims of such class;
- XI. Immunity is extended to the Superintendent in her capacity as Liquidator of AMLI, her successors in office, the New York Liquidation Bureau, and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XII. AMLI is insolvent within the meaning of Insurance Law § 1309(a);
- XIII. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XIV. The Court shall retain jurisdiction over this matter for all purposes.
- XV. All communications relating to AMLI and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
Attention: General Counsel

New York, New York 10038  
(212) 341-6400

A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the verbiage of the Order controls.

MARIA T. VULLO  
Superintendent of Financial Services of  
the State of New York as Liquidator of  
American Medical and Life Insurance  
Company

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator

## Exhibit B



**New York  
Liquidation Bureau**

**Maria T. Vullo**  
Superintendent as Receiver

DATE

Name & Address

Re: AMERICAN MEDICAL AND LIFE INSURANCE COMPANY  
Liquidator No.: AML-

Dear Sir or Madam:

On December 28, 2016, by order of the Supreme Court, State of New York, American Medical and Life Insurance Company was placed into liquidation and the Superintendent of Financial Services of the State of New York and her successors in office were appointed Liquidator and vested with title to all its assets and property.

As a claimant in the proceeding, we have assigned the above captioned liquidator number to your claim.

Please be advised that your claim is deemed a Class \_\_\_\_ claim, meaning each class before you must be paid in full before your claim will be considered for review and allowance.

Pursuant to New York Insurance Law Section 7435, the priority of distribution of claims shall be in accordance with the order in which each class of claims is set forth below:

- Class One** Costs and expenses of administration incurred by the Liquidator, The Life Insurance Guaranty Corporation, or The Life Insurance Company Guaranty Corporation of New York.
- Class Two** Debts due to employees for services not to exceed \$1,200 and rendered within one year before commencement of liquidation.
- Class Three** Claims for payment for goods furnished or services rendered to the insolvent insurer within 90 days prior to the date the insurer was determined to be insolvent.
- Class Four** Claims under insurance policies, annuity contracts and funding agreements, and all claims of The Life Insurance Company Guaranty Corporation of New York or any other guaranty corporation or association, other than claims under class one above and claims for interest.

**Class Five** Federal, state or local government claims, including those for a penalty or forfeiture only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby (the remainder of such claims are in Class Eight).

**Class Six** Claims of general creditors and any other claims not covered under any other class.

**Class Seven** Surplus, capital or contribution notes, or similar obligations.

**Class Eight** Claims of policyholders other than under Class Four, and claims of shareholders or other owners.

We are currently marshalling assets and determining liabilities and cannot at this time predict if any assets will be available for distribution to Class \_\_\_\_ claimants.

It is suggested you provide us with any supporting documentation relative to your claim for evaluation at a future date, if assets permit.

Please refer to the above captioned liquidator number when corresponding with us regarding this matter.

If you accept the Liquidator's classification, you are not required to take any further action.

If you object to the Liquidator's classification, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing this letter by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3899  
Attn: Receiver Administration, 16th Floor**

If you make a timely written objection, the Liquidator will contact you to attempt to resolve the objection. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. The referee will hear and report to the supervising court on the validity of your unresolved objection. Either you or the Liquidator may petition the supervising court, on notice, for an order to confirm or deny the referee's report.

If you have any questions, please do not hesitate to contact me at 212-341-6592 or [cberardi@nylb.org](mailto:cberardi@nylb.org).

Very truly yours,

Cynthia Berardi  
Receiver Administration  
Creditor & Ancillary Operations

Name & Address



**ACKNOWLEDGEMENT OF RECEIPT**

\_\_\_\_ I hereby acknowledge receipt of the \_\_\_\_\_ Classification Letter as a claimant. By signing this Acknowledgement of Receipt, I understand and **agree** to the content of the Classification Letter.

\_\_\_\_ I object to the classification of my claim. My reason for objection is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I request that American Medical and Life Insurance Company in Liquidation ("AMLIC") mail future correspondence to:

\_\_\_\_ Same address as above

\_\_\_\_ New address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Acknowledgement of Receipt must be completed, signed and returned to AMLIC.

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant/Authorized Representative  
(Please Sign)

\_\_\_\_\_  
(Please Print Name)

## Exhibit C

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

Notice of Determination  
of Allowance

the Liquidation of

Index No.: 452041/16

AMERICAN MEDICAL AND LIFE  
INSURANCE COMPANY.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of American Medical and Life Insurance Company hereby gives notice that the claim set forth below has been examined and she will recommend to the Court that it be allowed in the amount set forth below. You will be entitled to share in distributions of assets, if any, pursuant to New York Insurance Law ("Insurance Law") Article 74, to be made by the Liquidator based on the amount allowed.

If you accept the Liquidator's recommendation, you are not required to take any further action. However, if you fail to disclose, in writing, to the Liquidator any payment you receive on this claim from any other source, the NOD is voidable and the amount allowed may be adjusted at the Liquidator's discretion. The recommendation will be presented to the Supervising Court for approval and your rights, pursuant to Article 74 of the Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator will contact you to attempt to resolve the objection. If the objection is resolved, the Liquidator will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. The referee will hear and report to the supervising court on the validity of your unresolved

objection. Either you or the Liquidator may petition the supervising court, on notice, for an order to confirm or deny the referee's report.

If you have any questions concerning this notice, you may contact Receiver Ops at (212) 341-6728 or [ReceiverOps@nylb.org](mailto:ReceiverOps@nylb.org).

Dated:  
New York, New York

Maria T. Vullo  
Superintendent of Financial Services  
of the State of New York  
as Liquidator of  
American Medical and Life  
Insurance Company

Claimant:  
Liq No.:  
Policy No.  
Claim No.  
Amount Allowed:

Notice of Determination and Acknowledgement

**ACKNOWLEDGMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination. My reason for objection is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I request the Superintendent of Financial Services of the State of New York as liquidator of American Medical Life Insurance Company ("Liquidator") mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Acknowledgment of Receipt must be completed, signed and returned to the Liquidator in order to be eligible for future distributions, if any, as directed by the Supervising Court.

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant  
(Please Sign)

\_\_\_\_\_  
(Please Print Name)

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

Notice of Determination  
of Disallowance

the Liquidation of

Index No.: 452041/16

AMERICAN MEDICAL AND LIFE  
INSURANCE COMPANY.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of American Medical and Life Insurance Company hereby gives notice that the claim set forth below has been examined and that he will recommend to the Court that the claim be disallowed for the reason(s) set forth below.

If you accept the Liquidator's recommendation, you are not required to take any further action. The recommendation will be presented to the Supervising Court for approval and your rights, pursuant to Article 74 of the New York Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator staff will contact you to attempt to resolve the objection. If the objection is resolved, the Liquidator will seek allowance of the agreed amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. The referee will hear and report to the supervising court on the validity of your unresolved objection. Either you or the Liquidator may petition the supervising court, on notice, for an order to confirm or deny the referee's report.

The Liquidator reserves the right to raise any other reasons in support of his denial of your claim(s) as further defenses arise during litigation.

If you have any questions concerning this notice you may contact Receiver Ops at (212) 341-6728 or [ReceiverOps@nylb.org](mailto:ReceiverOps@nylb.org).

Dated:  
New York, New York

Maria T. Vullo  
Superintendent of Financial Services  
of the State of New York  
as Liquidator of  
American Medical and Life  
Insurance Company

Claimant Name:  
Liq Claim No.:  
Policy No.  
Co. Claim No.  
Amount Recommended for Disallowance:  
Reason for Disallowance:

Claimant Name  
Claimant Address  
Claimant Address  
Attn:  
Notice of Determination and Acknowledgement

**ACKNOWLEDGMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination. My reason for objection is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I request the Superintendent of Financial Services of the State of New York as liquidator of American Medical and Life Insurance Company mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant  
(Please Sign)

\_\_\_\_\_  
(Please Print)



## Exhibit D

**IN THE MATTER OF THE LIQUIDATION OF  
AMERICAN MEDICAL AND LIFE INSURANCE COMPANY  
Supreme Court County of New York  
Index No.: 452041/2016**

**NOTICE**

The Superintendent of Financial Services of the State of New York and her successors in office were appointed as liquidator ("Liquidator") of American Medical and Life Insurance Company ("AMLI") and, as such, have been directed to take possession of AMLI's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent ("Special Deputy"), as her agent to liquidate the business of AMLI. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Supreme Court of the State of New York, County of New York ("Court") an application seeking an order: (i) approving a procedure for judicial review of the Liquidator's classification and adjudication of claims in the AMLI proceeding; and (ii) appointing a referee to hear and take evidence on issues raised by the Liquidator's determinations and claimants' objections and to report thereon.

A hearing is scheduled on the application on the \_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_:\_\_\_\_.m., before the Court at the Courthouse, IAS Part \_\_, \_\_\_\_\_ Street, Room \_\_, New York, New York ("Return Date"). If you wish to object to the application, you must serve a written statement setting forth your objections and all supporting documentation ("Answering Papers") upon the Liquidator at least seven (7) days prior to the Return Date, and the original Answering Papers must be filed with the Court on or before the Return Date. Service on the Liquidator shall be made at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of American Medical and Life Insurance Company  
110 William Street  
New York, New York 10038  
Attention: General Counsel

The application is available for inspection at the above address and on the website maintained by the New York Liquidation Bureau at <http://www.nylb.org>. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6728 or [ReceiverOps@nylb.org](mailto:ReceiverOps@nylb.org).

Dated: \_\_\_\_\_, 2018

MARIA T. VULLO  
Superintendent of Financial Services of the State  
of New York as Liquidator of  
American Medical and Life  
Insurance Company