

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

JOHN M. HUFF, DIRECTOR)
DEPARTMENT OF INSURANCE, FINANCIAL)
INSTITUTIONS AND PROFESSIONAL)
REGISTRATION OF THE STATE OF MISSOURI.)

Plaintiff,)

v.)

NATIONAL STATES INSURANCE COMPANY)

Defendant.)

Case No.: 10AC-CC00219

MOTION FOR APPROVAL OF ASSUMPTION AGREEMENT

COMES NOW John M. Huff, Director of the Missouri Department of Insurance, Financial Institutions & Professional Registration, in his capacity as Liquidator (“Liquidator”) of National States Insurance Company (“National States”), and respectfully requests that this Court enter an Order approving the Assumption Reinsurance Agreement (the “Assumption Agreement”), attached hereto as Exhibit A, between National States, the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”), NOLHGA's members that have elected to participate in the Assumption Agreement in accordance with NOLHGA's participation procedures (“Participating Associations”), and Family Life Insurance Company (“Family Life” or the “Reinsurer”). In support of this Motion, the Liquidator states the following:

BACKGROUND

1. On April 1, 2010, this Court granted plaintiff’s Petition for Rehabilitation, and appointed John M. Huff, the Director of the Missouri Department of Insurance and his

successors in office as Rehabilitator of National States and Bruce Baty as Special Deputy Rehabilitator of National States.

2. On November 15, 2010, this Court entered a Judgment, Decree and Order of Liquidation with Finding of Insolvency (the "Order of Liquidation") against National States. The Order of Liquidation found National States to be insolvent and terminated the rehabilitation proceedings. The Court appointed John M. Huff, the Director of the Missouri Department of Insurance and his successors in office as Liquidator of National States and Bruce Baty as Special Deputy Liquidator (hereinafter collectively referred to as "Liquidator").

3. Pursuant to the Order of Liquidation and the Insurers Supervision, Rehabilitation and Liquidation Act, Mo. Rev. Stat. §§ 375.1150 *et seq.*, the Liquidator acts for and on behalf of National States and is vested by operation of law with title to all of the property, contracts, rights of action, books and records of National States, is in possession of or is now acquiring the assets of National States, and is administering them under the general supervision of the Court.

4. At the time of the entry of the Order of Liquidation, National States had in effect certain life insurance policies ("Policies"). The holders of the Policies reside in at least 37 states. In each of those states, there is a life and health insurance guaranty association (collectively, the "Affected Guaranty Associations") that, as a result of the Order of Liquidation and the finding of insolvency of National States, has obligations, subject to statutory conditions and limitations on coverage and applicability, to holders of National States' Policies who reside within the associations' jurisdictions ("Covered Obligations"). The Covered Obligations include continuing coverage under National States' Policies by guaranteeing, assuming or reinsuring the contractual obligations of National States as an insolvent member insurer.

5. NOLHGA is a voluntary association of its members organized as a corporation. Its members consist of life and health insurance guaranty associations established by the laws of the states and other jurisdictions of the United States of America, and include all of the Affected Guaranty Associations.

6. Pursuant to Mo. Rev. Stat. § 375.1182.1(8), the Liquidator may, when deemed appropriate, use assets of an insurer that is under an order of liquidation to achieve a transfer of contractual obligations to a solvent assuming insurer, such as Family Life, if that transfer can be arranged without prejudice to applicable priorities under Mo. Rev. Stat. § 375.1218.

7. After a thorough review and evaluation of the life insurance business of National States, the Liquidator and NOLHGA solicited offers to purchase the Policies.

8. NOLHGA engaged DaVinci Consulting Group, LLC, a national actuarial consulting firm specializing in life and health insurance and managed care products, to complete an independent review of the Policies and to assist in negotiating with potential bidders.

9. Nineteen companies executed non-disclosure agreements and were given access to a special extranet site to review the particulars of the Policies. On April 15, 2011, four of those companies -- including Family Life -- submitted bids for the Policies. NOLHGA and the Liquidator determined that the preliminary bid submitted by Family Life was superior to those of the other three bids.

10. Each Affected Guaranty Association has been given an opportunity to agree to and participate in the Assumption Agreement so that its Covered Obligations will be discharged through Family Life's reinsurance and assumption of the Policies.

11. For the reasons set forth below and based upon the recommendations received from professional advisors, NOLHGA and the Liquidator have determined that the Assumption

Agreement proposed herein is in the best interests of National States, its policyholders and creditors.

SUMMARY OF THE TERMS OF THE ASSUMPTION AGREEMENT

12. The Assumption Agreement, *inter alia*, provides:

a. Effective July 1, 2011, the Participating Associations and National States shall cede to Family Life, and Family Life shall assume from the Participating Associations and National States on an assumption reinsurance basis, 100% of the contractual obligations under all Transferred Policies¹;

b. From and after July 1, 2011, Family Life shall be liable for the payment of benefits on the Transferred Policies in accordance with the terms and conditions of the Transferred Policies and the Assumption Agreement, including Section 2.2 of the Assumption Agreement;

c. For the period of time between July 1, 2011 and September 30, 2011, the Liquidator will cause National States employees to administer the Transferred Policies on behalf of Family Life pursuant to the terms of the Service Agreement dated November 12, 2010 among NOLHGA, the Participating Associations and the Liquidator (the "Service Agreement"). Family Life will be added as a party to the Service Agreement as of the closing pursuant to an addendum, attached to the Assumption Agreement as Exhibit 2.2(a).

d. Family Life shall be responsible for that portion of the administrative fees under the Service Agreement related to the administration of the Transferred Policies from July 1, 2011 to September 30, 2011, the date of the transfer of administration to

¹ The term "Transferred Policies", means any of the Policies that do not become Excluded Policies. The Transferred Policies are identified in Exhibit 6v to the Assumption Agreement.

Family Life. Family Life will reimburse the Participating Associations for any of those administrative fees paid by any Participating Association on behalf of Family Life after July 1, 2011.

e. As of July 1, 2011, National States and each Participating Association shall transfer to Family Life all of their rights and privileges in existing third party indemnity contracts of reinsurance and/or coinsurance in effect on July 1, 2011 in connection with the Transferred Policies. Consents, in forms acceptable to the parties, are to be signed by each affected reinsurer.

f. National States prepared amendments, attached hereto as Exhibit C, to the Policies identified in Exhibit 2.9 to the Assumption Agreement (“Reformed Policies”) to correct the rate of interest used to calculate the tabular cash surrender value, has and/or will make any required filings of the amendment with appropriate state insurance regulators, and will send the amendment to each policyholder of a Reformed Policy.

g. Family Life shall issue an assumption certificate, substantially in the form attached to the Assumption Agreement as Exhibit B, to each holder of a Transferred Policy, within 60 days following the later to occur of (1) the receipt of all insurance department approvals necessary for the delivery of the assumption certificate to the holder and (2) the closing of the Assumption Agreement, but not earlier than October 15, 2011. The form of assumption certificate has been or will be filed by Family Life with all applicable regulators, and Family Life is responsible for obtaining any insurance department approval of the assumption certificate that may be required by the law of any state.

h. The Liquidator, NOLHGA and Family Life have agreed to a transfer of assets at closing, which is set forth in Exhibit A-2 to the Assumption Agreement. No estate assets will be transferred to Family Life as part of this transaction.

i. NOLHGA, the Participating Associations and Family Life do not assume any legal obligations of National States with respect to commissions, policy fees, service fees, and/or producer compensation under third-party, independent contractor, producer, agent or broker commission contracts or administrative contracts between National States and third persons in connection with the Transferred Policies or administration for the Transferred Policies ("Commissions").

j. The Transferred Policies shall not be recaptured.

13. The terms of the Assumption Agreement were carefully analyzed and negotiated by the Liquidator, NOLHGA and Family Life, along with their respective outside consulting actuaries. The Liquidator, NOLHGA and Family Life believe that the Assumption Agreement is in the best interest of the parties, the policyholders and National States' creditors.

**THE ASSUMPTION AGREEMENT IS IN THE BEST INTERESTS
OF NATIONAL STATES**

Based upon the analysis of the terms of the Assumption Agreement and the evaluation of the transactions contemplated thereby as a whole by the Liquidator's staff and advisors, the Liquidator believes that the Assumption Agreement is fair and reasonable to National States, its policyholders and creditors. There are several specific advantages to National States, its policyholders and creditors arising from the consummation of the transactions contemplated by the Agreement:

1. The life insurance business to be transferred pursuant to the Assumption Agreement consists of approximately 63,000 policies in 37 states.

2. Family Life, a B+ rated insurer by A.M. Best, is licensed in all states in which Transferred Policies are in-force, and pursuant to the Assumption Agreement, Family Life will assume all Transferred Policies effective July 1, 2011.

3. Pursuant to the Assumption Agreement, Family Life will be added as a party to the Service Agreement among National States and NOLHGA for the period of time between July 1, 2011 and September 30, 2011, and National States will receive fair and reasonable compensation for the services contemplated by the Assumption Agreement and Service Agreement.

4. No estate assets will be transferred to Family Life as part of the transaction.

WHEREFORE, the Liquidator respectfully requests the entry of an Order, in the form submitted herewith:

1. Approving the terms and conditions of the transactions contemplated by the Assumption Agreement;

2. Ordering that NOLHGA, the Participating Associations and Family Life have no obligation to pay Commissions in connection with the Transferred Policies as provided for in Article IX of the Assumption Agreement;

3. Limiting the liability of Family Life under the Assumption Agreement pursuant to Section 2.2 of the Assumption Agreement;

4. Approving the reformation of the Reformed Policies as contemplated by Section 2.9 of the Assumption Agreement and Exhibit 2.9 thereto.

5. Approving the Addendum to the Service Agreement, attached to the Assumption Agreement as Exhibit 2.2(a);

6. Affirming and approving in all respects the conduct and actions of the Liquidator, including his employees, agents and counsel, in connection with the Assumption Agreement;
7. Ordering that, subject to the satisfaction of the terms and conditions of the Assumption Agreement, the Assumption Agreement is a legal, valid and effective agreement, and that the transaction is fair and reasonable to National States, its policyholders and creditors and without prejudice to applicable priorities under Mo. Rev. Stat. § 375.1218;
8. Ordering that the terms and conditions of the Assumption Agreement may be waived, modified, amended or supplemented by the written and signed agreement of the parties without further approval of the Court, provided that any waiver, modification, amendment or supplement is not material;
9. Ordering that the parties are authorized to enter other and further documents as may be necessary to effectuate the transaction without further approval of the Court;
10. Ordering that Family Life is assuming only those obligations specified in the Assumption Agreement and that neither Family Life, nor any of its officers, directors, employees, agents or representatives shall be responsible for any action or failure to act of National States, the Liquidator, NOLHGA or the Affected Guaranty Associations, or any of their officers, directors, employees, agents or other representatives; and
11. Ordering that there is no just reason for delay and the Order constitutes a final judgment fully resolving all issues relating to the Assumption Agreement.

Respectfully submitted,

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CERTIFICATE OF SERVICE


I hereby certify that the foregoing was filed via facsimile and Federal Express with the Clerk of Court on the 1st day of July, 2011, and

by United States postal service upon:

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