



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Insurance

Sean Parnell, Governor
Susan K. Bell, Commissioner
Bret S. Kolb, Director

ORDER NUMBER R 12-02

July 3, 2012

**DIRECTOR'S APPROVAL OF ALHIGA'S RESPONSE TO
THE EXECUTIVE LIFE INSURANCE COMPANY OF NEW YORK INSOLVENCY**

By letter of June 1, 2012, the Alaska Life and Health Insurance Guaranty Association (ALHIGA) has requested the approval of the Director of Insurance to respond to covered claims, if any, arising from the insolvency of Executive Life Insurance Company of New York (ELNY) for the benefit of Alaska residents that may own ELNY issued annuities. In response to that request, the director finds as follows:

BACKGROUND


1. ELNY was placed into rehabilitation through an order entered by a New York state court on April 23, 1991. ELNY's products consisted of structured settlement annuities, single premium immediate annuities, and pension annuities. A recent estimate of the present value of all ELNY policyholder liabilities is \$2.6 billion, while ELNY assets total approximately \$900 million. On September 1, 2011, the New York Superintendent of Financial Services filed a petition requesting the liquidation of ELNY and approval of an Agreement of Restructuring in Connection with the Liquidation of ELNY (Restructuring Agreement). On April 16, 2012, the court entered an Order of Liquidation and Approval of the ELNY Restructuring Agreement, attached hereto as Exhibit 1. The order includes an express finding that ELNY is insolvent, thus converting the rehabilitation into a liquidation.
2. ELNY meets the definition of "member insurer" of ALHIGA under AS 21.79.900(6). A "member insurer" includes an insurer who was formerly authorized to do business in this state and whose license or certificate of authority in the state may have been suspended, revoked, not renewed, or voluntarily withdrawn prior to the time the insurer was declared insolvent. In 2006, a task force of the National Organization of Life and Health Insurance Guaranty Association (NOLHGA) researched ELNY's licensing history. The Task Force's New York counsel (SNR Denton/then known as Edwards Angell) reviewed Best's Insurance Reports from 1937-1990 and ELNY's Schedule T from 1991 to determine ELNY's license history from formation to the start of the rehabilitation, which commenced in 1991. Their review found that ELNY was licensed in Alaska from 1966-1970. During most of that time period, ELNY was called "Citizens Life Insurance Company of New York." The company changed its name to ELNY in 1969.
3. Under AS 21.79.060(d), ALHIGA is required, with approval of the director, to take one of the following actions if a member insurer becomes insolvent:

- (1) guarantee, assume, reinsure, or provide the guarantee, assumption, or reinsurance of the covered policies of the insolvent insurer held by resident;
 - (2) assure payment to residents of the contractual obligations of the insolvent insurer;
 - (3) provide money, pledges, notes, guarantees, or other means necessary to discharge the insurer's duties under this subsection; or
 - (4) with respect only to life and health insurance policies, provide benefits and coverages required under AS 21.79.060(e).
4. Prior to entry of the liquidation order referenced above, state guaranty associations were given a deadline for determining whether to become a Participating Guaranty Association (PGA) in the Restructuring Agreement that was to be filed with the New York court before the liquidation order was entered. A summary of the ELNY Liquidation Plan and Restructuring Agreement is attached hereto as Exhibit 2.
 5. At a special meeting of the ALHIGA Board of Governors held on September 30, 2011, the board adopted a resolution to become a PGA in the liquidation plan for ELNY, subject to obtaining approval from the Director of Insurance. A copy of the resolution is attached hereto as Exhibit 3. The chair of ALHIGA's Board of Governors signed a Participation Agreement between ALHIGA and NOLHGA to become a PGA. A copy of the participation agreement is attached hereto as Exhibit 4.
 6. ALHIGA plans to meet its statutory obligation to assure payment of any covered claims under ELNY annuities owned by Alaska residents by participating in the ELNY plan of liquidation as set forth in the Restructuring Agreement and related documents. To date, there are no Alaska residents that have been identified as owners of ELNY contracts or annuities and, as a consequence, no ELNY contract or annuity has been allocated to Alaska for coverage. But it is possible that there may be Alaska residents that are payees of ELNY annuities. If, in the future, an ELNY contract or annuity is allocated to Alaska, then an Alaska resident payee would receive coverage subject to any rights or defenses that may be available up to the applicable statutory limit stated in AS 21.79.025 and may also receive additional payment from other participants in the plan.

THE DIRECTOR HEREBY ORDERS:

ALHIGA'S request to meet its statutory obligations to Alaska residents who may be ELNY annuity holders or payees by participating in the ELNY Liquidation Plan and Restructuring Agreement is **APPROVED**.

This order is effective July 3, 2012.



Bret S. Kolb
Director

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At IAS Part 35 of the Supreme Court of the State of New York, held in and for the County of Nassau, at the Courthouse, 100 Supreme Court Drive, Mineola, New York, on the 16th day of April, 2012

PRESENT:
HON. JOHN M. GALASSO, J.S.C.

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In the Matter of the Rehabilitation of
EXECUTIVE LIFE INSURANCE
COMPANY OF NEW YORK.

: Index No. 8023/91

: *Motion Sequence #s 109 and 111*

: ORDER OF LIQUIDATION
: AND APPROVAL OF THE ELNY
: RESTRUCTURING AGREEMENT
: ----- X

The Superintendent of Financial Services (successor to the Superintendent of Insurance) of the State of New York (the "Superintendent"), through Eric T. Schneiderman, Attorney General of the State of New York, having moved this Court by order to show cause ("Order to Show Cause") for an order to convert the rehabilitation proceeding of Executive Life Insurance Company of New York ("ELNY") to a liquidation proceeding and having sought approval of the Agreement of Restructuring in Connection with the Liquidation of ELNY, and the Superintendent having provided ELNY claimants, creditors, policyholders, and other interested parties with notice of the relief sought, and upon reading the Superintendent's Verified Petition, duly verified on August 31, 2011 (the "Liquidation Petition"); the Memorandum of Law in Support of the Liquidation Petition; the Affidavit of Ivy Chang, sworn to on August 30, 2011, and the exhibits attached thereto; all answering and reply papers; all prior proceedings and papers in this proceeding; and said Liquidation Petition having duly come on to be ^{submitted} heard on the

29th day of March, 2012, this Court finds that:

A. ELNY was placed into rehabilitation and the Superintendent, and his successors in office, were appointed rehabilitator ("Rehabilitator") by order of this Court entered April 23, 1991 (the "Rehabilitation Order");

B. The Rehabilitation Order found that ELNY was in such condition that its further transaction of business would be hazardous to its policyholders, its creditors, and to the public;

C. ELNY is insolvent;

D. Further efforts to rehabilitate ELNY would be futile;

E. ELNY is subject to the New York Insurance Law (the "Insurance Law") and, particularly, to Article 74 thereof; and

F. It is in the best interest of all persons concerned that the Superintendent be vested with title to all of ELNY's property, contracts, and rights of action and directed to liquidate its business and affairs substantially in the manner provided in the Agreement of Restructuring in Connection with the Liquidation of ELNY, by and among the Superintendent, as Receiver of ELNY, the National Organization of Life and Health Insurance Guaranty Associations, and the Participating Guaranty Associations, and joined by NEWCO and The Life Insurance Guaranty Corporation existing under Insurance Law Article 75, and the Exhibits and Schedules attached thereto, as filed with the Court on March 6, 2012 (the "Restructuring Agreement").

NOW, THEREFORE, on motion of Eric T. Schneiderman, Attorney General of the State of New York, and after carefully considering the Restructuring Agreement, the applicable law, comments, suggestions, and/or objections to the Liquidation and the Restructuring Agreement, and the testimony, evidence, and arguments related thereto, it is hereby ORDERED as follows:

- (1) The relief requested in the Liquidation Petition is granted and ELNY is found to be insolvent;

- (2) The Rehabilitation of ELNY is hereby converted to a Liquidation effective as of the closing date of the Restructuring Agreement (which date shall also be the "Liquidation Date" under the Restructuring Agreement) and pending such effectiveness, the Rehabilitation Plan, as that term is defined in the Restructuring Agreement, and all prior orders of this Court remain in full force and effect;
- (3) The Superintendent, and his successors in office, are hereby appointed, effective as of the Liquidation Date, liquidator ("Liquidator") of ELNY and are: (i) 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; (ii) vested with title to ELNY's property, contracts, rights of action and all its books and records, wherever located; (iii) authorized and permitted to conduct the business of ELNY as the Liquidator deems wise and expedient; and (iv) directed to liquidate ELNY's business and affairs in accordance with Insurance Law Article 74 and substantially in the manner provided in the Restructuring Agreement;
- (4) The rights and liabilities of ELNY and of its creditors, policyholders, and all other persons interested in the estate of ELNY shall be fixed as of the Liquidation Date;
- (5) All persons, other than the Receiver (as defined in the Restructuring Agreement) and his agents, are enjoined and restrained from: (i) dealing with, disposing of, or doing or permitting any act or thing that might waste ELNY's assets; (ii) transacting ELNY's business; (iii) interfering with this proceeding or with the Receiver in his possession, control, and management of ELNY's property, or in the discharge of his duties under Insurance Law Article 74; and (iv) obtaining any preferences, judgments, attachments, or other liens, and from making any levy against ELNY, its assets, or any part thereof;
- (6) All persons are enjoined and restrained from commencing or further prosecuting any actions at law or other proceedings against ELNY or its assets, the Receiver or the New York Liquidation Bureau, or their present or former employees, attorneys, or agents, with respect to this proceeding or the discharge of their duties under Insurance Law Article 74;
- (7) All parties to actions, lawsuits, and special or other proceedings in which ELNY is obligated to defend a party pursuant to an insurance policy, bond, contract, or otherwise are enjoined and restrained from proceeding with any discovery, court proceedings, or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment, or proceedings on settlement or judgment, until further order of this Court;

- (8) All persons or entities having property and/or information, including, but not limited to, insurance policies, claims files (electronic or paper), software programs, and/or bank records owned by or belonging to ELNY shall preserve such property and/or information and immediately, upon the Receiver's request and direction, assign, transfer, turn over, and deliver such property and/or information to the Receiver;
- (9) The provisions, terms, and conditions of the Restructuring Agreement, filed with the Court on March 6, 2012, including all Exhibits and Schedules attached thereto, are hereby approved and the Restructuring Agreement is confirmed in such form and incorporated herein by reference (provided that such approval and confirmation shall not be deemed to preclude updating, adjustment and amendment of Schedule 1.15 prior to, contemporaneously with and subsequent to closing of the Restructuring Agreement, as provided in Section 1.15 of the Restructuring Agreement), including, but not limited to:
- a. ELNY's restructuring of its liabilities in respect of the ELNY Contracts, as that term is defined in the Restructuring Agreement, pursuant to the terms of the Restructuring Agreement;
 - b. NEWCO's assumption of the obligation to pay ELNY benefit payments in accordance with the terms of the Restructuring Agreement;
 - c. The delivery, transfer and assignment to NEWCO of all of ELNY's right, title and interest in and to the Transferred Assets and the retention by ELNY of the Retained Assets as provided under the Restructuring Agreement, as those terms are defined in the Restructuring Agreement;
 - d. The form of the Assumption Certificates in substantially the form attached as Exhibit 1.6 to the Restructuring Agreement;
 - e. The terms and conditions of the ELNY Restructured Contracts;
 - f. The preservation of Retained Liabilities and priority of distribution of the Net Proceeds Transfer, as those terms are defined in the Restructuring Agreement; and
 - g. The requirement that all Contracts, as that term is defined in the Restructuring Agreement, shall remain in full force pending effectiveness of the Reinsurance and Assumption Agreement, and shall upon such effectiveness be fully discharged as obligations of ELNY other than to the

extent of the value of such obligations that are included in the Retained Liabilities, as that term is defined in the Restructuring Agreement;

- (10) To the extent any comment, suggestion, and/or objection that was presented regarding the Liquidation Petition or the Restructuring Agreement, and/or any related document, is inconsistent with the Restructuring Agreement and/or any related document, that comment, suggestion, and/or objection is overruled and any relief requested therein is denied;
- (11) The Receiver shall continue to direct the full payment of all benefits in respect of ELNY Contracts, in accordance with the terms of each ELNY Contract, until the closing of the Restructuring Agreement;
- (12) Judicial immunity is extended to the Receiver and his successors in office, the New York Liquidation Bureau, and their respective attorneys, agents, and employees, and such immunity is extended to them for any cause of action of any nature against them, individually or jointly, for any action or omission by any one or more of them when acting in good faith, in accordance with this Order, or in the performance of their duties pursuant to Insurance Law Article 74;
- (13) This Court shall retain subject matter jurisdiction over the Restructuring Agreement;
- (14) The Receiver may at any time make further application to this Court for such further and different relief as he sees fit;
- (15) In accordance with Insurance Law Section 7432(b), all claims against ELNY must be presented to the Receiver within four months of the Liquidation Date; however, in accordance with Insurance Law Section 7433(b)(1), all policyholders and holders of Claim-Overs (as defined in the Restructuring Agreement) who appear on ELNY's books and records as of the Liquidation Date are deemed to have duly filed proofs of claim;
- (16) The Receiver shall provide notice of this Order to all creditors, policyholders and other interested parties by: (i) posting this Order on the Internet webpage maintained by the New York Liquidation Bureau at <http://www.elny.org> within thirty (30) days after the Liquidation Date; and (ii) publishing notice of this Order in the New York Times and the Wall Street Journal, once a week for two consecutive publication weeks, commencing within two weeks after the Liquidation Date, in a form substantially similar to the one attached hereto as Exhibit 1;

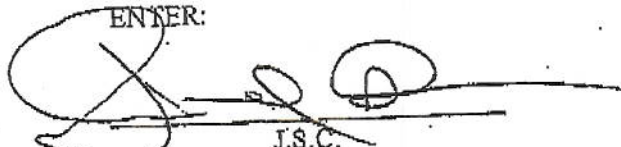
- a. Such notice shall inform all creditors, claimants, and other interested persons that this Order has been entered; and
 - b. Such notice is sufficient notice to all persons interested in ELNY;
- (17) Any distribution of assets shall be in accordance with the priorities applicable to life insurance companies set forth in Section 7435(a) of Insurance Law Article 74 and substantially in accordance with the terms of the Restructuring Agreement;
- (18) Notwithstanding anything to the contrary contained in this Order or the Restructuring Agreement, neither this Order nor the Restructuring Agreement shall in any way limit, impair, prejudice or adjudicate any right or claim of any owner of or payee or beneficiary under any ELNY Contract, as that term is defined in the Restructuring Agreement, with respect to any coverage or benefits provided for under any Guaranty Association Act, as that term is defined in the Restructuring Agreement, or under Article 75 of the New York Insurance Law;
- (19) Except as expressly set forth in this Order and in the Restructuring Agreement approved by this Order, nothing in this Order shall limit, impair, prejudice or adjudicate any rights or obligations of the Participating Guaranty Associations, as that term is defined in the Restructuring Agreement;
- (20) At least two weeks prior to the proposed closing of the Restructuring Agreement, the Receiver will file a notice of the proposed closing date with the Court, and post a copy of such notice on the Internet webpage maintained by the New York Liquidation Bureau at <http://www.elny.org>. Within one business day of the closing of the Restructuring Agreement the Receiver will file a notice of the closing of the Restructuring Agreement with the Court and post a copy of such notice on the webpage <http://www.elny.org>; and
- (21) The caption to this proceeding is hereby amended, effective as of the closing date of the Restructuring Agreement, as follows:

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NASSAU

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 In the Matter of
 the Liquidation of

EXECUTIVE LIFE INSURANCE COMPANY OF NEW YORK.
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ENKER:

 J.S.C.

SUMMARY OF THE PROPOSED
ELNY LIQUIDATION PLAN AND
POTENTIAL SUPPLEMENTAL BENEFITS

1. ELNY's products consist of Structured Settlement Annuities, Single Premium Immediate Annuities and Pension Annuities.
2. The current estimate of the present value of all policyholder liabilities is \$2.6 billion. ELNY has assets of approximately \$900 million.
3. On September 1, 2011, the New York Superintendent of Insurance petitioned the Receivership Court in New York for approval of a liquidation plan, as rehabilitation proved futile. A copy of the Superintendent's September 2, 2011, press release in this regard is attached hereto.
4. The proposed liquidation plan projects that 79% to 84% of all policies will be fully covered; this means the policy holders will receive 100% of the benefits that ELNY would have paid them on those policies. As explained below, the plan provides for certain payments beyond liquidation value and guaranty association coverage to the 16% to 21% of policies which are not fully covered.
5. The liquidation plan was developed by numerous parties including the NYLB, NOLHGA on behalf of state guaranty associations, the life insurance industry and others.
6. Before the transfer of policy liabilities from ELNY to a newly created GABC (an acronym for Guaranty Association Benefits Corporation), the policyholder liabilities will be restructured by the Receivership Court to match available the ELNY assets, about 34 cents on the dollar.
7. Following the restructuring of the liabilities, the restructured ELNY policy liabilities and nearly all of the remaining ELNY assets will be transferred to GABC.
8. GABC will be organized, owned and operated by the guaranty associations. The Board of Directors will consist of guaranty association and life insurance industry representatives. GABC will be domiciled in Washington, DC and regulated by the Commissioner in the District. The New York Superintendent will have certain review and audit powers over GABC to ensure compliance with the liquidation plan.
9. Once the assets and restructured liabilities are transferred to GABC, other aspects of the plan commence, including the funding of statutory obligations by the guaranty associations.
10. The guaranty associations will pay the present value of their statutory obligations, after application of their subrogation rights, to GABC in cash or notes in the approximate amount of \$750 million. The calculation of the present value of such benefits currently uses a discount rate of 4.25%.

11. Thus, the estate assets transferred plus the guaranty association payments equal approximately \$1.6 billion, leaving a shortfall of approximately \$1 billion. This shortfall will result in some policyholders receiving reduced benefits over the remaining life of their contracts.

12. The reduced benefits may be mitigated by the following features in and outside of the plan:

a. If GABC's investment return on assets exceeds 4.25%, the excess earnings will be used to pay "orphan" contracts and "uncovered" contracts to the extent of the shortfall of their contract. Orphan contracts are those issued in states without guaranty association coverage. (The New York guaranty association statute, unlike the law in all other states, does not provide that the domestic guaranty association provide coverage for orphans.) An example of an uncovered contract is one that exceeds guaranty association limits.

b. Approximately 40 leading life insurance companies have agreed to guaranty that all orphan contracts and uncovered contracts will receive 35% of their present value should estate assets and excess investment earnings fail to provide that amount. The companies also guaranty that all orphan contracts will receive their present value of up to \$100,000 through the plan. These guaranties continue throughout the life of the plan (many decades) and are incorporated into the plan.

c. Approximately 20 leading life insurance companies have agreed to provide supplemental benefits to ensure that every policy owner receives a present value of up to \$250,000 for their contract value (or the present value of their contract if less than \$250,000). This feature should eliminate the 20% coinsurance responsibility of policyholders covered by the California guarantee association. When the plan is closed, this payment is made to GABC up front. This supplemental benefit feature is described in the plan. However, it is not finalized, nor is it a condition precedent to closing the plan.

d. Approximately 20 leading insurance companies have also agreed to provide about \$100 million for a hardship fund. This fund would be used to address those shortfall issues which present a hardship for policyholders. The hardship criteria, administration and other details are still being developed. This fund is not described in the plan, is still under development and is not a condition precedent to closing the plan.

e. Another source of potential funding for some policyholders will be payments from owners of the structured settlement annuities who have not received releases in the underlying structured settlement transaction. The amount and timing of such payments is not known. These potential payments are not set forth in the plan and are not the responsibility of GABC. However, in accordance with the plan, the owners may elect to utilize GABC to facilitate the payments they owe.

13. The ELNY policies will be run out over time pursuant to the time periods found in the original policies. The ultimate amount of reduction in payments for the contracts which are not fully covered under the plan is unknown and will remain unknown until investment returns are actually earned over the years.

**RESOLUTION REGARDING ALHIGA'S RESPONSE TO
THE INSOLVENCY OF EXECUTIVE LIFE INSURANCE OF NEW YORK**

WHEREAS, the Executive Life Insurance Company of New York (ELNY) is an insurer which was placed into rehabilitation by proper authority and means on April 23, 1991;

WHEREAS, the Board of Governors (Board) of the Alaska Life and Health Insurance Guaranty Association (the Association or ALHIGA) has been advised by the Association's counsel that ELNY had been issued a certificate of authority from the State of Alaska Division of Insurance to transact the business of insurance in this State, and that said authority included the right to issue insurance contracts and annuities subject to coverage by the ALHIGA Act (AS 21.79);

WHEREAS, Association counsel has further advised the Board that ELNY should be considered a "member insurer," as that term is used in AS 21.79.900(10), and as such, the Association would be triggered, by a finding of insolvency as to ELNY by the New York Receivership Court, to extend coverage under the Act to residents in this State, provided no coverage exclusions under the Act were found to apply;

WHEREAS, on September 1, 2011, the New York Superintendent of Insurance filed a petition with the New York Receivership Court seeking approval of a liquidation plan for ELNY, which, if approved, is anticipated to result in entry of an order of liquidation by the Receivership Court which expressly includes a finding that ELNY is insolvent;

WHEREAS, the Association, through its administrator, was provided information from the NOLHGA ELNY Task Force that as of September 29, 2011, no ELNY contracts or annuities have been allocated by the ELNY Task Force to the State of Alaska as of that date, and as such, the Board and Association counsel have not had cause to come to any determination of actual coverage by ALHIGA regarding any specific ELNY contract or annuity;

NOW THEREFORE IT IS HEREBY RESOLVED by the Board as follows:

(1) ALHIGA considers ELNY to be a "member insurer" as that term is used in the ALHIGA Act;


(2) ALHIGA deems it will be triggered to extend coverage under the ALHIGA Act to residents of this State in response to entry of an order by the Receivership Court that includes a finding that ELYNY is insolvent;

(3) ALHIGA agrees, subject to obtaining the approval of the Director of the State of Alaska Division of Insurance, as required by AS 21.79.060(d), to participate in the plan of liquidation for ELYNY, as set forth in the "Agreement of Restructuring" and the other "Restructuring Documents," which terms are defined in the ELYNY MPC resolutions adopted on September 8, 2011, and

(4) To the extent the NOLHGA ELYNY Task Force, subsequent to the adoption of this resolution, allocates any ELYNY contract or annuity to the State of Alaska, ALHIGA reserves all rights and defenses that may be applicable and available in determining whether it has any coverage obligations regarding any such newly disclosed contract or annuity.

The Board instructs the Association administrator to immediately (1) advise ELYNY Task Force counsel in writing of the Board's adoption of this resolution, and provide that counsel with a copy of this resolution, and (2) undertake action to seek the approval of the Director of Insurance for ALHIGA to participate in the plan of liquidation of ELYNY.

ADOPTED by the ALHIGA Board of Governors this 30TH day of September, 2011.


Todd R. Thakar, Board Chair

NEW YORK LIQUIDATION BUREAU
110 WILLIAM STREET
NEW YORK, NEW YORK 10038

To all persons or entities
Interested in the affairs of
EXECUTIVE LIFE INSURANCE COMPANY OF NEW YORK
Notice is Hereby Given:

I. By an order of the Supreme Court of the State of New York, Nassau County (the "Court"), entered on [____], 2012 (the "Liquidation Order"), Executive Life Insurance Company of New York ("ELNY") was found to be insolvent. The Rehabilitation of ELNY was converted to a Liquidation effective as of the closing date of the Restructuring Agreement (defined below) (the "Liquidation Date").

II. Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, and his successors in office, have been appointed, effective as of the Liquidation Date, as the liquidator of ELNY (the "Liquidator"), and, as such, has been (i) vested with all powers and authority expressed or implied under New York Insurance Law ("Insurance Law") Article 74, in addition to the powers and authority set forth in the Liquidation Order; (ii) vested with title to ELNY's property, contracts, rights of action, and all its books and records, wherever located; (iii) authorized and permitted to conduct the business of ELNY as the Liquidator deems wise and expedient; and (iv) directed to liquidate ELNY's business and affairs in accordance with Insurance Law Article 74 and substantially in the manner provided in the Agreement of Restructuring in Connection with the Liquidation of ELNY, and the Exhibits and Schedules attached thereto (the "Restructuring Agreement"). A copy of the Restructuring Agreement can be found on the dedicated ELNY Internet webpage maintained by the New York Liquidation Bureau at <http://www.elny.org>.

III. The Liquidator will, pursuant to Insurance Law Article 74, appoint Jonathan L. Bing, Special Deputy Superintendent for the New York Liquidation Bureau (the "Special Deputy"), as his agent to liquidate the business of ELNY. The Special Deputy carries out his duty through the New York Liquidation Bureau, 110 William Street, New York, New York 10038-3901.

IV. The rights and liabilities of ELNY and of its creditors, policyholders, and all other persons interested in the estate of ELNY will be fixed as of the Liquidation Date.

V. All persons, other than the Receiver (as defined in the Restructuring Agreement) and his agents, are enjoined and restrained from: (i) dealing with, disposing of, or doing or permitting any act or thing that might waste ELNY's assets; (ii) transacting ELNY's business; (iii) interfering with this proceeding or with the Receiver in his possession, control, and management of ELNY's property, or in the discharge of his duties under Insurance Law Article 74; and (iv) obtaining any preferences, judgments, attachments, or other liens, and from making any levy against ELNY, its assets, or any part thereof.

VI. All persons are enjoined and restrained from commencing or further prosecuting any actions at law or other proceedings against ELNY or its assets, the Receiver or the New York Liquidation Bureau, or their present or former employees, attorneys, or agents, with respect to this proceeding or the discharge of their duties under Insurance Law Article 74.

VII. All parties to actions, lawsuits, and special or other proceedings in which ELNY is obligated to defend a party pursuant to an insurance policy, bond, contract, or otherwise are enjoined and restrained from proceeding with any discovery, court proceedings, or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment, or proceedings on settlement or judgment, until further order of the Court.

VIII. All persons or entities having property and/or information, including, but not limited to, insurance policies, claims files (electronic or paper), software programs, and/or bank records owned by or belonging to ELNY shall preserve such property and/or information and immediately, upon the Receiver's request and direction, assign, transfer, turn over, and deliver such property and/or information to the Receiver.

IX. The provisions, terms, and conditions of the Restructuring Agreement, and the Exhibits and Schedules attached thereto, have been approved and confirmed as of the date of the Liquidation Order (provided that such approval and confirmation shall not be deemed to preclude updating, adjustment and amendment of Schedule 1.15 prior to, contemporaneously with and subsequent to closing of the Restructuring Agreement, as provided in Section 1.15 of the Restructuring Agreement).

X. To the extent any comment, suggestion, and/or objection that was presented regarding the Liquidation Petition or the Restructuring Agreement, and/or any related document, is inconsistent with the Restructuring Agreement and/or any related document, that comment, suggestion, and/or objection is overruled and any relief requested therein is denied.

XI. Judicial immunity is extended to the Receiver and his successors in office, the New York Liquidation Bureau, and their respective attorneys, agents, and employees, and such immunity is extended to them for any cause of action of any nature against them, individually or jointly, for any action or omission by any one or more of them when acting in good faith, in accordance with the Liquidation Order, or in the performance of their duties pursuant to Insurance Law Article 74.

XII. The Court shall retain subject matter jurisdiction over the Restructuring Agreement.

XIII. The Receiver may at any time make further application to the Court for such further and different relief as he sees fit.

XIV. In accordance with Insurance Law Section 7432(b), all claims against ELNY must be presented to the Receiver, on or before [] (the "Claims Bar Date"). However, in accordance with Insurance Law Section 7433(b)(1), all policyholders and holders of Claim-Overs (as defined in the Restructuring Agreement) who appear on ELNY's books and records as of the Liquidation Date are deemed to have duly filed proofs of claim. Schedule 1.15 to the Restructuring Agreement sets forth a list of all ELNY Contracts of policyholders that appear on ELNY's books and records as of the Liquidation Date. Policyholders can determine whether

their ELNY Contract is listed on Schedule 1.15 by visiting <http://www.elny.org> or by calling the toll-free information line at 1-888-398-8213. All policyholders of ELNY Contracts set forth on Schedule 1.15 and all holders of Claim-Overs do not need to file a Proof of Claim form. However, all policyholders who wish to dispute any information set forth on Schedule 1.15 with respect to their ELNY Contract and any other parties wishing to assert claims against ELNY must complete and return a Proof of Claim form so that it is received by the Receiver on or before the Claims Bar Date or they may not be considered. Proof of Claim forms and instructions are available at <http://www.elny.org> or may be requested by calling the toll-free information line at 1-888-398-8213.

XV. Any distribution of assets shall be in accordance with the priorities applicable to life insurance companies set forth in Section 7435(a) of Insurance Law Article 74 and substantially in accordance with the terms of the Restructuring Agreement.

XVI. Notwithstanding anything to the contrary contained in the Liquidation Order or the Restructuring Agreement, neither the Liquidation Order nor the Restructuring Agreement shall in any way limit, impair, prejudice or adjudicate any right or claim of any owner of or payee or beneficiary under any ELNY Contract, as that term is defined in the Restructuring Agreement, with respect to any coverage or benefits provided for under any Guaranty Association Act, as that term is defined in the Restructuring Agreement, or under Article 75 of the New York Insurance Law.

XVII. Except as expressly set forth in the Liquidation Order and in the Restructuring Agreement approved by the Liquidation Order, nothing in the Liquidation Order shall limit, impair, prejudice or adjudicate any rights or obligations of the Participating Guaranty Associations, as that term is defined in the Restructuring Agreement.

XVIII. If you have any questions regarding this Notice, other matters related to ELNY or the liquidation proceeding, please call the toll-free information line at 1-888-398-8213 or write to the address set forth below:

New York Liquidation Bureau
Superintendent of Financial Services of the State of New York
As Receiver of ELNY
110 William Street
New York, New York 10038

PARTICIPATION CERTIFICATE

This Participation Certificate is entered into on September 30, 2011, between the Alaska Life and Health Insurance Guaranty Association ("ALHIGA") and the National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA").

WHEREAS, NOLHGA intends to enter into an Agreement of Restructuring in Connection with the Liquidation of Executive Life Insurance Company of New York with the Receiver and the Participating Guaranty Associations (the "Agreement") to provide an efficient mechanism for NOLHGA's member life and health insurance guaranty associations to fulfill the statutory obligations that each guaranty association has determined it has under its Guaranty Association Act with respect to ELNY's outstanding annuity contracts in the event ELNY is placed under an order of liquidation with a finding of insolvency;

WHEREAS, on September 1, 2011, the Receiver petitioned the Supreme Court of Nassau County of the State of New York to enter (1) an Order of Liquidation against Executive Life Insurance Company of New York, a New York corporation ("ELNY") and (2) approving the Agreement;

WHEREAS, pursuant to the Agreement, NOLHGA's member life and health insurance guaranty associations can elect to become "Participating Guaranty Associations" and provide assets to enhance the benefits provided under certain restructured contracts in connection with which the Participating Guaranty Associations have obligations; and

WHEREAS, upon issuance of the Order of Liquidation, ALHIGA will accept statutory obligations to ALHIGA residents that were ELNY contract owners or payees under such contracts.

NOW, THEREFORE, in consideration of the above and the following mutual covenants, ALHIGA and NOLHGA agree as follows:

1. ALHIGA shall be deemed to be a "Participating Guaranty Association" as that term is defined under the Agreement.
2. ALHIGA shall be treated the same under the Agreement as any other Participating Guaranty Association.
3. Any notice, request, demand, waiver, consent, approval or other communication required or permitted to be given to ALHIGA pursuant to the Agreement shall be made in accordance with Section 16.16 of the Agreement and be sent to:

Alaska Life and Health Insurance Guaranty Association
1007 West 3rd Ave., Suite 400
Anchorage, AK 99501

Phone: 907-243-2311
Fax: 907-277-1331


Capitalized terms used but not otherwise defined herein shall have the meanings as ascribed to such terms in the Agreement.

IN WITNESS THEREOF, the parties have caused their duly authorized representatives to execute this Participation Agreement on the date noted above.

NATIONAL ORGANIZATION OF LIFE
AND HEALTH INSURANCE
GUARANTY ASSOCIATIONS

By: _____
Peter G. Gallanis, President

ALASKA LIFE AND HEALTH
INSURANCE GUARANTY
ASSOCIATION

By: 
Todd R. Thakar, Board Chair

NOTE: ALHIGA's ability to fulfill its statutory coverage obligations by becoming a Participating Guaranty Association under this Agreement is subject to ALHIGA obtaining approval of the Director of the State of Alaska Division of Insurance, as required by Alaska Statute 21.79.060(d). ALHIGA has initiated steps to obtain the Director's approval.