

Matter of Structured Asset Funding, LLC (Claudio)

2014 NY Slip Op 32566(U)

October 8, 2014

Supreme Court, New York County

Docket Number: 157266/2014

Judge: Christine M. Clark

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

In the Matter of the Petition of
STRUCTURED ASSET FUNDING, LLC,
d/b/a 123 Lumpsum,

Petitioner(s)

For Judicial Approval of Transfer of Structured
Settlement Payment Rights In Accordance With
New York General Obligations Law § 5-1701, et seq.

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-and-

BENITO CLAUDIO, NEW YORK LIFE INSURANCE
AND ANNUITY CORPORATION and NEW YORK
LIFE INSURANCE COMPANY,

Respondents

PETER H. MOULTON, J.S.C.:

Benito Claudio seeks the transfer of certain structured payments due to him under a structured settlement agreement in accordance with 26 U.S.C. 5891 et seq. and GOL § 5-1701 et seq.¹ Mr. Claudio currently receives \$1,893.98 for life payable monthly guaranteed for ten (10) years and six (6) months beginning on July 27, 2014, increasing at a rate of 3.00% compounded annually every January 27th with the last guaranteed payment on December 27, 2024. Under the terms of the structured settlement, Mr. Claudio seeks to sell: One hundred twenty (120) guaranteed monthly

¹One prior application, was approved as being in Mr. Claudio's best interest. According to Mr. Claudio, in his prior application in September 2003, he assigned to Settlement Funding of New York, LLC, his right to sixty (60) monthly payments, each in the amount of six hundred dollars (\$600.00), from January 27, 2004 through and including December 27, 2008.

payments, beginning with a payment on January 27, 2015 in the amount of \$250.00 out of the \$1,893.78 monthly, compounded annually at 3.00% on the 27th day of January of each applicable year and ending with a payment on December 27, 2024 in the amount of \$326.20. The aggregate of those payments is \$34,391.64.

In his petition Mr. Claudio originally sought to transfer his payments for the purchase price of \$15,000.00. As amended by an updated e-mail disclosure dated September 24, 2014 (attached), the new purchase price for this transaction is \$20,250.00 (*see* Updated E-mail Disclosure dated September 24, 2014). In return, Structured Asset Funding, LLC, will receive Mr. Claudio's guaranteed monthly payments, beginning with the payment on January 27, 2015 in the amount of \$250.00, compounded annually at 3.00% on the 27th day of January of each applicable year and ending with the payment on December 27, 2024 in the amount of \$326.20, totaling \$34,391.64. The discounted present value of the aggregate purchased payments at the federal interest rate of 2.20% is \$30,416.50. Originally, the transaction was the equivalent of interest payments to Mr. Claudio of 17.83% annually, but has since been amended to interest payments of 10.40% annually (*see id*).

Mr. Claudio's affidavit reflects the following: He is 37 years old, and resides in New York with his mother in a small apartment. He is single, and does not have any dependents. Mr. Claudio intends to use the money that he receives from the transfer of a portion of his structured settlement payments to accomplish the following objectives: 1) rent a small apartment and relieve his mother of the burden of housing him; and 2) to purchase a reliable vehicle to help expand his search for employment and to subsequently commute to said employment. Having carefully analyzed his budget, Mr. Claudio does not believe that he can accomplish these vital goals without this transaction.

The court met with Structured Asset Funding, LLC's counsel and Mr. Claudio on the scheduled return date for the Order to Show Cause, September 23, 2014. On that date, Mr. Claudio, who is presently employed as a meat-packer in Hunt's Point, New Jersey (and is insured through his employer), expounded on his desire to relocate to a new apartment. Mr. Claudio stated that he and his girlfriend are expecting their first child in the next few months. As such, Mr. Claudio has expanded his search for housing to include 2-bedroom households that would be suitable for his girlfriend and his newborn child. Mr. Claudio expressed to the court that his need for immediate housing has increased since his mother can no longer house him on a long term basis. He has temporarily been staying with his father, who will be unable to house him beyond the next few weeks. Mr. Claudio also stated to the court that he still desires to purchase a used vehicle, now to assist with his daily commute to work. At his present job, Mr. Claudio stated that he earns a monthly salary of approximately \$2,000.00. Still, Mr. Claudio expressed to the court that he has overdue bills and other expenses that he has been unable to pay with his present monthly salary and annuity payments alone. As such, he repeatedly conveyed to the court that this transaction would be in his best interest and in the best interest of his growing family.

The court finds that the transaction herein is both fair and reasonable and in the best interest of Mr. Claudio. The \$20,250.00 that Mr. Claudio will receive represents 65.70% of the estimated current value of the payments. The annual discount rate of 10.40% is also fair and reasonable, and is in Mr. Claudio's best interest. Furthermore, given Mr. Claudio's immediate desire to obtain housing for his family and a car for work, it would not be in Mr. Claudio's best interest for the court to disapprove this transaction, especially when his present monthly receipt of \$1,893.78 in structured settlement payments along with his monthly salary is not sufficient to advance his needs. However,

Mr. Claudio should take heed of the fact that any future applications may not be approved. As such, he is cautioned against reliance on his ability to sell the remaining portions of his structured settlement payments and should use the \$20,250.00 that he is receiving in connection with this transaction wisely.²

It is hereby:

ADJUDGED that the petition is granted; and an Order is signed simultaneously herewith.

This constitutes the Decision and Judgment of the Court.

Dated: October 6, 2014

ENTER:


J.S.C.

PETER H. MULVAN

²This transaction is being approved as in the best interests of Benito Claudio. New York Life Insurance and Annuity Corporation and/or New York Life Insurance Company have agreed to waive any servicing requirement in connection with this transaction. (See attached e-mail dated September 24, 2014 and e-mail thread). Servicing arrangements are of concern to the court. These arrangements are sometimes required by annuity companies, who do not want to "split" payments when only a portion of the structure is sold. Rather, the company purchasing a portion of the structured payments is sent the entire amount and remits the portion not sold back to the person selling the structured payments. Although the court has only found one case discussing this problematic issue, of great concern, among other things, is what would occur if the company purchasing a portion of a structured settlement were to file for bankruptcy. Accordingly, this court does not condone servicing arrangements.