

Matter of J.G. Wentworth Originations, LLC v Genworth Life & Annuity Ins. Co.
2021 NY Slip Op 31292(U)
March 1, 2021
Supreme Court, Kings County
Docket Number: 523205/2020
Judge: Richard Velasquez
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

In the Matter of the Petition of

J.G. WENTWORTH ORIGINATIONS, LLC

Petitioner

Index No. 523205/2020

and

GENWORTH LIFE AND ANNUITY INSURANCE
COMPANY, INSURANCE COMPANY OF NORTH
AMERICA and LA-HETA JOHNSON,

*as Interested Parties pursuant to G.O.L
Sec. 5-1701(f).*

**FINAL ORDER APPROVING TRANSFER
OF STRUCTURED SETTLEMENT PAYMENT RIGHTS**

AND NOW, this 1ST day of ~~December 2020~~ ^{MARCH, 2021} upon consideration of the unopposed petition of J.G. Wentworth Originations, LLC (“Wentworth”) the Court hereby finds as follows:

1. The transfer of structured settlement payment rights, specifically:
 - life-contingent monthly payments of \$300.00 each, beginning on January 1, 2021 and continuing through and including December 1, 2037 or until the death of La-Heta Johnson a/k/a Laheta J. Johnson a/k/a La Heta Jamene Sanders Johnson (“Ms. Johnson”), whichever occurs first

(the “Assigned Payments”), as described in the Purchase Contract (the “Purchase Agreement”) between Ms. Johnson and Wentworth and in the petition in this matter (the “Proposed Transfer”) (i) does not contravene any federal or state statute or the order of any court or responsible administrative authority, and (ii) is in the best interest of Ms. Johnson, taking into account the welfare and support of Ms. Johnson’s dependents.

2. The Proposed Transfer complies with the requirements of the New York Structured Settlement Protection Act (the “Act”), N.Y. Gen. Oblig. § 5-1701 *et seq.*, 26 U.S.C.

§ 5891, and does not contravene any applicable statute or the order of any court or other government authority.

3. Not less than ten days prior to the date on which Ms. Johnson signed the Purchase Agreement, Wentworth provided to Ms. Johnson a disclosure statement in compliance with N.Y. Gen. Oblig. § 5-1703.

4. The Proposed Transfer, including the discount rate used to determine the gross advance amount and the fees and expenses used to determine the net advance amount are fair and reasonable.

5. Wentworth has timely filed with the Court and served on all interested parties, including Insurance Company of North America (“INA”) and Genworth Life and Annuity Insurance Company (“Genworth”), notice of the Proposed Transfer, a copy of the Purchase Agreement, a copy of the disclosure statement and proof of notice of the disclosure statement, and a listing of Ms. Johnson’s dependents, in compliance with the requirements of N.Y. Gen. Oblig. § 5-1705(c) & (d).

6. Ms. Johnson has been advised in writing by Wentworth to seek independent professional advice regarding the Proposed Transfer and has either received such advice or knowingly waived such advice in writing.

7. The Purchase Agreement and all disclosures are written in plain language and in compliance with N.Y. Gen. Oblig. § 5-702.

8. This Court has jurisdiction over this matter pursuant to N.Y. Gen. Oblig. § 5-1705(b) and upon the application of petitioner.

9. By an Order entered by the Supreme Court of the State of New York, County of Kings, dated October 31, 2018, Ms. Johnson assigned to J.G. Wentworth Originations, LLC her

right to receive the following Periodic Payments: a \$35,000.00 portion of the lump sum payment of \$100,000.00 due on May 31, 2023.

10. By an Order entered by the Supreme Court of the State of New York, County of Kings, dated December 4, 2019, Ms. Johnson assigned to Peachtree Settlement Funding, LLC her right to receive the following Periodic Payments: a \$45,000.00 portion of the lump sum payment of \$100,000.00 due on May 31, 2023.

Based on the foregoing findings, IT IS HEREBY ORDERED that

A. Pursuant to the Act, the Proposed Transfer is approved. Ms. Johnson understands that she is giving up her rights to the Assigned Payments.

B. Genworth shall forward the following Assigned Payments, if and when due, to Wentworth, by check made payable to "J.G. Wentworth Originations, LLC," at P.O. Box 83364, Woburn, MA 01813-3364 (the "Designated Address"), TIN 88-0513164:

- life-contingent monthly payments of \$300.00 each, beginning on February 1, 2021¹ and continuing through and including December 1, 2037 or until the death of Ms. Johnson, whichever occurs first.

C. Any obligation of Genworth hereunder to remit the Assigned Payments to Wentworth is limited to such Assigned Payments that have not already been paid as of the date INA and Genworth receive and process a certified or court filed-stamped copy of this Order allowing the Proposed Transfer. Wentworth agrees to seek recovery solely from Ms. Johnson for any Assigned Payments made by Genworth prior to INA's and Genworth's receipt and processing of the certified or court file-stamped copy of this Order.

¹ The Assigned Payments that have been or are expected to be made to Ms. Johnson prior to INA's and Genworth's receipt and processing of this Order are as follows: the Assigned Payment due on January 1, 2021.

D. In consideration for the Assigned Payments, Ms. Johnson shall receive a net payment of \$15,250.00 from Wentworth.

E. The obligation to make any of the Assigned Payments ceases on Ms. Johnson's death. Nothing in the Petition, the Proposed Transfer, any stipulation entered between the parties, this Order, or any other matter changes the fact that each of the Assigned Payments is owed only if Ms. Johnson is alive at the time each such payment is due.

F. Wentworth shall provide to INA and Genworth, at the time this Order is submitted, a written confirmation, contemporaneously signed by Ms. Johnson and notarized, that Ms. Johnson is alive (the "Initial Required Confirmation"). Every one-hundred eighty days thereafter and at any time upon reasonable request of INA or Genworth, until the due date of the last Assigned Payment, Wentworth shall provide INA and Genworth with written confirmation, contemporaneously signed by Ms. Johnson that Ms. Johnson is alive (the "Required Confirmation"). The Required Confirmation should be forwarded to INA at 436 Walnut Street, WA04K, Philadelphia, PA 19106 and to Genworth at 3100 Lankford Drive, Lynchburg, VA 24501. Ms. Johnson and Wentworth shall cooperate with one another and with INA and Genworth for purposes of providing each Required Confirmation. To obtain the Required Confirmation, Wentworth shall send a series of semi-annual letters to Ms. Johnson. Within ten (10) days of the receipt of each such letter, Ms. Johnson will sign where appropriate and Ms. Johnson will return the letter to Wentworth in the self-addressed stamped envelope accompanying the letter. In addition, Wentworth shall hire an independent mortality tracking company (*i.e.*, The Berwyn Group, 21st Mortality Tracking Services, LLC) to track Ms. Johnson's mortality quarterly throughout the duration of the Assigned Payment stream (the "Mortality Tracking Confirmation") and provide copies of the Mortality Tracking Confirmation

to INA and Genworth. In the event that Wentworth acquires information indicating that Ms. Johnson has died, Wentworth shall immediately provide INA and Genworth with this information in writing.

G. If Wentworth fails to provide the Required Confirmation or Mortality Tracking Confirmation that Ms. Johnson is alive, or if INA or Genworth has any reasonable basis to believe that Ms. Johnson has died, INA may direct Genworth to suspend making the Assigned Payments until INA and Genworth have received the Required Confirmation or Mortality Tracking Confirmation of Ms. Johnson's survival.

H. To the extent any of the Assigned Payments are made after the death of Ms. Johnson, Assignee will reimburse said company with funds in the amount of such Periodic Payments, plus interest at 6% per annum from the date that the funds were paid through the date reimbursement is tendered.

I. Wentworth has not purchased or acquired and agrees not to purchase or acquire, any life insurance policy on the life of Ms. Johnson from Genworth or INA, or any of their parents, subsidiaries, or affiliates, that relates in any way to the Proposed Transfer or the Assigned Payments.

J. In the event Wentworth further assigns or otherwise transfers the Assigned Payments (or any portion thereof or interest therein) to another person or entity (a "Reassignment"), INA and Genworth shall not be obligated or required to redirect the Assigned Payments (or any portion thereof) to any person or entity other than Wentworth or to any payment address other than the Designated Address and Wentworth and Ms. Johnson shall remain obligated to comply with all terms and conditions herein and in any stipulations (collectively, the "Stipulation") entered into between the parties. Notwithstanding the foregoing,

the Stipulation and this Order will remain binding and fully enforceable against Wentworth and Ms. Johnson.

K. Wentworth and its affiliates and successors in interest, shall defend, indemnify, and hold harmless INA and Genworth, and their respective directors, shareholders, officers, agents, attorneys, employees, servants, reinsurers, successors, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, attorneys, employees, servants, reinsurers, successors, and assigns, past and present, from and against any and all liability, including but not limited to costs and reasonable attorneys' fees, for any and all claims asserted by any person or entity, including but not limited to any claims asserted by any person or entity not a party hereto, claiming an interest in the Assigned Payments and any and all other claims made in connection with, related to, or arising out of the Purchase Agreement, the Proposed Transfer, the Assigned Payments, any Reassignment, or INA's and Genworth's compliance with the Stipulation or this Order, except with respect to claims by Wentworth against INA and Genworth to enforce INA's and Genworth's obligations to Wentworth, if any, under the Stipulation or this Order. To the extent that Wentworth fails to honor this indemnification and defense obligation, INA and Genworth may, in addition to all other remedies afforded by law, satisfy the same by withholding to their own credit the Assigned Payments.

L. INA's and Genworth's lack of opposition to this matter, or stipulation hereto or compliance herewith, shall not constitute evidence in this or any other matter, and is not intended to constitute evidence in any other matter, that:

- a. payments under a structured settlement contract or annuity or related contracts can be assigned or that "anti-assignment" or "anti-encumbrance" provisions in structured settlement contracts or annuities or related contracts are not valid and enforceable; or

- b. other transactions entered into by Wentworth and its customers constitute valid sales and/or loans; or
- c. INA and Genworth have waived any right in connection with any other litigation or claims; or
- d. Wentworth has waived any right in connection with any other litigation or claims.

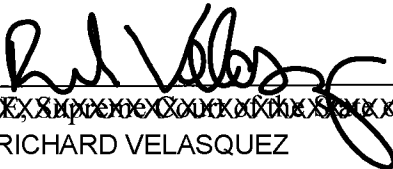
M. INA and Genworth, and their respective directors, shareholders, officers, agents, attorneys, employees, servants, reinsurers, successors, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, attorneys, employees, servants, reinsurers, successors, and assigns, past and present (the “INA and Genworth Releasees”) are hereby remised, released and forever discharged, of and from any and all manner of actions and causes of action, suits, debts, dues, accounts, bonds, covenants, contracts, agreements, judgments, settlements, damages, claims, and demands whatsoever, in law and in equity, in connection with, related to, or arising out of, any claim or allegation that was or could have been asserted in connection with, related to, or arising out of the Petition, the Assigned Payments, the Proposed Transfer, the Stipulation, or this Order, as to Wentworth and Ms. Johnson, and their respective directors, shareholders, officers, agents, attorneys, employees, servants, successors, heirs, beneficiaries, contingent beneficiaries, executors, administrators, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, attorneys, employees, servants, successors, and assigns, past and present (the “Releasors”), which the Releasors have or had from the beginning of the world through the date of this Order, except for claims of Releasors against the INA and Genworth Releasees to enforce the INA and Genworth Releasees’ obligations to Releasors, if any, under the Stipulation or this Order.

N. This Order is a “Qualified Order” within the meaning of 26 U.S.C. § 5891.

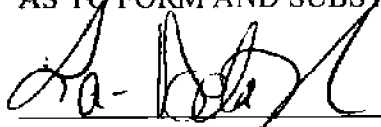
O. This constitutes a Final Order of the Court and resolves the last pending claim and closes the case.

~~DO NOT OPEN COURT US XXXXX day of December, 2020~~

This constitutes the Decision/Order of the Court.
Dated: Brooklyn, New York
MARCH 1, 2021


~~JUSTICE, Supreme Court of the State of New York~~
HON. RICHARD VELASQUEZ

AGREED TO AND APPROVED
AS TO FORM AND SUBSTANCE:


La-Heta Johnson a/k/a Laheta J. Johnson
a/k/a La Heta Jamene Sanders Johnson