

**Matter of J.G. Wentworth Originations, LLC v
Prudential Ins. Co. of Am.**

2021 NY Slip Op 32580(U)

December 6, 2021

Supreme Court, Kings County

Docket Number: Index No.. 524215/21

Judge: Debra Silber

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At Part 9, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, New York, on this 6 day of December, 2021

PRESENT:

HON. DEBRA SILBER
JSC

HON. _____, JUSTICE.

-----X
In the Matter of the Petition of

J.G. WENTWORTH ORIGINATIONS, LLC,

Petitioner,

-and-

PRUDENTIAL INSURANCE COMPANY OF AMERICA, PRUDENTIAL ASSIGNED SETTLEMENT SERVICES CORP. and WILLIAM SINISTERRA,

As Interested Persons Pursuant to GOL §5-1701 (f),
-----X

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

Index No. 524215/21

AND NOW, upon consideration of the unopposed *Petition in Support of Order to Show Cause for the Approval of Transfer of Structured Settlement Payment Rights* (the "Petition") of J.G. Wentworth Originations, LLC ("Transferee"), the Court hereby finds as follows:

1. Pursuant to the New York Structured Settlement Protection Act, New York State General Obligations Law ("GOL") §§ 5-1701(o) and 5-1705(b)(ii), jurisdiction and venue are proper in this Court because William Sinisterra, a/k/a William G. Sinisterra, a/k/a W. Sinisterra ("Payee") has confirmed to this Court's satisfaction that Payee is a resident of and domiciled in Kings County, New York.

2. Payee is properly before this Court and Payee is entitled to avail himself of GOL § 5-1701, *et seq.*

3. The transfer of the structured settlement proceeds, specifically, **one lump sum payment of \$50,000.00 due March 4, 2024** (the “Assigned Payment”) by Payee to Transferee as described in the Petition and in the *New York Purchase Contract* (the “Purchase Agreement”) between Payee and Transferee (the Assigned Payment and Purchase Agreement between Payee and Transferee being hereafter referred to as the “Proposed Transfer”): (i) does not contravene any applicable federal or state statute or the order of any court, governmental authority, or responsible administrative authority; (ii) is in the best interest of Payee, taking into account the welfare and support of Payee’s dependents, if any, and (iii) 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, is fair and reasonable.

4. Not less than ten (10) days prior to the date on which Payee signed the Purchase Agreement, Transferee provided to Payee a separate Disclosure Statement in compliance with and satisfying the requirements of GOL §5-1703. The Disclosure Statement was prepared in plain language and in bold type, no smaller than fourteen (14) points, setting forth:

- a) The amounts and due dates of the structured settlement payment to be transferred;
- b) The aggregate amount of the payment;
- c) The discounted present value of the payment to be transferred which was identified as the “calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities”, and the amount of the applicable federal rate used in calculating such discounted present value;
- d) The price quote from the original annuity issuer or, if such price quote is not readily available from the original annuity issuer, then a price quote from two (2) other annuity issuers that reflects the current cost of purchasing

a comparable annuity for the aggregate amount of payment to be transferred;

- e) The gross advance amount and the annual discount rate, compounded monthly, used to determine such figure;
- f) An itemized listing of all commissions, fees, costs, expenses and charges payable by Payee or deductible from the gross amount otherwise payable to Payee and the total amount of such fees;
- g) The net advance amount including the statement: "The net cash payment you receive in this transaction from the buyer was determined by applying the specified discount rate to the amount of future payments received by the buyer, less the total amount of commissions, fees, costs, expenses and charges payable by you.";
- h) The amount of any penalties or liquidated damages payable by Payee in the event of any breach of the Purchase Agreement by Payee; and
- i) A statement that Payee has the right to cancel the Purchase Agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by Payee.

5. As required by GOL §§ 5-1706(a) and (d), the Proposed Transfer complies with the requirements of the New York Structured Settlement Protection Act, GOL § 5-1701, *et seq.*, and 26 U.S.C. § 5891, *et seq.*, and does not contravene any applicable law.

6. As required by GOL § 5-1706(b), the Proposed Transfer is in the best interest of Payee, taking into account the welfare and support of Payee's dependents, and 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, is fair and reasonable.

7. Pursuant to GOL § 5-1706(c), Payee has been advised in writing by Transferee to obtain independent professional advice regarding the Proposed Transfer, and Payee has either received such advice or knowingly waived such advice in writing.

8. The Purchase Agreement and all disclosures are written in plain language and in compliance with GOL §5-1702 as required by GOL §5-1706(e).

9. Not less than twenty (20) days before the time at which the Petition in this matter was noticed to be heard, Transferee timely filed and served on all interested parties, including the structured settlement obligor, Prudential Assigned Settlement Services Corporation ("PASSCorp"), and the annuity issuer, The Prudential Insurance Company of America ("Prudential") (PASSCorp and Prudential are referred to collectively herein as "Insurers"), a copy of the Order to Show Cause, notice of the Proposed Transfer, a copy of the Petition for its authorization, a copy of the Purchase Agreement, a copy of the Disclosure Statement with proof of notice of the Disclosure Statement as required by GOL §5-1703, a listing of each of Payee's dependents, together with each dependent's age, and all other related information, notifications, and documents required by and in compliance with GOL §§ 5-1705(c) and (d).

10. The Purchase Agreement does not authorize Transferee or any other party to confess judgment or consent to entry of judgment against Payee.

11. The Purchase Agreement, which provides that if Payee resides in the State of New York then disputes under the Purchase Agreement, including any claim that Payee has breached the Purchase Agreement, shall be determined in and under the laws of the State of New York, as required by GOL §5-1708(b), complies with GOL § 5-1701, *et seq.*

12. Payee has consented in writing to the Proposed Transfer.

13. Payee understands the terms of the Purchase Agreement, including the terms set forth in the disclosure statement required by GOL §5-1703.

14. Payee understands and does not want to exercise Payee's right to cancel the Purchase Agreement.

Based upon the foregoing findings, IT IS HEREBY ORDERED that:

A. Pursuant to GOL § 5-1701 *et seq.*, the Proposed Transfer is APPROVED. Regardless of the named beneficiary of record on file with Prudential under Annuity Contract Number SSA000002694 (the “Annuity”), Transferee shall be entitled to receive the Assigned Payment even in the event of Payee’s death, and Payee understands Payee is giving up Payee’s rights, and the rights of Payee’s heirs, successors and/or beneficiaries to the Assigned Payment.

B. Prudential shall forward the Assigned Payment, within 7 days of the date due, by check made payable to “**J.G. Wentworth Originations, LLC**” at P.O. Box 83364, Woburn, MA 01813-3364 (the “Designated Address”), in the manner set forth in the parties’ *Stipulation* (“Stipulation”).

C. Transferee is authorized to make subsequent assignments or transfers of the Assigned Payment (a “Reassignment”) except that, regardless of any such Reassignment, the Assigned Payment will continue to be made by Prudential to Transferee at the Designated Address only, regardless of any Reassignment. However, if for reasons beyond the control of Transferee, or due to Transferee being merged with or acquired by another individual or entity, or for traditional address change purposes the Designated Address is no longer valid (i.e., if Transferee moves or for other reasons the Designated Address is no longer a valid address for Transferee to receive payments), Prudential will make the Assigned Payment to a new address and Transferee shall pay Prudential (by check made payable to “The Prudential Insurance Company of America”) a redirection fee (the “Redirection Fee”) in the amount of \$100.00. Notwithstanding the foregoing, the parties’ *Stipulation* will remain binding and fully enforceable against Transferee (and any successors by merger, acquisition or otherwise) and Payee.

D. All remaining structured settlement payments (and/or portions thereof) due to Payee, if any, that are not the subject of the Proposed Transfer, and not previously assigned, shall be made payable to Payee and will be forwarded by Prudential as they become due, to Payee's last known address or any payment address designated by Payee, subject to the consent of Insurers.

E. Transferee shall defend, indemnify and hold harmless Insurers and their respective directors, shareholders, officers, agents, employees, servants, successors, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, employees, servants, 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 Payment, and any and all other claims made in connection with, related to, or arising out of the Purchase Agreement, the Proposed Transfer, the Assigned Payment, any Reassignment, or Insurers' compliance with the Stipulation or this Order, except with respect to claims by Transferee against Insurers to enforce Insurers' obligations to Transferee under the Stipulation and this Order. To the extent Transferee fails to honor this indemnification and defense obligation, Insurers may, in addition to all other remedies afforded by law, satisfy the same by withholding to their own credit any funds owed to Transferee under the Annuity.

F. Insurers' lack of opposition to this matter, or their or the other parties' stipulation hereto or compliance herewith, shall not constitute evidence in this or any matter, and is not intended to constitute evidence in this or any 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, annuities, or related contracts are not valid and enforceable; or

- b. other transactions entered into by Transferee and its customers constitute valid sales and/or secured transactions; or
- c. Insurers have waived any right in connection with any other litigation or claims; or
- d. Transferee has waived any right other than as expressly set forth in the parties' Stipulation and/or this Order.

G. Transferee and Payee for themselves and for their respective directors, shareholders, officers, agents, employees, servants, successors, heirs, beneficiaries, contingent beneficiaries, executors, trustees, administrators, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, employees, servants, successors, heirs, beneficiaries, contingent beneficiaries, executors, trustees, administrators, and assigns, past and present (the "Releasors"), hereby remise, release and forever discharge Insurers and their directors, shareholders, officers, agents, employees, servants, successors, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, employees, servants, successors, and assigns, past and present (the "Insurers Releasees"), 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 or 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 Purchase Agreement, the Proposed Transfer, the Assigned Payment, any Reassignment, or the parties' Stipulation, which against each other or the Insurers Releasees, the Releasors have or had from the beginning of the world through the date of this Order, except for claims of Releasors against the Insurers Releasees to enforce the Insurers Releasees' obligations to Releasors, if any, under the parties' Stipulation or this Order.

H. In consideration for the Assigned Payment, Payee shall receive from Transferee the net sum of \$41,000.00 to be issued by Transferee as follows:

- (a) \$10,000.00 payable to Mercedes Garcia, the mother of William Sinisterra;
- (b) \$2,000.00 payable to JPMorgan Chase;
- (c) \$500.00 payable to Capital One Bank.
- (d) The remainder of \$28,500.00 payable to William Sinisterra.

I. This Order is a "Qualified Order" within the meaning of 26 U.S.C. § 5891, *et seq.*

ENTER:



HON. DEBRA SILBER
JSC