

**J.G. Wentworth Originations, LLC v New York Life
Ins. Co.**

2021 NY Slip Op 32680(U)

December 9, 2021

Supreme Court, Kings County

Docket Number: Index No. 523570/21

Judge: Francois A. Rivera

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At Part 52, 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 9th day of December 2021

HONORABLE FRANCOIS A. RIVERA

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In the Matter of the Petition of

J.G. WENTWORTH ORIGINATIONS, LLC,

ORDER

Petitioner,

Index No. 523570/21

-and-

NEW YORK LIFE INSURANCE COMPANY,
NEW YORK LIFE INSURANCE AND ANNUITY
CORPORATION and M.D.,

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

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

THIS MATTER having come before the Court pursuant to the Petition of J.G.

Wentworth Originations, LLC (“Wentworth”) seeking approval of the transfer of certain structured settlement payments by the payee, Michael DeLouise (“Mr. DeLouise”), to petitioner, Wentworth, pursuant to the provisions of General Obligations Law § 5-1701, *et seq.*, and an Order to Show Cause and Petition. The Court received the testimony of Mr. DeLouise, who appeared in person at the hearing, statements of counsel, and reviewed the documents filed herein.

The Court, having reviewed and considered the Petition of Wentworth, finds that there is good cause to approve the transfer of structured settlement payment rights by and between Mr. DeLouise, transferor/payee, and Wentworth, transferee/petitioner.

The Court hereby expressly finds as follows:

1. The transfer of the structured settlement payment rights, specifically:

- a \$319.09 portion of the monthly payments of \$1,193.91 each, beginning on October 15, 2021 and continuing through and including September 15, 2028

(the “Assigned Payments”), by Mr. DeLouise to Wentworth as described in the Petition in this matter and in the Purchase Contract (the “Transfer Agreement”) between Mr. DeLouise and Wentworth (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 Mr. DeLouise, taking into account the welfare and support of Mr. DeLouise’s dependents, if any.

2. Not less than ten days prior to the date on which Mr. DeLouise signed the Transfer Agreement, Wentworth provided to Mr. DeLouise a Disclosure Statement in compliance with N.Y. Gen. Oblig. § 5-1703.

3. The Proposed Transfer complies with the requirements of 26 U.S.C. § 5891 and the New York Structured Settlement Protection Act (the “Act”), N.Y. Gen. Oblig. § 5-1701 *et seq.*, satisfying the requirements of N.Y. Gen. Oblig. § 5-1706(a).

4. The Proposed Transfer is in the best interest of Mr. DeLouise, taking into account the welfare and support of Mr. DeLouise’s dependents, if any, 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, are fair and reasonable, satisfying the requirements of N.Y. Gen. Oblig. § 5-1706(b). The Court has considered the testimony of Mr. DeLouise, the prior transfers of structured settlement payments by Mr. DeLouise, the injuries he sustained which resulted in the establishment of the underlying structured settlement, and the intended use and benefit of the structured settlement.

5. Mr. DeLouise 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, satisfying the requirements of N.Y. Gen. Oblig. § 5-1706(c).

6. The Proposed Transfer does not contravene any applicable statute or the order of any court or other government authority, satisfying the requirements of N.Y. Gen. Oblig. § 5-1706(d).

7. The Transfer Agreement and all disclosures are written in plain language and in compliance with N.Y. Gen. Oblig. § 5-702, satisfying the requirements of N.Y. Gen. Oblig. § 5-1706(e).

8. At least twenty days before the time at which the Petition is noticed to be heard, Wentworth has timely filed with the Court and served on all interested parties, including New York Life Insurance and Annuity Corporation (“NY Annuity”), New York Life Insurance Company (“NY Life”) (NY Annuity and NY Life are referred to collectively herein as “Insurers”), notice of the Proposed Transfer, a copy of the Transfer Agreement, a copy of the Disclosure Statement and proof of notice of the Disclosure Statement, and a listing of Mr. DeLouise’s dependents, in compliance with the requirements of N.Y. Gen. Oblig. § 5-1705(c) & (d).

9. This Court has jurisdiction over this matter pursuant to N.Y. Gen. Oblig. § 5-1705(b)(i), as Mr. DeLouise resides in Kings County.

10. By an Order entered by the Circuit Court of Florida, Charlotte County, dated May 27, 2014, Mr. DeLouise assigned to Wentworth his right to receive the following Periodic Payments: a \$153.00 portion of the monthly payments of \$1,193.91 each, beginning on June 15, 2014 and continuing through and including September 15, 2028.

11. By an Order entered by the Circuit Court of Florida, Charlotte County, dated August 4, 2014, Mr. DeLouise assigned to Wentworth his right to receive the following Periodic Payments: a \$140.91 portion of the monthly payments of \$1,193.91 each, beginning on August 15, 2014 and continuing through and including September 15, 2028.

12. By an Order entered by the Circuit Court of Florida, Charlotte County, dated October 27, 2014, Mr. DeLouise assigned to Wentworth his right to receive the following Periodic Payments: a \$140.91 portion of the monthly payments of \$1,193.91 each, beginning on November 15, 2014 and continuing through and including September 15, 2028.

13. By an Order entered by the Supreme Court of the State of New York, County of Kings, dated February 26, 2016, Mr. DeLouise assigned to Wentworth his right to receive the following Periodic Payments: a \$140.00 portion of the monthly payments of \$1,193.91 each, beginning on March 15, 2016 and continuing through and including September 15, 2028.

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

A. Pursuant to the Act, the Proposed Transfer is APPROVED. Regardless of the designated beneficiary under Annuity Contract No. 77423266, owned by NY Annuity and issued by NY Life, Wentworth shall be entitled to receive the Assigned Payments even in the event of Mr. DeLouise's death, and Mr. DeLouise understands he is giving up his rights, and the rights of his heirs, successors and/or beneficiaries, to the Assigned Payments.

B. Until NY Life has received and processed a fully-executed Stipulation (the "Stipulation") between the parties and a certified or court filed-stamped copy of this Order, NY Life will continue to make the Assigned Payments to Mr. DeLouise.¹ Any obligation of NY Life

¹ The Assigned Payments that have been or are expected to be made to Mr. DeLouise prior to NY Life's receipt and processing of the fully-executed Stipulation and a certified or court filed-stamped copy of this Order are as follows: the Assigned Payments due on October 15, 2021, November 15, 2021, and December 15, 2021.

hereunder to direct the Assigned Payments to Wentworth is limited to such Assigned Payments that have not already been paid as of the date NY Life receives and processes the fully-executed Stipulation and a certified or court filed-stamped copy of this Order allowing the Proposed Transfer. Wentworth agrees to seek recovery solely from Mr. DeLouise for any Assigned Payments made by NY Life prior to its receipt and processing of the fully-executed Stipulation and the certified or court file-stamped copy of this Order.

C. NY Life shall forward the following Assigned Payments, 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:

- a \$319.09 portion of the monthly payments of \$1,193.91 each, beginning on January 15, 2022 and continuing through and including September 15, 2028.

D. In consideration for the Assigned Payments, Mr. DeLouise shall receive a net payment of **\$17,245.52** from Wentworth.

E. 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”), NY Life shall not be obligated and cannot be 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 shall remain obligated to comply with all terms and conditions herein and in the Stipulation. Notwithstanding the foregoing, the Stipulation and this Order will remain binding and fully enforceable against Wentworth and Mr. DeLouise.

F. Wentworth shall defend, indemnify, and hold harmless Insurers and their respective directors, shareholders, officers, agents, attorneys, employees, servants, successors, and assigns, and any parent, subsidiary, or affiliate thereof, and their directors, shareholders, officers, agents, attorneys, employees, servants, successors, and assigns, past and present, from

and against any and all liability, 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 Transfer Agreement, the Proposed Transfer, the Assigned Payments, any Reassignment, or Insurers' compliance with the Stipulation or this Order, except with respect to claims by Wentworth against Insurers to enforce Insurers' obligations to Wentworth under the Stipulation or this Order. To the extent that Wentworth 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 remaining Assigned Payments.

G. All remaining Periodic Payments (and/or portions thereof), if any, that are not the subject of the Proposed Transfer and not previously assigned shall be made payable to Mr. DeLouise and will be forwarded by NY Life, as they become due, to Mr. DeLouise's most recent known address or any payment address designated by Mr. DeLouise, subject to the consent of Insurers.

H. Insurers' lack of opposition to this matter, or its or the other parties' stipulation hereto or compliance herewith, shall not constitute evidence in this or any other matter, and is not intended to constitute evidence in this or any other matter, that:

- i. payments under a structured settlement contract or annuity or related contracts can or cannot be assigned or that "anti-assignment" or "anti-encumbrance" provisions in structured settlement contracts or annuities or related contracts are or are not valid and enforceable; or
- ii. other transactions entered into by Wentworth and its customers do or do not constitute valid sales and/or secured transactions; or
- iii. Insurers have waived any right in connection with any other litigation or claims; or

iv. Wentworth has waived any right other than as expressly set forth in the Stipulation and/or this Order.

I. Insurers and their respective directors, shareholders, officers, agents, attorneys, employees, servants, successors, 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 “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 Transfer Agreement, the Assigned Payments, the Proposed Transfer, any Reassignment, the Stipulation, or this Order, as to Wentworth and Mr. Pacheco, 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 “Releasers”), which the Releasers have or had from the beginning of the world through the date of this Order, except for claims of the Releasers against the Releasees to enforce the Releasees’ obligations, if any, to the Releasers, under the Stipulation or this Order.

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

SIGNED THIS 9th day of December 2021.



J.S.C.