

CAUSE NO. D-1-GV-10-000120

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
	§	
FIRST AMERICAN LIFE INSURANCE COMPANY	§	200th JUDICIAL DISTRICT

**FINAL REPORT AND APPLICATION TO MAKE FINAL
DISTRIBUTION AND DISSOLVE CHARTER**

TO THE HONORABLE JUDGE OF THIS COURT:

Comes now Angenend & Augustine, P.C., Special Deputy Receiver of First American Life Insurance Company ("First American") and files this *Final Report and Application to Make Final Distribution and Dissolve Charter* ("Application") and in support respectfully shows the Court as follows:

I. CLOSING PROCESS INTRODUCTION

1.1 The Special Deputy Receiver has completed all claims processing and asset collection activities in this proceeding. The Special Deputy Receiver requests this Court to accept its final financial reports and authorize a final distribution of First American's remaining assets and to dissolve the charter of First American. Following the final distribution, completion of the transfer and destruction of records, and filing of final tax returns and issuance of any other required tax documents, the Special Deputy Receiver will submit a final accounting and an application to discharge the Receiver and the Special Deputy Receiver and terminate this proceeding.

II. AUTHORITY AND EVIDENCE

2.1 Pursuant to commencement of delinquency proceedings under the Insurer Receivership Act, TEX. INS. CODE ANN. Chapter 443¹ ("Code,") First American was placed in receivership by this Court's *Order Appointing Liquidator and Permanent Injunction ("Liquidation Order")* on February 18, 2010. The *Liquidation Order* appointed the Commissioner of Insurance of the State of Texas as Receiver ("Receiver") pursuant to TEX INS. CODE ANN. § 443.151(a).

2.2 On March 11, 2010, the Receiver filed his *Notice of Designation of Special Deputy Receiver* in this matter in which Angenend & Augustine, P.C. was designated as Special Deputy Receiver of First American ("Special Deputy Receiver") pursuant to TEX INS. CODE ANN. § 443.154(a). The Special Deputy Receiver filed an *Oath of Special Deputy Receiver* on March 11, 2010.

2.3 The Special Deputy Receiver is authorized to file this *Application* pursuant to the Code. Specifically, TEX. INS. CODE ANN. § 443.154(a) provides that the Special Deputy Receiver has all the powers of the Receiver, unless specifically limited by the Receiver, including those for a final distribution of assets pursuant to TEX. INS. CODE ANN. §§ 443.302 and 443.352.

2.4 Jurisdiction for all matters regarding the First American receivership estate is properly in the 200th Judicial District Court of Travis County, Texas, as the court in which these delinquency proceedings are pending. TEX. INS. CODE ANN. § 443.005(c).

¹ All citations to the Texas Insurance Code are abbreviated hereafter and will not include references to either the 2009 bound version of the statutes nor the 2011 pocket part.

2.5 The subject matter of this *Application* has been referred to the receivership master appointed in this proceeding in accordance with Paragraph III, Sections 11, 27, 30, and 32 of the *Order of Reference to Master ("Order of Reference")* entered on March 9, 2010. The receivership master appointed under the *Order of Reference* has authority to request and accept evidence in a hearing by submission to support the *Application*.

2.6 Attached as Exhibit A and incorporated by reference as if fully set out is the *Affidavit of Paul D. Angenend*, which serves as evidence of all the factual matters contained in this *Application*. The Special Deputy Receiver requests that this Court admit Exhibit A into evidence.

2.7 The Special Deputy Receiver filed with this Court the *Special Deputy Receiver's Quarterly Financial Report and Summary Statement of Expenses (June 1, 2012 through August 31, 2012)* on September 17, 2012. This is filed with the Court and incorporated by reference as Exhibit B as if fully set out. This Exhibit includes the Statement of Net Assets and Statement of Net Liabilities that reflects First American's financial condition in receivership as of August 31, 2012. The Special Deputy Receiver requests that this Court admit Exhibit B into evidence.

2.8 Attached as Exhibit C and incorporated by reference as if fully set out is the *Sources and Uses of Cash Statement* that lists all funds received and disbursed from the date of receivership to August 31, 2012. The Special Deputy Receiver requests that this Court admit Exhibit C into evidence.

2.9 Attached as Exhibit D and incorporated by reference as if fully set out is the *Disposition of Assets Schedule* that shows all asset transactions since February 18,

2010. The Special Deputy Receiver requests that this Court admit Exhibit D into evidence.

2.10 Attached as Exhibit E and incorporated by reference as if fully set out is the *Assignment* that transfers First American's securities and two proofs of claim² ("FAL POCs") to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company. The Special Deputy Receiver requests that this Court admit Exhibit E into evidence.

2.11 Attached as Exhibit F and incorporated by reference as if fully set out is the *Estimated Closing Budget*. The Special Deputy Receiver requests that this Court admit Exhibit F into evidence.

2.12 Attached as Exhibit G and incorporated by reference as if fully set out is the *Assignment of Unknown Assets to the Commissioner* that transfers First American's unknown assets to the Commissioner of Insurance of the State of Texas ("Commissioner.") The Special Deputy Receiver requests that this Court admit Exhibit G into evidence.

2.13 Attached as Exhibit H and incorporated by reference as if fully set out is the list of records to be destroyed after closing First American. The Special Deputy Receiver requests that this Court admit Exhibit H into evidence.

2.14 Attached as Exhibit I and incorporated by reference as if fully set out is the list of records to be transferred to the Commissioner after closing. The Special Deputy Receiver requests that this Court admit Exhibit I into evidence.

2.15 All of the records attached to this *Application* are authenticated as admissible in Exhibit A and are true and correct copies of papers, documents, or records

² The Special Deputy Receiver filed two proofs of claim with the Special Deputy Receiver of the Texas Memorial Life Insurance Company that are more specifically identified in the *Assignment*.

that are part of the books, records, documents, and papers of the receivership estate. TEX. INS. CODE ANN. § 443.017(b). The Special Deputy Receiver requests that this Court admit the facts contained in the *Application* and its exhibits, testified to and authenticated by Exhibit A, into evidence as *prima facie* proof of the matters asserted. TEX. INS. CODE ANN. § 443.017(c).

III. BACKGROUND

3.1 Company History

3.1.1 First American³ was a Texas-domiciled life insurance company holding a certificate of authority issued under the provisions of Chapter 801 of the Texas Insurance Code. First American was organized as a stipulated premium life insurance company on April 19, 1965, and licensed on July 28, 1965, to transact the business of life and health insurance.

3.1.2 First American operated under the provisions of Chapter 884 of the Texas Insurance Code. LTJ Management, LLC acquired First American on January 20, 2006.

3.1.3 First American was licensed to transact business only in Texas and did not hold any insurance licenses in other states. First American ceased writing direct policies during and after the period it was under examination from January 1, 2005, through December 31, 2007.

3.1.4 First American was engaged in reinsuring contracts for small underlying ordinary life policies that funded pre-need contracts to a maximum risk of \$15,000.

³ First American has had many company name changes over the course of forty-five years. These former company names include American Family Health and Life Insurance Company, American Family Life Insurance Company, Western American Life Insurance Company, American Surety Life Insurance Company, and Texas Burial Life Insurance Company.

3.2 Initiation of Delinquency Proceeding

3.2.1 On February 3, 2010, the delinquency proceeding was initiated against First American pursuant to TEX. INS. CODE ANN. Chapter 443.

3.2.2 This Court's *Liquidation Order* placed First American in receivership on February 18, 2010. First American was not designated as an "impaired insurer" under TEX. INS. CODE ANN. § 463.003(5).

3.3 Appointment of Receivers

In accordance with TEX. INS. CODE ANN. § 443.151(a) and the *Liquidation Order*, Mike Geeslin, then the Commissioner, was appointed Receiver on February 18, 2010. Commissioner Eleanor Kitman succeeded Commissioner Geeslin and a *Notice of Appointment of Successor Liquidator ("Notice")* was filed in this Court on September 15, 2011. As a matter of law and pursuant to the Court's *Liquidation Order*, Commissioner Geeslin's duties as Receiver ended upon the conclusion of his term as Commissioner as stated in the *Notice*. Commissioner Kitman is currently Receiver of First American.

3.4 Designation of Special Deputy Receiver

On March 11, 2010, the Receiver designated Angenend & Augustine, P.C. as Special Deputy Receiver of First American.

3.5 Referral to Receivership Master and Hearings by Submission

On March 9, 2010, this Court signed its *Order of Reference* appointing Tom Collins as receivership master ("receivership master") in this proceeding. Since that time, the receivership master has been holding hearings by submission and approving actions of the Special Deputy Receiver, including the acceptance of evidence by submission. The receivership master appointed under the *Order of Reference* has authority to request

and accept evidence in a hearing by submission to support the *Application*. This Court has authorized the acceptance of evidence by submission in its orders, as recommended by the receivership master.

IV. FINANCIAL STATEMENTS

4.1 Requirement for Filing

4.1.1 TEX. INS. CODE ANN. § 443.016(a) requires the Receiver to file a financial report with the Court, not later than the 120th day after the date of the *Liquidation Order*, and at least quarterly after that date, that must include a statement of the assets and liabilities of the insurer, the changes in those assets and liabilities, and all funds received or disbursed during the applicable reporting period. On April 7, 2010, the Special Deputy Receiver filed the *Application for Approval of Fees and Expenses* in order to set the reporting period for the required financial statements. On May 17, 2010, this Court issued its *Order Granting Application for Approval of Fees and Expenses*, finding that the first statement would be filed on June 15, 2010, and quarterly thereafter to coincide with the State of Texas' fiscal year. All quarterly financial statements were timely filed and included the information required by TEX. INS. CODE ANN. § 443.016 (a). The Special Deputy Receiver requests this Court find that it complied with the reporting requirements of TEX. INS. CODE ANN. § 443.016 (a).

4.1.2 Exhibit B, *The Special Deputy Receiver's Quarterly Financial Report and Summary Statement of Expenses (June 1, 2012 through August 31, 2012)*, is similar to previous quarterly financial reports that have been filed with this Court as part of the First American receivership estate since the estate's inception. The Special Deputy Receiver

requests that the Court find that Exhibit B complies with the requirements of TEX. INS. CODE ANN. § 443.016(a).

4.2 Final Financial Statements

The Special Deputy Receiver has filed its last quarterly financial report on September 17, 2012. The Special Deputy Receiver requests that the Court deem Exhibit B, as of August 31, 2012, as the final quarterly financial report required to be filed pursuant to TEX. INS. CODE ANN. § 443.016, subject to the financial information filed with the final accounting. The Special Deputy Receiver also requests that this Court find that Exhibit B includes a statement of the assets and liabilities of the insurer and the changes in those assets and liabilities as required by TEX. INS. CODE ANN. § 443.016 (a) and constitute the final financial reports for First American, subject to the financial information filed with the final accounting.

V. ASSETS

5.1 Inventory of Assets

On June 15, 2010, the Special Deputy Receiver filed the first quarterly financial report and summary statement of expenses for the First American receivership estate that included, among others, a Statement of Net Assets. The Special Deputy Receiver requests this Court find that the original Statement of Net Assets filed in the First American receivership estate satisfies the requirement that an inventory of assets be provided to the appointing court pursuant to the Texas Civil Practices and Remedies Code. TEX. CIV. PRAC. & REM. CODE ANN. § 64.032 (Vernon 2008). Exhibit B to this *Application* includes the *Statement of Net Assets* for First American as of August 31, 2012, and would also then contain and constitute the most recent inventory of assets. The

Special Deputy Receiver requests that this Court find that First American's final inventory of assets, which consists solely of cash and investments, is reflected on Exhibit B and is sufficient. As of August 31, 2012, the value of the assets totaled \$9,391,024.00.

5.2 Disposition of Assets

Exhibit D shows all asset transactions since February 18, 2010, and reflects total remaining assets of \$9,391,024.00 as of August 31, 2012.

5.3 Unliquidated Assets

First American had no unliquidated assets.

5.4 Charter and License

The Special Deputy Receiver has determined that a sale of the charter and license of First American is not feasible. The Special Deputy Receiver requests that this Court dissolve the charter pursuant to TEX. INS. CODE ANN. § 443.153(a).

VI. CLAIMS

6.1 Notice

On October 31, 2011, this Court entered its *Order Approving Notice and Setting Claims Filing Deadlines ("CFD Order")* with the date of November 30, 2011, as the claims filing deadline and January 31, 2012, as the late claims filing deadline as well as the contingent claim cutoff date. In accordance with this *CFD Order*, First American's records reflect that notice of the claim filing deadlines were provided to persons who may have had claims as shown by First American's books and records. This Court authorized this notice to be sent by email along with the notice of the application setting the claims filing deadline.

6.2 Secured Creditor Claims

There were no secured creditor claims in the First American receivership estate.

6.3 Filing of Claims

The Special Deputy Receiver received only one proof of claim ("POC") and it was filed prior to the claims filing deadline. There were no late filed POCs. In total, the Special Deputy Receiver of Lincoln Memorial Life Insurance Company filed the only POC in the First American receivership estate.

6.4 Class 3 Federal Claims

There were no federal *Class 3* claims received by the First American receivership estate. The Special Deputy Receiver requested and received a waiver from the United States for any and all claims by the United States government in any capacity except for taxes.

6.5 Class 4 Claims

There were no employee claims received by the Special Deputy Receiver.

6.6 Class 5 General Unsecured Creditor and Reinsurance Claims

There was one *Class 5* POC filed by the Special Deputy Receiver of Lincoln Memorial Life Insurance Company for assumed reinsurance.

6.7 Class 6 Claims

The Special Deputy Receiver did not receive a *Class 6* claim.

6.8 Class 7 Claims

The Special Deputy Receiver did not receive a *Class 7* claim.

6.9 Class 8 Late Claims

The Special Deputy Receiver did not receive any late claims before the late claims filing deadline of January 31, 2012.

6.10 Determination of Claim

The Special Deputy Receiver of Lincoln Memorial Life Insurance Company filed the only POC. The POC was timely filed with documentation. The POC was classified pursuant to TEX. INS. CODE ANN. § 443.301 and determined pursuant to TEX. INS. CODE ANN. § 443.253. The POC was analyzed pursuant to the applicable Code provisions with respect to its classification and amount. The *CFD Order* also required the Special Deputy Receiver to report on its compromised determination of the *Class 5* reinsurance claim at that time anticipated to be filed by the Special Deputy Receiver of Lincoln Memorial Life Insurance Company. The compromised amount was determined to be \$10,436,872.00. Thereafter, the Special Deputy Receiver of Lincoln Memorial Life Insurance Company entered into a *Proof of Claim Settlement Agreement ("Agreement")* with the Special Deputy Receiver for First American, previously filed in this proceeding and incorporated herein as if fully set out. Under the terms of the *Agreement*, the negotiated determination is not subject to appeal. Therefore, the Special Deputy Receiver's determination of this POC as a *Class 5* claim in the amount of \$10,436,872.00 is final pursuant to TEX. INS. CODE ANN. § 443.253(c) and by this Court's *Order Approving Claim (Lincoln Memorial Life Insurance Company- Class 5)* entered on August 29, 2012.

6.11 Claims Report

Pursuant to TEX. INS. CODE ANN. § 443.258, the Special Deputy Receiver is required to submit a report of its determination of the POCs received by the First

American receivership estate. As there was only one POC and its determination was approved in this Court's *Order Approving Claim (Lincoln Memorial Life Insurance Company- Class 5)*, no further report will be submitted.

6.12 Interim Distribution

Due to the fact that there is only one claim against the First American receivership estate, the Special Deputy Receiver has not made, nor will it make, an interim distribution.

VII. EXPENSES

7.1 Approval and Payment of Expenses

7.1.1 TEX. INS. CODE ANN. § 443.015(c) requires the Receiver to file an application with the Court to approve the terms of compensation of each special deputy receiver or contractor and any expense in excess of \$25,000 or other amount established by the receivership court. On April 7, 2010, the Special Deputy Receiver filed the *Application for Approval of Fees and Expenses* that included the terms of compensation for the Special Deputy Receiver and its subcontractors in compliance with TEX. INS. CODE ANN. § 443.015(c).

7.1.2 On May 17, 2010, this Court issued its *Order Granting Application for Approval of Fees and Expenses ("Expenses Order")* authorizing the Special Deputy Receiver to pay expenses for work performed for the benefit of the estate as well as authorizing First American's first statements of expenses and compensation schedule in compliance with TEX. INS. CODE ANN. § 443.015(g).

7.1.3 TEX. INS. CODE ANN. § 443.015(g) requires that the Receiver file a quarterly report summarizing the expenses incurred. In accordance with the Court's

Expenses Order and TEX. INS. CODE ANN. § 443.015, the administrative expenses of the Receiver and Special Deputy Receiver have been paid through August 31, 2012. The last expense report was filed in this proceeding on September 17, 2012. The Special Deputy Receiver requests that this Court find that all expenses have been approved.

7.1.4 TEX. INS. CODE ANN. § 443.015 (g) requires quarterly expense reports. In compliance with the Court's *Expenses Order*, expense reports were filed quarterly beginning on June 15, 2010, and were timely filed thereafter by the 15th day of the month following the end of the quarterly reporting period beginning with the third quarter of March through May 2010. The Special Deputy Receiver requests that the Court find that the quarterly expense reports, including a summary of expenses, were sufficient and timely filed.⁴ The Special Deputy Receiver requests that this Court find it complied with the expense reporting requirements of TEX. INS. CODE ANN. § 443.015 (g).

7.2 Reserve for Final Expenses

The fees and expenses of the receivership estate have been paid through August 31, 2012. The Special Deputy Receiver proposes to reserve \$58,504.90 from the distribution for the payment of estimated expenses through the termination of this proceeding, including some obligations that continue past closing. A summary of the estimated expenses is contained in Exhibit F. The Special Deputy Receiver requests approval of the expense reserve reflected on Exhibit F.

⁴ The *Expenses Order* required the first statement to be filed on June 15, 2010, for the March through May 2010 quarter and quarterly thereafter. The expense reports were filed as follows: 6/1/10 through 8/31/10 on September 16, 2010; 9/1/10 through 11/30/10 on December 15, 2010; 12/1/10 through 2/28/11 on March 15, 2011; 3/1/11-5/31/11 on June 15, 2011; 6/1/11 through 8/31/11 on September 15, 2011; 9/1/11 through 11/30/11 on December 15, 2011; 12/1/11 through 2/29/12 on March 15, 2012; 3/1/12 through 5/31/12 on June 15, 2012; and 6/1/12 through 8/31/12 on September 17, 2012.

7.3 Final Statement of Expenses

The Special Deputy Receiver will submit a final statement of the actual expenses incurred with the final accounting in compliance with TEX. INS. CODE ANN. § 443.015. If the actual expenses differ from the amount reserved, the excess funds or the shortfall, as applicable, will be handled as described in Paragraphs 8.6 and 8.7. The Special Deputy Receiver requests that this Court require it to file a final accounting including a final statement of expenses that reflects the amount of the final distribution and the actual amount of the expenses.

VIII. DISTRIBUTION OF ASSETS

8.1 Assets Available for Distribution

8.1.1 As of August 31, 2012, there was a total value of \$9,011,608.00 of cash assets and \$379,416 in securities available for distribution in the receivership. The Special Deputy Receiver will maintain a reserve of a portion of the cash assets for the remaining administrative expenses through closing as described in Paragraph 7.2. Less the cash reserve, \$8,953,103.10 in cash will be available for distribution.

8.1.2 Upon Court approval, the remaining assets for distribution, consisting of securities and the FAL POCs, will be assigned to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company. The assignment to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company will be substantially similar to Exhibit E. The value of the securities is subject to fluctuations each month due to associated expenses. The total value of these securities is \$379,416 as of August 31, 2012. Due to the nature of the paydown on these securities, at the time of actual distribution, the value of the securities may have decreased and the amount of cash may have increased. The

Special Deputy Receiver requests this Court to authorize it to execute the assignment of the securities to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company in an assignment substantially similar to Exhibit E.

8.1.3 Further, the Special Deputy Receiver also has the FAL POCs, two POCs filed with the Special Deputy Receiver of Texas Memorial Life Insurance Company. The value of the FAL POCs has been set at \$1.00, due to questions regarding likelihood of any distribution, since the Texas Memorial Life Insurance Company receivership estate having been closed. The Special Deputy Receiver requests authority to assign the FAL POCs to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company. The assignment of the FAL POCs is also reflected in Exhibit E. The Special Deputy Receiver requests that this Court authorize it to execute the assignment of the FAL POCs filed with the Special Deputy Receiver of Texas Memorial Life Insurance Company in an assignment substantially similar to that reflected in Exhibit E.

8.1.4 The *Class 5* claim from the Special Deputy Receiver of Lincoln Memorial Life Insurance Company was determined and approved in the amount of \$10,436,872.00. After the distribution of cash and the transfer of the assets pursuant to the *Assignment* substantially similar to that in Exhibit E, a total of \$9,332,520.10 will be credited as payment against that amount. The remaining balance owed to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company on its *Class 5* claim will then be a total of \$ 1,104,351.90.

8.2 Eligible Claimants

There are sufficient assets to make a 89.42% distribution on the approved *Class 5* claim. As previously stated, First American received only one POC and it was from the

Special Deputy Receiver of Lincoln Memorial Life Insurance Company. The projected distribution is an approximate figure based on current financial data and the actual distribution may vary from this projection. Specifically, as detailed in Paragraph 8.1.2 above, the value of the securities to be assigned and the amount of cash will differ due to the paydown on securities.

8.3 Distribution Process

There is no distribution notice as there was only one POC filed and the Special Deputy Receiver of Lincoln Memorial Life Insurance Company, as the claimant in the POC filed, has full notice of the assets to be distributed and is represented by counsel who receives all notices of all legal actions in the First American receivership estate. The *Proof of Claim Settlement Agreement* as referenced in Paragraph 6.10, demonstrates that the notice to the claimant is sufficient. The Special Deputy Receiver will distribute the cash assets via wire transfer to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company.

8.4 Distributions on *De Minimis* Claims

8.4.1 TEX. INS. CODE ANN. § 443.253 (h) provides for the disallowance of claims for *de minimis* amounts, as determined by this Court. The Special Deputy Receiver will have no distributions on any *de minimis* claims as there was only one claim in the First American receivership estate.

8.4.2 No further distribution is anticipated, so there is no need for any other notice, given that there is only one claimant. The Special Deputy Receiver of Lincoln Memorial Life Insurance Company, as the claimant in the POC in the First American

receivership estate, has full notice of this process and is included on the certificate of service as well, obviating the need for separate notices to be sent.

8.5 Residual Funds

It is possible that there may be additional funds in the First American receivership account after the distribution ("Residual Funds") resulting from interest on the receivership account, excess reserves for closing expenses, or the collection of assets after the distribution has commenced. Such funds will be handled as described in Paragraphs 8.6 and 8.7.

8.6 Supplemental Distribution

The Special Deputy Receiver will make a supplemental distribution from any such Residual Funds to the *Class 5* claimant, the Special Deputy Receiver of Lincoln Memorial Life Insurance Company, after reserving amounts necessary for distribution expenses.

8.7 Transfer of Remaining Funds

This Court may issue an order to transfer funds remaining after the final distribution that cannot be economically distributed as provided by TEX. INS. CODE ANN. § 443.352. In the event that there are any funds remaining after the final distribution, and it is not economically feasible to distribute such funds, the Special Deputy Receiver requests that such funds be transferred to the Commissioner for deposit in an account established under TEX. INS. CODE ANN. § 443.304 (c). Such funds will be available to pay any expenses exceeding the expense reserve, or expenses incurred for activities after the closing of the receivership, such as responding to inquiries. The Special Deputy

Receiver requests this Court authorize it to transfer any such residual funds remaining after all distributions are made.

IX. UNCLAIMED FUNDS

9.1 Unclaimed Distributions

The Special Deputy Receiver will maintain the receivership's distribution account in order to provide a reasonable amount of time for the claimant to receive their wire transfer of funds. The Special Deputy Receiver does not anticipate that there will be any unclaimed funds. However, in the unlikely event there are, the Special Deputy Receiver will deliver any funds that are unclaimed as of the closing of the account to the Commissioner as required by TEX. INS. CODE ANN. § 443.304 (a).

9.2 Distributions to Claimants with Unknown Addresses

The Special Deputy Receiver does not anticipate that the address of the claimant will at any time be unknown as it might be in another receivership estate.

X. ASSIGNMENTS

10.1 Assignment of Assets

The Special Deputy Receiver is authorized to transfer, abandon, or otherwise dispose of or deal with any property of the insurer upon terms and conditions that are fair and reasonable pursuant to Chapter 443. Further, the Code permits the Court to enter any orders in connection with an application to terminate a receivership proceeding pursuant to TEX. INS. CODE ANN. § 443.352. As indicated in Paragraph 8.1.2, upon Court approval, the Special Deputy Receiver will assign assets, consisting of securities and the FAL POCs, to the Special Deputy Receiver of Lincoln Memorial Life Insurance

Company. Any and all unknown assets will be assigned to the Commissioner as reflected in the assignment contained in Exhibit G. The Special Deputy Receiver requests this Court to find the assignment of all unknown assets to the Commissioner is fair and reasonable pursuant to TEX. INS. CODE ANN. § 443.154 and authorize it to execute an assignment substantially similar to that reflected in Exhibit G.

10.2 Liquidation and Disposition of Assigned Assets

Because the Special Deputy Receiver will assign all known cash assets, the securities, and the FAL POCs to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company to make a partial distribution on the one POC in the First American receivership estate, it is highly unlikely that any later distributions would be made. However, in the event that any assigned assets are collected and liquidated, and such amount is sufficient to justify a distribution, this proceeding may be reopened under TEX. INS. CODE ANN. § 443.353. If such amount cannot be distributed economically, the Special Deputy Receiver requests that any such funds be deposited in accordance with TEX. INS. CODE ANN. § 443.304 (c).

XI. RECORDS

11.1 On April 18, 2012, this Court entered an *Order Granting Authority to Destroy Non-Essential Insurer Records* permitting the Special Deputy Receiver to destroy certain non-essential insurer records that were no longer required for the administration of the First American receivership estate. The Special Deputy Receiver previously identified all of the insurer records that would no longer be needed after the termination of this proceeding, which are listed in Exhibit H. The Special Deputy

Receiver requests authority to dispose of such insurer records after closing in accordance with TEX. INS. CODE ANN. § 443.354 (a) and in compliance with the Receiver's records retention policy for receivership records.

11.2 The Special Deputy Receiver will deliver the remaining records consisting of two boxes as set forth in Exhibit I to the Commissioner pursuant to TEX. INS. CODE ANN. § 443.354 (b). The Receiver estimates that the cost of retaining such records will be \$225.00. This amount is included in the estimated closing costs detailed in Paragraph 7.2 and reflected in Exhibit F. The Commissioner, as a matter of law, will retain or dispose of these records in accordance with the approved records retention schedule applicable to receivership records in her possession.

XII. TAX RETURNS

12.1 The Special Deputy Receiver has filed income tax returns with the Internal Revenue Service for the years 2010 through 2011. The 2010 tax return was filed on September 13, 2011. The 2011 tax return was filed on August 10, 2012. The final tax return for First American will be filed with the Internal Revenue Service after the filing of this *Application* and prior to the discharge of the Special Deputy Receiver. No taxes are owed to the Internal Revenue Service.

XIII. NOTICE AND HEARING

13.1 Notice of Hearing by Submission for Application

13.1.1 The *Application* is filed pursuant to TEX. INS. CODE ANN. § 443.007. All of the provisions governing the procedure for addressing the *Application* are set out in TEX. INS. CODE ANN. § 443.007 and the *Order of Reference*. The subject matter of this *Application* has been referred to the receivership master appointed by this Court in this

proceeding in the *Order of Reference*, under Paragraph III, Sections 11, 27, 30, and 32. The *Order of Reference* modifies the requirement for the amount of notice of a hearing contained in TEX. INS. CODE ANN. § 443.007 (e) to fourteen calendar days. *Order of Reference*, pp. 6-7, paragraph IV.4(a). The Special Deputy Receiver will provide 14 days notice of this *Application*.

13.1.2 The Special Deputy Receiver has provided notice of the hearing by submission for this *Application* to all parties in interest, as that term is defined in TEX. INS. CODE ANN. § 443.004(a)(17), and as shown on the certificate of service. The Special Deputy Receiver has provided notice of the hearing by submission on the *Application* to all persons who have requested notice in the First American receivership estate in accordance with TEX. INS. CODE ANN. § 443.007(a) and the notice requirements in the *Order of Reference* as well as persons the Special Deputy Receiver has determined need to be noticed under TEX. INS. CODE ANN. § 443.007(d). Notice of the hearing on the *Application* to any party in interest does not confer standing in the Court to raise, appear, or be heard on any issue. TEX. INS. CODE ANN. §443.007(a).

13.1.3 The Special Deputy Receiver will provide notice of the hearing by submission on this *Application* by either electronic mail ("e-mail") or certified mail, as indicated by the certificate of service, to the parties described above, as authorized in TEX. INS. CODE ANN. § 443.007(d). Notice of all legal filings has been provided by e-mail to the parties pursuant to this procedure as well throughout the term of the First American receivership estate. Moreover, in the *Liquidation Order*, notice of the order to the insurance commissioners and guaranty associations of other states was by "first class mail or electronic communication. TEX. INS. CODE § 443.052(b)." *Liquidation Order*, p.

9, Paragraph 5.4 (citation in original). In addition, the Special Deputy Receiver's website, www.aalawsdr.com, would be located by any person searching the Internet for information about the status of First American, which includes copies of all pleadings entered as well as contact information for the Special Deputy Receiver.

13.1.4 The Special Deputy Receiver requests that the Court find that proper notice was given of the *Application*, and all previous legal filings, to the certificate of service, and that the process of providing notice by e-mail complied with the means of the notice requirements in the Code and the *Order of Reference* and was sufficient.

13.1.5 The Special Deputy Receiver requests that the Court find that the length and means of notice given of the hearing by submission on this *Application* complied with the Code and the *Order of Reference* and was sufficient.

13.2 Distribution Notices

There is no distribution notice as there was only one POC filed and the Special Deputy Receiver of Lincoln Memorial Life Insurance Company, as the claimant in the POC, has full notice of this *Application* with the proposed distribution and planned closing of the First American receivership estate. The *Proof of Claim Settlement Agreement* as referenced in Paragraph 6.10, demonstrates that the Special Deputy Receiver of Lincoln Memorial Life Insurance Company had notice at least 14 days prior to the submission date of the *Application* and obviates the need for any additional distribution notice. The Special Deputy Receiver requests that this Court find that no distribution notice is required as it would be in other receivership estates.

XIV. AUTOMATIC STAY

14.1 Expiration of Stay

14.1.1 In accordance with TEX. INS. CODE ANN. § 443.008(f), the stay of actions against First American provided under TEX. INS. CODE ANN. § 443.008 (c) continues until the termination of this proceeding. Upon the entry of a final order terminating this proceeding, the stay or actions against First American will expire by operation of law.

14.1.2 The stay and injunctions entered by this Court shall not be construed as a limitation of the Receiver's powers pursuant to TEX. INS. CODE ANN. § 443.001(b).

XV. OTHER ORDERS

15.1 Upon entry of a final order terminating this proceeding, all orders previously issued in this proceeding constitute a final judgment. Notwithstanding, this Court shall retain jurisdiction to issue the remaining orders necessary to terminate these delinquency proceedings after the final accounting and in order to discharge the Receiver and the Special Deputy Receiver. Further, this Court maintains jurisdiction over any action to re-open this estate as provided for in Paragraph 10.2 above.

XVI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Paul D. Angenend, as the president of Angenend & Augustine, P.C., Special Deputy Receiver of First American Life Insurance Company, respectfully prays that this Court enter an Order:

1. Finding that the Special Deputy Receiver is authorized to file this *Application* pursuant to TEX. INS. CODE ANN. §§ 443.302 and 443.352;

2. Finding that the Court with jurisdiction to hear this matter is properly in the 200th Judicial District Court of Travis County, Texas, as the court in which these delinquency proceedings are pending pursuant to TEX. INS. CODE ANN. § 443.005(c);
3. Finding that the subject matter of this *Application* has been referred to the receivership master appointed by this Court in this proceeding in accordance with the *Order of Reference* entered on March 9, 2010, under Paragraph III, Sections 11, 27, 30, and 32;
4. Authorizing the receivership master appointed under the *Order of Reference* to request and accept evidence in a hearing by submission to support the *Application*;
5. Approving in all respects the *Final Report and Application to Make Final Distribution and Dissolve Charter*;
6. Admitting Exhibit A, the *Affidavit of Paul D. Angenend*, as the president of Angenend & Augustine, P.C., into evidence;
7. Admitting Exhibit B through Exhibit I into evidence;
8. Admitting the facts contained in the *Application* and all its exhibits, testified to and authenticated by Exhibit A, into evidence as *prima facie* proof of the matters asserted pursuant to TEX. INS. CODE ANN. § 443.017(c);
9. Finding that the Special Deputy Receiver complied with the reporting requirements of TEX. INS. CODE ANN. § 443.016 (a);

10. Finding that Exhibits B and C include a statement of the assets and liabilities of the insurer and the changes in those assets and liabilities in compliance with the requirements of TEX. INS. CODE ANN. § 443.016(a);
11. Accepting Exhibits B, dated August 31, 2012, as the final quarterly financial report required under TEX. INS. CODE ANN. § 443.016, subject to the financial information filed with the final accounting;
12. Finding that the original Statement of Net Assets filed in this estate satisfies the requirement that an inventory of assets be provided to the appointing court pursuant to the Texas Civil Practices and Remedies Code;
13. Finding that First American's final inventory of assets, which consists solely of cash and investments, is reflected on Exhibit B and is sufficient;
14. Finding that it is not feasible to sell the charter and license of First American Life Insurance Company;
15. Dissolving the charter of First American Life Insurance Company;
16. Finding that the Special Deputy Receiver timely filed sufficient quarterly reports in this proceeding, including summaries of expenses, and complied with the expense reporting requirement of TEX. INS. CODE ANN. § 443.015 (g);
17. Finding that all expenses have been approved;
18. Approving the estimated expenses reserve through the closing of the receivership reflected on Exhibit F, pursuant to TEX. INS. CODE ANN.

§ 443.015, subject to the final statement of expenses filed with the final accounting;

19. Requiring the Special Deputy Receiver to file a final accounting which includes a final statement of expenses after the distribution is complete that reflects the amount of the final distribution and the actual amount of the expenses;
20. Authorizing the Special Deputy Receiver to execute the assignment of the securities, and the FAL POCs filed with the Special Deputy Receiver of Texas Memorial Life Insurance Company, to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company in an assignment substantially similar to Exhibit E and transfer these non-cash assets as described in the *Application*;
21. Authorizing the Special Deputy Receiver to distribute the cash assets of the receivership as described in the *Application*;
22. Authorizing the Special Deputy Receiver to transfer to the Commissioner residual funds, if any, remaining after all distributions are made;
23. Authorizing the Special Deputy Receiver to deliver all unclaimed funds, if any, to the Commissioner;
24. Finding the assignment of unknown assets to the Commissioner is fair and reasonable and authorizing the assignment of unknown assets to the Commissioner that is substantially similar to Exhibit G;

25. Authorizing the Special Deputy Receiver to dispose of the records listed in Exhibit H and deliver any remaining records as shown on Exhibit I to the Commissioner;
26. Authorizing the Commissioner to maintain or dispose of the insurer records listed on Exhibit I at her discretion in accordance with TDI's approved records retention schedule;
27. Finding that this *Application* was properly submitted for hearing before the receivership master pursuant to the *Order of Reference*;
28. Finding that the inclusion on the certificate of service of persons noticed satisfies the breadth of notice requirements in accordance with TEX. INS. CODE ANN. § 443.007(a) and (d) and the *Order of Reference*;
29. Finding that notice of the hearing by submission sent by e-mail or certified mail for this *Application*, and notice of previous legal filings in this receivership estate as described above, fulfills the notice requirements of TEX. INS. CODE ANN. § 443.007(d) and the *Order of Reference*;
30. Finding that the length and means of notice given of the hearing by submission on this *Application* complied with the Code and the *Order of Reference* and was sufficient;
31. Finding that no distribution notice is required as there is only one claimant and it is also a Special Deputy Receiver;
32. Authorizing the Special Deputy Receiver to execute any documents and incur any administrative expenses as necessary to effectuate the purpose of this *Application*;

33. Granting such further relief to which the Special Deputy Receiver may be entitled.

Respectfully submitted,
AMY JEANNE WELTON
Attorney at Law
P.O. Box 1644
Dripping Springs, TX 78620-1644
(830) 868-7136
ajwelton@moment.net

____/s/ Amy Jeanne Welton_____
Amy Jeanne Welton
State Bar No. 21004800
**ATTORNEY FOR ANGENEND &
AUGUSTINE, P.C. AS SPECIAL
DEPUTY RECEIVER OF FIRST
AMERICAN LIFE INSURANCE
COMPANY**

APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the *Order of Reference to Master* entered on March 9, 2010, by the District Court in this cause, and TEX. INS. CODE ANN. § 443.007, the *Final Report and Application to Make Final Distribution and Dissolve Charter* ("Application") is set for written submission before the receivership master, Tom Collins ("receivership master") on October 22, 2012.

The receivership master has asked that the following rules be provided to you:

1. Any objection by a party in interest ("objecting party") must be filed with the Travis County District Clerk at least 3 calendar days before the hearing date.
2. A copy of any objection shall be served by such date on:
 - (a) Receivership Master's Docket Clerk, Mrs. Jean Sustaita, Texas Department of Insurance, at jean.sustaita@tdi.state.tx.us (*by email*); 333 Guadalupe, Hobby Tower III, 5th Floor, Room 550, Austin, Texas (*by hand delivery*); or MC-305-1D, P.O. Box 149104, Austin, Texas 78714-9104 (*by mail*).
 - (b) All parties in interest, including those listed on the Applicant's Certificate of Service, and the undersigned counsel.
3. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
4. If a matter is set for hearing by submission, an objecting party shall expeditiously coordinate with Applicant's counsel and the receivership master's docket clerk [(512) 463-6450] to obtain an oral hearing, unless the receivership master determines that an oral hearing is not necessary. The objecting party shall serve a Notice of Oral Hearing on applicant's counsel and all interested parties, including those listed on the Applicant's Certificate of Service.
5. Failure to file timely a written objection before the receivership master constitutes a waiver of the right to object to the receivership master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by any party in interest should be filed at least 3 calendar days before the submission or hearing date.

 /s/ Amy Jeanne Welton
AMY JEANNE WELTON

- against the First American estate have been processed and all known assets have been collected for distribution, so this estate may be closed.
3. My staff and subcontractors engaged on the receivership estate ("my staff") have made a diligent review of the receivership records concerning the matters at issue in the *Application* and have reported to me regarding those issues. I have formed and acquired my knowledge of the facts from the review of records and resulting status reports from my staff.
 4. At the inception of this estate, there were two matters before the Third Court of Appeals of Austin relating to litigation involving First American and Texas Memorial Life Insurance Company. My attorneys filed Motions to Dismiss in both and successfully obtained their dismissal.
 5. My staff also identified claims and filed two proofs of claim ("FAL POCs") with the Special Deputy Receiver of Texas Memorial Life Insurance Company.
 6. My staff worked diligently to ensure that First American's policyholders would still have their policies in force and worked with the North America Life Insurance Company ("North America") on an assumption agreement. My staff worked to obtain authority to enter into an assumption agreement with North America and received the authority by order of this Court in September 2010. We coordinated with North America to ensure all policyholders received assumption certificates.
 7. The original Receiver in this estate was Mike Geeslin, then Commissioner of Insurance ("Commissioner.") However, in September 2011, I filed a *Notice of*

Appointment of Successor Liquidator and provided notice of Eleanor Kitzman as the new Commissioner, and therefore the successor Receiver, to all interested parties.

8. When preparing to set a claims filing deadline, my staff exercised due diligence in identifying the potential claims as reflected in the books and records of the First American receivership estate. Among the possible claimants identified, and their preliminary classifications, were *Class 5* assumed reinsurance claims from Texas Memorial Life Insurance Company and Lincoln Memorial Life Insurance Company; *Class 6* claims from the Third Court of Appeals, the Office of the Attorney General, and Bogdan Rentea; a *Class 9* claim from LTJ Management LLC for a surplus debenture claim; and a *Class 11* Claim from LTJ Management LLC for a shareholder claim. All possible claimants identified above were given notice and information regarding the proof of claim ("POC") process in the First American receivership estate. Only the Special Deputy Receiver of Lincoln Memorial Life Insurance Company filed a POC as is reflected in this *Application*.
9. My staff was also able to obtain a release from the United States of America through negotiations with the United States Department of Justice ("USDOJ.") Although there was no claim identified by neither my staff nor the USDOJ, this release ensures that there will be none asserted, other than for taxes.
10. In order to prepare for closing, authority to destroy non-essential insurer records was obtained by order of this Court on April 18, 2012. The process of destroying non-essential insurer records has been in process since that time.

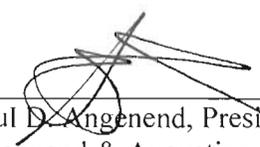
11. My staff and I negotiated a settlement agreement with the Special Deputy Receiver of Lincoln Memorial Life Insurance Company in order to resolve the one POC filed in this estate and authority to enter into that agreement was obtained by this Court through its *Order Approving Claim (Lincoln Memorial Life Insurance Company-Class 5)* issued on August 29, 2012.
12. I respectfully request that we make a distribution to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company. The distribution will consist of cash and the assignment of both securities and the FAL POCs.
13. I also have personal knowledge that the Receiver has assented to the assignment and transfer of the securities and FAL POCs in the manner described in the settlement agreement and as will be authorized by approval of this *Application*.
14. At the outset of this estate, when Angenend & Augustine, P.C. was appointed as Special Deputy Receiver, the assets of the estate totaled \$8,966,060.00. After receiving Court approval for the fee schedule for my staff as well as expenses, a quarterly report was filed to provide the Court with the financial information concerning the First American receivership estate. As of August 31, 2012, the accumulated assets total \$9,391,024.00 and the aggregate liabilities total \$10,459,604.00 resulting in the assets of the estate totaling \$(1,068,580.00).
15. Attached are the exhibits that are incorporated into this *Application*. The records referenced as exhibits to the *Application* are true and correct copies of papers, documents, or records that are part of the books, records, documents, and papers of the receivership estate. TEX. INS. CODE ANN. § 443.017(b). I request that this

Court admit the facts contained in this *Application* and all its exhibits into
Certification Affidavit of Paul D. Angenend

evidence as *prima facie* proof of the matters asserted pursuant to TEX. INS. CODE ANN. § 443.017(c).

- 16. A Final Accounting pleading will be filed that provides for the accounting of the actual expenses and requests to close down the First American estate and discharge the Receiver and the Special Deputy Receiver as this estate is ready to be closed, once the items discussed in the *Application are final*.
- 17. I am unaware of any other assets to be marshaled or liquidated in this estate.

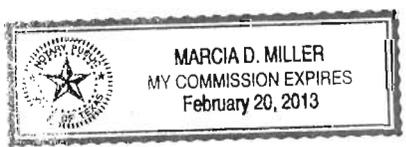
The Affiant has nothing further to say."

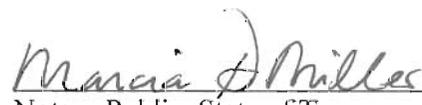


Paul D. Angenend, President
Angenend & Augustine, P.C.,
Special Deputy Receiver of
First American Life Insurance Company

STATE OF TEXAS
COUNTY OF TRAVIS

SWORN TO AND SUBSCRIBED before me on the 8th day of October, 2012.





Notary Public, State of Texas
My Commission Expires: 2-20-2013

EXHIBIT C
R-552

First American Life Insurance Company
Sources and Uses of Cash from Date of Receivership
To Period Ending 08/31/12

Income	
Premium Receipts	0
Agents' Balances Received	0
Reinsurance Recoveries	0
Salvage & Subrogation Recoveries	0
Affiliates Recovery	0
Settlement/Litigation Recovery	0
Other Receipts	4,959,000
Recovery of Taxes Previously Paid	65,221
Investment Sales/Receipts	1,815,281
Other Asset Receipts	1,000
Total Receipts from Assets/Receivables	6,840,502
Interest & Dividend Receipts, EA Interest	247,038
Cash Deposit Interest	0
Total Cash Receipts	7,087,540
SDR Fees & Expenses	185,898
Subcontractor Legal Fees & Expenses	149,510
Subcontractor Other Fees & Expenses	77,943
Non-Subcontractor Fees & Expenses	0
Other Expenses	9,718
RLO Fees & Expenses	29,392
Total Disbursements for Operations	452,461
Loss Claims & LAE Expense Payments	0
Early Access Payments - GA	0
Refunds & Other Distributions	0
Total Cash Distributions	0
Total Cash Disbursements & Distributions	452,461
APF Loan Proceeds (Repayment)	
Net Increase(Decrease) in Cash	6,635,079
Cash at Beginning of Period	2,376,139
Cash at End of Period	9,011,218

EXHIBIT D

FIRST AMERICAN LIFE INSURANCE COMPANY
DISPOSITION OF ASSETS SCHEDULE
As of 8-31-2012

ASSET DESCRIPTION	ASSET BALANCE AS OF 02/18/10	NEW ASSETS	SOURCE OF NEW ASSETS	ASSET RECOVERY	SOURCE OF RECOVERY	DATE OF RECOVERY	AMOUNT OF WRITE OFF	REASON FOR WRITE OFF	DATE OF WRITE OFF	SETTLEMENT	SOURCE OF SETTLEMENT	DATE OF SETTLMNT	ASSET BALANCE AS OF 08/31/12
CASH													
Checking	2,376,139	247,038 65,221 4,959,000 (452,461) 1,000 1,815,281	Interest Income IRS Tax refund Transfers from Pershing SDR Disbursements Deposit Refund Investment Sale/Receipts										
Subtotal	2,376,139	6,635,079		0			0			0			9,011,218
INVESTMENTS													
Securities	6,449,965	258,741 166,312 (4,959,000) (680)	Investment Interest/Dividends IRS Tax refund Transfers to Checking Bank Service Charges	(1,535,532)	Principal reduction adjustments in securities values as principal is returned.	Monthly Adjustments							379,806
Common Stock	101,082						(101,082)	Write off stock included in other securities	01/31/11				0
Subtotal	6,551,047	(4,534,627)		(1,535,532)			(101,082)			0			379,806
REINSURANCE													
Assumed Recv TMLIC	573,920						573,920	Allowance for Uncollectability					0
Premium Recapture TMLIC Ceded	1,969,135						1,969,135	Allowance for Uncollectability					0
Reinsurance Recoverable NALIC	72,958						72,958	Allowance for Uncollectability					0
Ceded Premium Due from NALIC	165						165	Allowance for Uncollectability					0
Subtotal	2,616,178	0		0			2,616,178			0			0
RECEIVABLES													
Premium Due	19,181						19,181	Allowance for Uncollectability					0
Deferred Premium	132,151						132,151	Allowance for Uncollectability					0
Subtotal	151,332	0		0			151,332			0			0
OTHER ASSETS													
FF&E	1,379						1,379	Valuation Allowance					0
Subtotal	1,379	0		0			1,379			0			0
RESTRICTED ASSETS													
													0
													0
													0
Subtotal	0	0		0			0			0			0
TOTAL	11,696,075	2,100,452		(1,535,532)			2,667,807			0			9,391,024

ASSIGNMENT

This Assignment is made by Angenend & Augustine, P.C., in its capacity as the Special Deputy Receiver of First American Life Insurance Company ("First American's Special Deputy Receiver") to Jo Ann Howard and Associates, P.C., Special Deputy Receiver for Lincoln Memorial Life Insurance Company ("LML" and "LML's Special Deputy Receiver," respectively); and

Whereas, First American Life Insurance Company ("First American") was placed into receivership on February 18, 2010, and Angenend & Augustine, P.C., was appointed Special Deputy Receiver; and

Whereas, First American's Special Deputy Receiver has entered into an agreement with LML's Special Deputy Receiver to assign certain of its assets to LML, consisting of securities and the two proofs of claim filed with the Special Deputy Receiver of Texas Memorial Life Insurance Company ("FAL POCs"); and

Whereas, the Court's *Order Approving the Final Report and Application to Make Final Distribution and Dissolve Charter*, when entered, will authorize First American's Special Deputy Receiver to convey the securities in the account listed below and described in the August 31, 2012, statement(s) attached as Exhibit 1, which is incorporated herein as if fully set out; and

Whereas, First American also assigns the FAL POCs, identified as POC number 0155 and POC number 0156; and

Therefore, for the value received, the sufficiency of which is acknowledged, First American's Special Deputy Receiver conveys to LML's Special Deputy Receiver all right, title, and interest in the assets of First American described herein. It is the intent of First American's Special Deputy Receiver to convey all legal and equitable rights held by First American's receivership estate over these known assigned assets, and any claims appurtenant to the securities including, but not limited to, claims for breaches of fiduciary duty.

Assigned Assets:

Pershing Account (securities)	379,416.00
<u>POC 0155 and POC 0156</u>	<u>1.00</u>
TOTAL	\$379,417.00

First American's Special Deputy Receiver agrees to execute, to the extent necessary, such other documents and confirmations that may be required to complete the assignment of the assets described in this Assignment.

The laws of the State of Texas govern this Assignment, and sole venue and jurisdiction for any action relating to this Assignment shall be in Travis County, Texas.

Paul D. Angenend, President of Angenend & Augustine, P.C.,
as Special Deputy Receiver of First American Life Insurance Company

Date

Comment [A1]: Need correct date of brokerage firm statement.

First American Life Insurance Company – R552

Exhibit F

Estimated Closing Budget

	Estimated Expenses
Estimated SDR Fees	
Administration	\$24,600.00
Accounting	1,420.00
Claims	<u>4,360.00</u>
Total SDR Fees	30,380.00
Estimated Miscellaneous Expenses	
Miscellaneous Expenses:	
Copies, Long Distance, Web Hosting and Postage	201.90
Record Shipping	<u>0.00</u>
Total Miscellaneous Expenses	201.90
Estimated Subcontractor Fees & Expenses	
Legal	17,811.00
Tax Returns	4,987.00
General Accounting	3,750.00
Bank Charges	<u>120.00</u>
Total Subcontractor Fees & Expenses	26,668.00
Estimated TDI Fees	
* TSL Records Storage	66.00
Liquidation Oversight	<u>1,000.00</u>
Total TDI Fees	1,066.00
Grand Total of All Expenses	<u>\$58,315.90</u>

* Texas State Library Records Storage fees should be remitted by separate check

ASSIGNMENT OF UNKNOWN ASSETS TO THE COMMISSIONER

STATE OF TEXAS

§

§

§

KNOW ALL MEN BY THESE PRESENTS

§

COUNTY OF TRAVIS

§

I. BACKGROUND

1. Angenend & Augustine, P.C. is the Special Deputy Receiver to the Commissioner of Insurance in her capacity as Receiver of First American Life Insurance Company ("Special Deputy Receiver," "Receiver," and "First American," respectively). First American was placed into receivership on February 18, 2010, in *State of Texas v. First American Life Insurance Company*, Cause No. D-1-GV-10-000120, in the 200th Judicial District Court of Travis County, Texas. The Special Deputy Receiver has filed a *Final Report and Application to Make Final Distribution and Dissolve Charter ("Final Report")* with the District Court.

2. The Special Deputy Receiver is authorized to assign all known and unknown non-cash assets to the Commissioner of Insurance ("Commissioner") at the closing of the First American receivership estate, pursuant to TEX. INS. CODE ANN. § 443.352 (Vernon 2009).

3. The Special Deputy Receiver's *Final Report* requests a final distribution of all known cash and securities as well as disposal of any remaining insurer records that are no longer required to be maintained or transferred.

4. There was only one proof of claim ("POC") filed with the Special Deputy Receiver and the amount of the claim was in excess of the assets of the First American estate. This Court ordered a negotiated determination of the value of the POC. The

Special Deputy Receiver and the Special Deputy Receiver of Lincoln Memorial Life Insurance Company ("LML") agree that the POC is a *Class 5* claim in the amount of \$10,436,872.00. This allowed value of the LML POC was approved by the court on August 29, 2012.

5. To resolve this claim, the Special Deputy Receiver has prepared an assignment of assets to LML that consists of securities and the value of two POCs ("FAL POCs") filed by the Special Deputy Receiver with the Special Deputy Receiver of Texas Memorial Life Insurance Company. These assets will be transferred to LML upon Court approval of the assignment. The assignment to LML, combined with the cash distribution, exhausts all the known assets of the First American receivership estate.

II. ASSIGNMENT

6. The Special Deputy Receiver, on behalf of the Commissioner as Receiver of First American, assigns all right, title, and interest to any and all unknown assets to the Commissioner ("Assignment.") The assets assigned include, but are not limited to, property, causes of action, judgments, and claims of First American or its predecessors and former subsidiaries. The unknown assets assigned include those that may exist now or that may arise in the future.

7. This Assignment is intended to grant full authority to convey, transfer, assign, and sell all assets of the First American receivership estate. This Assignment is intended to grant the authority to demand and receive payments, to pursue causes of action, and to execute on judgments entered on behalf of the First American receivership estate. This Assignment grants authority to compromise and settle any assets of the First American receivership estate, and to grant discharges or releases as required.

III. DISTRIBUTION OF ASSETS

8. If any assets are recovered, the Commissioner shall distribute these assets to Jo Ann Howard and Associates, P.C., as the Special Deputy Receiver of the Lincoln Memorial Life Insurance Company, the sole claimant of the First American receivership estate, up to the remaining amount that is owed pursuant to the *Proof of Claim Settlement Agreement* approved by this Court in the *Application for Approval of a Claim (Lincoln Memorial Life Insurance Company- Class 5)*. The Commissioner shall deduct the administrative costs of distribution prior to making the distribution of assets.

9. The Special Deputy Receiver of Lincoln Memorial Life Insurance Company filed a POC with the amount determined and allowed in the amount of \$10,436,872.00. The Special Deputy Receiver of Lincoln Memorial Life Insurance Company has received a cash distribution in the amount of \$8,953,103.10. As of the date of the LML assignment and actual transfer, the value of the securities totaled \$379,416.00 and the FAL POCs were assigned a value of \$1.00. Therefore, the original \$10,436,872.00 has now been reduced to \$1,104,351.90. In the event that there are additional monies requiring a supplemental distribution, the total remaining assets transferred on this POC was \$xxxxxx. The final amount still owed to LML after this supplemental distribution is \$xxxxxxx.

Comment [A1]: If there is a supplemental distribution, the amount goes here.

Comment [A2]: Amount of LML POC remaining after both distributions.

10. As the sole POC filed in the First American receivership estate, the distribution of cash and the assignment of the specified assets of the First American estate to the Special Deputy Receiver of Lincoln Memorial Life Insurance Company leaves only unknown assets to be assigned to the Commissioner.

11. The Commissioner shall have the authority to execute any and all documents necessary to effectuate this Assignment. The 200th Judicial District Court to approved this Assignment in its *Final Report*.

Witness my hand this _____ day of _____, 2012.

Paul D. Angenend, President of Angenend & Augustine, P.C., as Special Deputy Receiver of First American Life Insurance Company

SUBSCRIBED TO AND AFFIRMED BEFORE ME by Paul D. Angenend, President of Angenend & Augustine, P.C., as Special Deputy Receiver of First American Life Insurance Company, this _____ day of _____, 2012, to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

First American Life Insurance Company in Receivership #552

Exhibit H

Inventory of Files to be Destroyed at Closing

Category 2 - CLAIMS RECORDS

- 2009 Reinsurance Settlements
- Coinsurance Treaty(s) 2009
- Reinsurance ceded 2008
- Reinsurance Summary sheets

Category 3 - FINANCIAL RECORDS

- 2008 Audit Letter
- Correspondence regarding account information
- Investment work papers
- Texas Department of Insurance Premium Tax
- National Association of Insurance Commissioners 2009
- 6/08 – Texas Department of Insurance Annual Statement
- Quarterly Statement 9/30/09
- Quarterly Statement 6/30/09
- Quarterly Statement 3/31/09
- Annual Statement 12/31/08
- Texas Burial Life – 2004 Annual Statement
- Texas Burial Life – 3/31/05 Quarterly Statement
- Texas Burial Life – 6/30/05 Quarterly Statement
- Texas Burial Life – 9/30/05 Quarterly Statement
- 2005 Annual Statement
- 2005 Financials
- 2006 Financials
- Settlement Report; work papers
- Annual Insurance, Maintenance Assessment and Retaliatory Report work papers
- Quarterly Statement 3/31/06
- Quarterly Statement 6/30/06 (two files)
- Quarterly Statement 9/30/06
- Annual Statement 12/31/05
- Financials 9/30/08
- Texas Department of Insurance 2007
- 2007 Financials and worksheets
- Exhibits to 2006 Annual Report
- Texas Memorial Life Ins. Co. Quarterly Statement 3/31/09
- Quarterly Statement
- 2007 Audit Letter
- 2006 Annual Statement – working papers

First American Life Insurance Company in Receivership #552

Category 3 - FINANCIAL RECORDS (cont'd)

- 2008 Form B registration statement
- 2006 Form B registration statement
- Texas Department of Insurance correspondence 2008
- 2005 Form B registration statement
- Valuation 2007-2008
- Recapture business 12/2008
- Texas Department of Insurance 2008
- 2007 Miscellaneous Texas Department of Insurance Correspondence
- Correspondence 2008
- Texas Department of Insurance 2007 and 2009 Various Correspondence
- Recapture 2009
- 2007 Form B Registration Statement
- Business plan 2008
- Statement of Actuarial Opinion 12/31/08
- NAIC 2008

Category 4 - CORPORATE/ADMINISTRATIVE

- Merger Proforma on North America Life/First American Life as of 9/30/08
- Statement of Policy Respecting Conflict of Interest – 2008
- Consent of Sole Shareholder and Board of Directors Annual Meeting 1/31/08
- James Fisher resignation from Board of Directors dated 12/22/08
- Notebook containing company profile and company history
- Bylaws issued 4/6/98
- First American Business Plan 2009-2012
- FAL shareholder and Board of Director consents

First American Life Insurance Company in Receivership #552

Exhibit I

List of Records to be Transferred to the Commissioner

Category 1 - POLICY FILES

- Correspondence to Texas Memorial Life Ins. Co. regarding recapture of reinsurance agreement with First American Life Ins. Co. 3/24/09
- Life Policies Master Listing – Texas Burial Company
- Reinsurance Agreements between Lincoln Memorial Life and Texas Burial Life(x2); First American Life and North America Life; Lincoln Memorial Life and First American Life; First American Life and Texas Memorial Life(x3); Amendment to Reinsurance Agreement between First American and Texas Memorial Life (binder)

Category 2 - CLAIMS RECORDS

- Applewhite, Milton 2177 – Claim file 11/7/01; claim paid
- Applewhite, Milton 3378 – Claim file 3/21/05; claim paid

Category 3 - FINANCIAL RECORDS

- Moloney investments statements –2006
- Moloney Securities Co. investment statements – 2007, 2008
- Moloney Securities statements 2009
- Texas Burial Life Insurance Company – Raymond James & Assoc., Inc. 2005-2006 investment statements (notebook)
- Moloney Securities investment account statements (binder)
- Ironstone Bank money market savings account statements (binder)
- Whitecap Texas Opportunity Fund II, LP 1/23/08 investment statements (binder)
- January 2008 – December 2008 Bank Statements (individual files—check copies and check stubs with some files empty)
- Chase – 6063 Deposits
- Chase Bank 1/09 – 12/-09 Bank Statements (individual files)
- J. P. Morgan Securities Safekeeping
- Texas Burial Life – General Ledger Listing 1/05-12/05 (dated 10/26/05)
- Texas Burial Life – General Ledger Listing 1/05-12/05 (dated 3/9/06)
- Texas Burial Life – General Ledger Listing 1/04-12/04 (dated 10/26/05)
- Sterling Bank – Texas Burial Life 2005 – 3019000542
- Wells Fargo Bank 2005
- Sterling Bank – Texas Burial Life 2005 – 3019000542
- Sterling Bank – Texas Burial Life 2005 – 3002578979

First American Life Insurance Company in Receivership #552

Category 3 - FINANCIAL RECORDS (cont'd)

- Frost Bank – Texas Burial Life – Jan – Jun 2005
- Frost Bank – Texas Burial Life – Jul – Dec 2005
- Paid Bills – Texas Burial Life 2005
- Chase Bank Statements 08/09-09/09
- JP Morgan Chase Bank Statements 2006, 2007, 2008
- Wells Fargo Bank 2006
- Frost National Bank 2006, 2007
- Frost Bank and Wells Fargo Acct. Closing
- Raymond James & Associates statements 2006
- TML/FAL Merger Valuation Work
- First American lawsuit – 9/2007 (filed by Elkhart ISD – delinquent tax suit)
- FAL – NAL Holdings Employee Payroll Pass-Through Agreement 2009
- TDI – NAIC 2009 form, Texas Annual Insurance Premium Tax Report 12/31/08, Texas Annual Insurance Maintenance, Assessment and Retaliatory Report 12/31/08, 2008 TDI Annual Statement
- 2005 IRS Federal Income Tax Return
- 2006 IRS Federal Tax Return 1120-L
- 2007 IRS Tax Return
- 2007 1099 & 1096
- 2008 1099 & 1096
- IRS Tax Return 12/31/08
- 2009 1099-1096

Category 5 - LEGAL

- Temporary Restraining Order
- Supervision Order (original) 7/09
- Plaintiff's Original Petition and Application for Order Appointing Liquidator and Request for Injunctive Relief
- Temporary Restraining Order
- TDI First Motion for Continuance re FAL
- Texas Burial Life Insurance Company (corporate book)
- First American Life Insurance Company (corporate book)

CERTIFICATE OF SERVICE

I certify that pursuant to the Texas Rules of Civil Procedure, the *Order of Reference to Master*, and TEX. INS. CODE ANN. § 443.007(d), on October 8, 2012, a true and correct copy of the *Final Report and Application to Make Final Distribution and Dissolve Charter* has been served on all interested parties by email, except as shown below.

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