

NOTED  
In Re: Ernest L. Lowe

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

**FILED** 1cc. Atty  
M 10:51 AM Mon KS  
JUL 27 2007  
William A. Shaw  
Prothonotary/Clerk of Courts Atty pd. 85.00

No. 07-1194-CD

**PETITION TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT RIGHTS**

Petitioner, ERNEST L. LOWE, brings forth the following Petition to Transfer Structured Settlement Payment Rights pursuant to, and in compliance with, the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009, and in support states as follows:

1. The Petitioner is ERNEST L. LOWE, an adult individual whose date of birth is August 25, 1945, and who resides at 66 Friendship Mine Road, Houtzdale, Clearfield County, Pennsylvania, 16651.
2. This Court has venue pursuant to the Structured Settlement Protection Act, because the Petitioner is domiciled in Clearfield County, Pennsylvania.
3. On or about July 24, 1998, the Petitioner sustained personal injuries as a result of a motorcycle accident. Thereafter, on or about May 1, 2001, Petitioner entered into a Settlement Agreement and Release (the "Agreement") with Pennsylvania Department of Transportation ("PennDOT"). The Agreement provided for monthly payments to the Petitioner each in the amount of \$1,762.00 for life, commencing August 1, 2001, and guaranteed for a minimum

Original upstairs

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

FILED 1cc Atty  
M 10:51 AM Mon KS  
JUL 27 2007  
William A. Shaw  
Prothonotary/Clerk of Courts 85.00

No. 07-1194-CD

**PETITION TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT RIGHTS**

Petitioner, ERNEST L. LOWE, brings forth the following Petition to Transfer Structured Settlement Payment Rights pursuant to, and in compliance with, the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009, and in support states as follows:

1. The Petitioner is ERNEST L. LOWE, an adult individual whose date of birth is August 25, 1945, and who resides at 66 Friendship Mine Road, Houtzdale, Clearfield County, Pennsylvania, 16651.

2. This Court has venue pursuant to the Structured Settlement Protection Act, because the Petitioner is domiciled in Clearfield County, Pennsylvania.

3. On or about July 24, 1998, the Petitioner sustained personal injuries as a result of a motorcycle accident. Thereafter, on or about May 1, 2001, Petitioner entered into a Settlement Agreement and Release (the "Agreement") with Pennsylvania Department of Transportation ("PennDOT"). The Agreement provided for monthly payments to the Petitioner each in the amount of \$1,762.00 for life, commencing August 1, 2001, and guaranteed for a minimum

period of 30 years. A true and correct copy of the Settlement Agreement and Release dated May 8, 2001 is attached and incorporated herein as Exhibit "A."

4. By virtue of the Qualified Assignment provided for in the Agreement, the obligation to make the monthly periodic payments is held by New York Life Insurance and Annuity Corporation, the Structured "Settlement Obligor" as defined by 40 P.S. § 4002. New York Life Insurance and Annuity Corporation is located at 51 Madison Avenue, Room 10SB, New York, NY 10010.

5. New York Life Insurance and Annuity Corporation funded the obligation by purchasing an annuity (Annuity Contract Number FP209122) from New York Life Insurance Company, the "Annuity Issuer." Id. A true and correct copy of the Annuity Application and the Annuity Contract including confirmation of the benefit schedule are attached hereto collectively as Exhibit "B." New York Life Insurance Company is located at 51 Madison Avenue, Room 10SB, New York, NY 10010.

6. On July 19, 2007, Petitioner executed an Absolute Assignment and UCC Article 9 Security Agreement (the "Transfer Agreement"), a true and correct copy is attached and incorporated herein as Exhibit "C." The Transfer Agreement provides for the assignment of Petitioner's right and interest in receiving: 143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007, through and including September 1, 2019, and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019, through and including July 1, 2031 (the "Assigned Payments"), to Settlement Funding, LLC (the "Transferee"). Settlement Funding, LLC d/b/a Peachtree Settlement Funding ("Settlement Funding") is a Georgia Limited Liability Company with its principal place of business at 3301 Quantum Boulevard, Boynton Beach, FL 33426.

7. The Transfer Agreement was executed by the Transferee on July 20, 2007.
8. Additionally, as set forth in further detail in his Affidavit dated July 19, 2007, attached and incorporated herein as Exhibit "D," Petitioner avers that:
  - a. He desires to sell the Assigned Payments to Settlement Funding, LLC.
  - b. The transaction contemplated by the Transfer Agreement is in his best interest and the best interest of his wife, it will improve their standard of living, and he has thoroughly considered all of the ramifications of the transaction.
  - c. Petitioner is 61 years old and has supported himself for the last 43 years.
  - d. Petitioner receives social security benefits of \$1,387.00 per month. His wife is employed earning approximately \$6,000.00 annually. He will also continue to receive \$400.00 per month through July 2031, when his payment will revert to the full monthly annuity amount of \$1,762.00 for the rest of his lifetime.
  - e. He intends to use the funds to pay off a mortgage in the amount of \$16,000.00 on a second rental home that will then generate approximately \$290.00 per month rental income; to pay off a home equity line of credit in the amount of \$14,000.00 which has a \$340.00 per month payment; and to pay off his wife's car loan of approximately \$11,000.00 that carries a \$287.00 per month payment.
  - f. He is also in need of the money to pay outstanding medical bills of approximately \$4,000.00 resulting from his chemotherapy treatment. The remaining funds will be used for future doctor appointments, tests chemotherapy treatments and medications.
  - g. He will not be using any of the proceeds for day-to-day expenses.
  - h. He has acknowledged that he has been advised to obtain independent professional advice, and has obtained such professional advice.
9. Petitioner has been provided, and has acknowledged receipt at least 10 days prior to receipt of the Transfer Agreement, of the "Transfer Disclosure" required by 40 P.S. § 4003 (a)(2) attached and incorporated as Exhibit "E." As set forth in greater detail in the Transfer Disclosure, the following terms have been disclosed to the Petitioner:

- a. The amounts and due dates of the structured settlement payments to be transferred are: 143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007, through and including September 1, 2019, and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019, through and including July 1, 2031.
- b. The aggregate amount of the structured settlement payments to be transferred is \$279,204.00.
- c. The discounted present value of the payments transferred using the most recently published applicable federal rate for determining the value of an annuity is \$128,186.77.
- d. The federal discount rate used to determine the discounted present value is the effective annual rate of 6.00% as of 7/9/07.
- e. The gross amount payable to Petitioner in exchange of the transferred payments is \$47,201.00.
- f. The good faith itemized listing of all broker's commissions, service charges, legal fees, notary fees, costs etc. deductible from the gross amount otherwise payable to the Petitioner is: Legal Fees of \$2,000.00 and processing fee of \$200.00.
- g. The net amount payable to Petitioner after deduction of the above commissions, legal fees, etc., is \$45,001.00 minus any advances made to Petitioner against the amount payable to Petitioner.
- h. An estimate of the Administrative fee(s) being charged by the Annuity Owner and/or the Annuity Issuer to be paid by the transferee (not the consumer) as a result of the transfer: New York Life Insurance Company - \$500.00.
- i. The quotient is 35.11%.
- j. The amount of penalty and aggregate amount of any liquidated damages inclusive of penalties payable by the Petitioner in the event of any breach of the transfer agreement by the Petitioner is: NONE.

10. Petitioner has been provided, and has acknowledged receipt, at least 10 days prior to receipt of the Transfer Agreement, of the written "Important Notice" in bold print 12-point type required by 40 P.S. § 4003 (b). A true and correct copy of Petitioner's acknowledgement of the receipt of the § 4003 (b) notice is attached as Exhibit "F."

11. Petitioner has acknowledged that he received independent professional advice regarding the implications of the transfer, including tax ramifications of the transfer, as set forth in the acknowledgement and confirming letter from his advisor, attached as Exhibit “G.”

12. On January 24, 2002, “The Victims of Terrorism Tax Relief Act,” PL 107-134, 115 Stat. 2427, was enacted, which in part, amends the Internal Revenue Code of 1986. The Act amends 26 U.S.C.A. § 5891 and now provides for favorable tax treatment of “structured settlement payment factoring transactions” that are approved in advance by a qualified court order approving the transaction. 26 U.S.C.A. § 5891 (b)(1). A “structured settlement payment factoring transaction” is defined as “a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.” 26 U.S.C.A. § 5891 (c)(3)(A) (parentheses in original). A “structured settlement” is defined as an arrangement established by “agreement for the periodic payment of damages excludable from the gross income of the recipient under [Internal Revenue Code] section 104 (a)(2)...” and under which the periodic payments are “of the character described in subparagraphs (A) and (B) of section 130(c)(2).” A true and correct copy of 26 U.S.C.A. § 5891 is attached hereto as Exhibit “H.”

13. 26 U.S.C.A. § 5891 (d)(1) was also added by the Act and provides:

[I]f the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, ***the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement*** (including an assignee under a qualified assignment under section 130) ***in any taxable year.***

(Emphasis added).

Accordingly, a favorable tax result is in effect at the time the Payee and the Transferee propose to enter into the Transfer Agreement.

14. Since a favorable tax result is in effect, approvals of the Settlement Obligor and the Annuity Issuer to the proposed transfer are not required. 40 P.S. § 4003 (a)(5)(i)(A).

15. The structured settlement did not arise out of a workers' compensation claim.

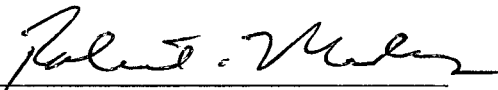
16. Petitioner has seriously contemplated this transaction, and due to his personal circumstances and needs, believes that this assignment is in his best interests, taking into account the welfare and support of Petitioner's dependents.

17. Petitioner acknowledges that counsel, Jones, Gregg, Creehan & Gerace, LLP has not been engaged to render professional advice with respect to the advisability, or the implications of the transfer, including the tax ramifications of the transfer. Counsel has been engaged solely to prepare and present the within Petition, based upon Petitioner's independent determination and/or professional advice obtained from others, with respect to the advisability and ramifications of the transfer.

WHEREFORE, Petitioner prays that this Honorable Court grant this Petition to Transfer Structured Settlement Payment Rights.

Respectfully submitted,

Jones, Gregg, Creehan & Gerace, LLP

By: 

Robert L. Monks  
PA I.D.# 52760  
411 Seventh Avenue  
Suite 1200  
Pittsburgh, PA 15219  
412-261-6400

Counsel for Petitioner, Ernest L. Lowe



**VERIFICATION**

I, Ernest L. Lowe, have read the foregoing Petition to Transfer Structured Settlement Payment Rights and hereby aver that the statements contained therein are true and correct to the best of my knowledge, information and belief.

This Verification is made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to the unsworn falsification to authorities.

  
Ernest L. Lowe

Dated: 7/25/07

### Settlement Agreement and Release

This Settlement Agreement and Release (the "Settlement Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2001, by and between:

"Plaintiff(s)" Ernest Lowe and Carol Lowe

"Defendant(s)" Commonwealth of Pennsylvania, Department of Transportation (PennDOT);  
Woodward Township; and Nathaniel Andrew Sedlak

"Insurer(s)" Selective Insurance  
Nationwide Insurance

#### Recitals

A. The Plaintiff(s) have commenced an action against the Defendant(s) in the Court of Common Pleas of Clearfield County, Pennsylvania bearing Case Number 99-1122-CD arising out of an accident which occurred on July 24, 1998.

B. The Insurer, Selective Insurance is the liability insurer of Woodland Township and the Insurer, Nationwide Insurance is the liability insurer of Nathaniel Andrew Sedlak, and as such, would be obligated to pay any claim made or judgement obtained against the Defendant who is covered by its policy.

C. The parties desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which are the subject of the complaint, upon the terms and conditions set forth herein.

#### Agreement

A. The parties hereby agree as follows:

1. Release and Discharge

In consideration of the payments called for herein, the Plaintiff(s) hereby completely releases and forever discharges the said Defendant(s), the Insurer(s), and all of its agencies, agents, servants, representatives, employees and assigns, and also releases any and all other persons, firms, corporations, or governmental entities of and from any and all past, present or future claims, demands, obligations, actions, causes of action at equity or at law, rights, damages, costs,

uniformly to cause to be made the Periodic Payments made according to the schedule as follows (the "Periodic Payments"):

**To Ernst Lowe ("Payer"):**

One Thousand Seven Hundred Sixty-Two Dollars and No Cents (\$1,762.00) monthly beginning 03-01-2001 and continuing for the life of this Payer with payments guaranteed to be made to this Payer or to this Payer's beneficiary through 07-01-2031 for a total of 30 years (360 payments) guaranteed.

All such and such items constitute damages on account of physical injuries and sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.

**Qualified Assignment**

Plaintiff(s) acknowledge and agree that PennDOT may make a "qualified assignment", within the meaning of Section 1301(d) of the Internal Revenue Code of 1986, as amended, PennDOT's ability to make the Periodic Payments set forth in Section 2B in New York Life Insurance & Annuity Corporation ("the Assignee").

This assignment will be accepted by the Plaintiff(s) and Payer without right of rejection and shall completely release and discharge PennDOT from the Periodic Payments obligation assigned to the Assignee. The Plaintiff(s) and the Payer acknowledge that the Assignee shall be the sole obligor with respect to the Periodic Payments obligation, and that all other releases with respect to the Periodic Payments obligation that pertain to the liability of PennDOT shall become null, void, and of no effect.

**Right to Proceed as Assignee**

For its own convenience, PennDOT and/or PennDOT's Assignee may fund its obligations under Section 2B by the payment of any sum due from New York Life Insurance Company. Said company shall make payments directly to the Payer. The Payer shall be responsible for maintaining proper mailing address with PennDOT or PennDOT's Assignee.

**Attorney's Fees**

Each party hereto shall bear all attorney's fees and costs arising from the actions of its own counsel in connection with the completion, this Settlement Agreement and Disposition of Damages of the Plaintiff(s), and all related matters except as specifically provided in Paragraph 2A and as to the later said payments to be made by the Defendant(s) and Insurance(s) as part of this settlement on behalf of the Plaintiff(s).

expenses and compensation of any nature whatsoever, whether actual and or otherwise, and whether for theory of recovery, including but not limited to, all theories of liability, and whether for compensatory or punitive damages, within the Plaintiff(s) own have, or which may hereafter accrue or otherwise be assigned, on account of, or in any way growing out of, or which are the subject of, the complaint (and all related pleadings) including, wrongful death such, without limitation, any and all known or unknown claims for bodily and personal injuries, damages and conditions, alleged to have resulted therefrom by Plaintiff(s), and the consequences thereof, which have resulted or may result from the alleged negligent acts or omissions of the Defendant(s) growing out of or on account of the previously described accident. This release, on the part of the Plaintiff(s), shall be fully binding and complete settlement between the Plaintiff(s), the Defendant(s), the Insurance(s) and all parties represented by or claiming through the Plaintiff(s), save only the extraordinary provisions of this Settlement Agreement.

**2. Payments**

In consideration of the release set forth above, Defendant(s) and/or their Insurance hereby agree to cause to be made payable to the Plaintiff(s) the following sums in the following manner:

**A. Attorney Fees and Costs to Plaintiff(s)**

Concomitantly with the execution of this Agreement, PennDOT agrees as part of this settlement to pay the sum of One Hundred Ten Thousand Two Hundred Fifty-Four Dollars and No Cents (\$110,254.00) to Ernst Lowe and Carol Lowe and Edgar Snyder & Associates, LLC, their attorney, inclusive of disbursements and for attorney's fees rendered on behalf of the Plaintiff(s).

Concomitantly with the execution of this Agreement, Woodward Township and/or Schuylkill Insurance agrees as part of this settlement to pay the sum of One Hundred Thousand Dollars and No Cents (\$100,000.00) to Ernst Lowe and Carol Lowe and Edgar Snyder & Associates, LLC, their attorney, inclusive of disbursements and for attorney's fees rendered on behalf of the Plaintiff(s).

Concomitantly with the execution of this Agreement, Michael Andrew Sobiech and/or National Life Insurance agrees as part of this settlement to pay the sum of Twenty-Five Thousand Dollars and No Cents (\$25,000.00) to Ernst Lowe and Carol Lowe and Edgar Snyder & Associates, LLC, their attorney, inclusive of disbursements and for attorney's fees rendered on behalf of the Plaintiff(s).

The said payments shall include all of the Plaintiff(s)' costs and expenses resulting to the Plaintiff(s) in connection with the completion and the settlement set forth herein.

**B. Periodic Payments**

Concomitantly with the execution of this Agreement, PennDOT agrees as part of this

#### Payee's Beneficiary

Any payments to be made after the death of the Payee pursuant to the terms of this Settlement Agreement shall be made to Carol Lowe. In the event that Carol Lowe should die prior to Ernest Lowe, any remaining guaranteed payments would go to The Estate of Ernest Lowe. No future designation or any revocation thereof shall be effective unless it is in writing and delivered to PennDOT or PennDOT's Assignee.

#### General Release

Plaintiff(s) hereby acknowledges and agrees that the release set forth in Section 1 hereof is a general release and he/she further expressly waives and assumes the risk of any and all claims for damages which exist as of this date but which the Plaintiff(s) does not know of or suspect to exist, whether thorough ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect their decision to enter into this Settlement Agreement. The Plaintiff(s) further agrees that he/she has accepted payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact they fully assume the risk that the facts or the law may be otherwise than they believe.

It is further expressly understood and agreed to that Plaintiff(s) releases the Commonwealth of Pennsylvania, Department of Transportation, from any claims by Plaintiff(s) under the terms of the Pennsylvania Comparative Negligence Statute, 42 Pa. C.S.A. §7102 (1978, April 28, P.L. 202, No. 53, §10(89)). Specifically, payment made pursuant to this Release constitutes full satisfaction of any percentage of liability as may be determined by any court, jury or factfinder pursuant to the Comparative Negligence Statute, supra, and the Commonwealth of Pennsylvania, Department of Transportation, shall have no further liability to us or any other party as a result of this action.

#### Delivery of Stipulation of Dismissal with Prejudice

Counsel for the Plaintiff(s) will deliver to counsel for the Defendant(s) an executed Stipulation of Dismissal with Prejudice of the civil action described in Recital A above.

#### Warranty of Capacity to Execute Agreement

Plaintiff(s) represents and warrants that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Settlement Agreement; that Plaintiff(s) has the sole and exclusive right to receive sums specified in it; and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, obligations, or cause of action referred to in this Settlement Agreement.

#### Disclaimer of Liability

Plaintiff(s) agrees and acknowledges that he/she accepts payment of the sums specified in this Settlement Agreement as a full and complete compromise of matters involving disputed issues; that neither payment of the sums by the Defendant(s) and Insurer(s) nor the negotiations of this settlement (including all statements, admissions or communications) by the Defendant(s) and Insurer(s), or their attorney or representative shall be considered admissions by any of said parties; and that no past or present wrong doing on the part of the Defendant(s) and Insurer(s) shall be implied by such payment or negotiations.

Plaintiff(s) agrees to indemnify and save harmless the Defendant(s) and Insurer(s) from any and all claims or liens presently existing against the settlement herein by any person, entity or corporation.

#### Entire Agreement and Successors in Interest

This Settlement Agreement contains the entire agreement between the Plaintiff(s), the Defendant(s), and the Insurer(s) with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each.

#### Construction by Pennsylvania State Law

This Settlement Agreement is entered into the State of Pennsylvania and shall be construed and interpreted in accordance with its laws.

#### Representation of Comprehension of Document

In entering into this Settlement Agreement the Plaintiff(s) represents that he/she has relied upon the advice of his/her attorneys, who are the attorneys of his/her own choice and that the terms of this Settlement Agreement have been completely read and explained to him/her by his/her attorneys, and that those terms are fully understood and voluntarily accepted by them.

It is expressly warranted by me that no promise or inducement has been offered except as herein set forth; that this Settlement Agreement and Release is executed without reliance upon any statement or representation of the person or parties released, or other representatives, concerning the nature and the extent of our injuries, damages or legal liability therefore, and that the acceptance of the consideration set forth is in full accord and satisfaction of the disputed claim against the said Commonwealth of Pennsylvania, Department of Transportation, Woodland Township and Nathaniel Andrew Sedlak for which liability is expressly denied.

### Additional Documents

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement.

### Payee's Rights to Payments

The Defendant(s) shall not segregate or set aside any of its assets to fund the payments to Payee required herein. Said payments cannot be accelerated, deferred, increased or decreased by the Payee and no part of the payments called for herein or any assets of the Defendant(s) is to be subject to execution or any legal process for any obligation in any manner, nor shall the Payee have the power to sell or mortgage or encumber same, or any part thereof, nor anticipate the same, or any part thereof, by assignment or otherwise.

### Nonassignment

The periodic payments to be received by the Payee pursuant to Paragraph 2B are not subject in any manner to anticipation, alienation, sale or transfer, assignment, pledge or encumbrance by Payee.

### Tax Consequences

It is further understood among the parties that those parties receiving monies hereunder have not relied upon any representations, expressed or implied, made by the Defendant(s), Insurer(s) or their attorneys or representatives, as to the possible tax consequences of this agreement and that said parties receiving monies hereunder release the Defendant(s), Insurer(s) and their attorneys and representatives from any and all liabilities in connection with any such tax consequences.

### Entire Agreement

This Settlement Agreement contains the entire agreement between Plaintiff(s), Defendant(s), and the Insurer(s) with regard to the matters set forth herein. There are no other understandings or agreements, verbal or otherwise, in relation thereto, between the parties except as herein expressly set forth.

### Effectiveness

This Settlement Agreement shall become effective immediately following execution by all of the parties.

Executed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

Plaintiff(s): Ernest Lowe and Carol Lowe

Ernest L. Lowe  
Ernest Lowe

Date: 5/1/2001

Carol Lowe  
Carol Lowe

Date: 5-1-01

The above release has been and the terms therefore explained to Ernest Lowe and Carol Lowe the form and content are hereby approved.

Plaintiff's Attorney: Edgar Snyder & Associates, LLC

By: Richard Rosenthal  
Richard Rosenthal, Esquire

Date: 5-1-01

Defendant(s): Pennsylvania Department of Transportation (PennDOT)

By: B. H. Baxter  
Brian H. Baxter, Esquire

Title: SENIOR DEPUTY ATTORNEY GENERAL

Date: 5/8/01



# APPLICATION FOR STRUCTURED SETTLEMENT TO:



- ☒ NEW YORK LIFE INSURANCE COMPANY
- ☐ NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION  
(A Delaware Corporation)

51 Madison Avenue, New York, NY 10010

1.

MEASURING  
LIFE  
(Proposed  
Annuitant)

Name ERNEST L. LOWE  
Date of Birth (M/D/Y) 08 / 25 / 45  
Sex ☒ M ☐ F Age 56  
Soc. Sec. # 205-34-7082

Mail Address (include Zip Code)

Street R.R. 1, BOX 398

City HOUTZDALE

State PA Zip 16651

(Use Part B for additional name in Joint & Survivor cases)

2.

OWNER

Name NEW YORK LIFE INSURANCE  
AND ANNUITY CORPORATION

Mail Address (include Zip Code)

Street 51 MADISON AVE

City NY

State NY Zip 10010

3.

ANNUITY  
PAYMENTS

Terms, frequency, and commencement  
date of Annuity Payments:

(Use Part B for more details)

SEE ATTACHED ADDENDUM

4.

PAYEE(S)

Annuity payments will be made to:

Name: ERNEST LOWE

Soc. Sec. # 205-34-7082

Address: R.R. 1, BOX 398

HOUTZDALE, PA 16651

(Use Part B for additional names)

Name: \_\_\_\_\_

Soc. Sec. # \_\_\_\_\_

Address: \_\_\_\_\_

5.

BENEFICIARY

Names and Addresses:

(Please furnish details)

SEE ATTACHED ADDENDUM



## **ADDENDUM TO APPLICATION**

**Annuitant:**

**Ernest L. Lowe**

**Schedule of Benefits:**

One Thousand Seven Hundred Sixty-Two Dollars and No Cents (\$1,762.00) monthly beginning 08-01-2001 and continuing for the life of this Payee with payments guaranteed to be made to this Payee or to this Payee's beneficiary through 07-01-2031 for a total of 30 years (360 payments) guaranteed.

**Beneficiary:**

Any payments to be made after the death of the Payee pursuant to the terms of this Qualified Assignment and Release shall be made to Carol Lowe. In the event that Carol Lowe should die prior to Ernest Lowe, any remaining guaranteed payments would go to The Estate of Ernest Lowe.

ANNUITANT  
ERNEST L LOWE

AGE 56 MALE

POLICY NUMBER: FP209122  
POLICY DATE: JUNE 12, 2001

OWNER: NEW YORK LIFE INSURANCE AND ANNUITY CORP

PLAN: STRUCTURED SETTLEMENT - SEE DATA PAGE 2A

PAYEE(S): COUNTY NATIONAL BANK

THE BENEFIT STREAM(S) FOR EACH PAYEE IS ENCLOSED.  
THE PAGE(S) WHICH FOLLOW ARE ALSO PART OF THIS POLICY.

PREMIUM: \$1 PLUS VALUABLE CONSIDERATION

DATE OF ISSUE 06/21/2001

PAGE 2

POLICY DATA NEW YORK LIFE INSURANCE COMPANY

POLICY NUMBER: YF209122

PAYEE: COUNTY NATIONAL BANK

BENEFICIARY: AS STATED IN THE APPLICATION AND SUBJECT TO THE PROVISIONS  
OF THIS POLICY

PLAN: LIFE ANNUITY - 30 YEARS GUARANTEED

AMOUNT: ANNUITY PAYMENTS OF \$1,762.00 MONTHLY,  
BEGINNING AUGUST 1, 2001.  
PAYABLE WHILE THE ANNUITANT IS LIVING, OR UNTIL AT LEAST  
360 SUCH PAYMENTS (THE GUARANTEED PAYMENTS) HAVE BEEN MADE.

**WE & YOU**

In this policy, the words "we", "our" or "us" refer to New York Life Insurance Company, and the words "you" or "your" refer to the owner of this policy.

When you write to us, please include the policy number, the Annuitant's full name, and your current address.

**CONTENTS**

<b>POLICY DATA</b>	Policy Identification and Specifications/2
<b>ANNUITY BENEFIT</b>	Annuity Benefit/4
<b>POLICY OWNERSHIP</b>	Owner, Successor Owner, Change of Ownership/4
<b>BENEFICIARY</b>	Naming of Beneficiary; Change of Beneficiary; Change in Payment; Death of Beneficiary/4
<b>GENERAL PROVISIONS</b>	Entire Contract; Survival; Age and Sex; Assignment; Payment in One Sum; No Values or Dividends; Protection Against Creditors; Conformity with Law; Voting Rights/5
<b>APPLICATION</b>	Attached to the Policy.
<b>RIDERS OR ENDORSEMENTS (IF ANY)</b>	Attached to the Policy.

# **ABSOLUTE ASSIGNMENT AND UCC ARTICLE 9 SECURITY AGREEMENT (THE "AGREEMENT")**

July 19, 2007

I, **Ernest L. Lowe**, ("I", "Me" or "Assignor") residing at 66 Friendship Mine Rd. , Houtzdale, PA 16651-9232 am entitled to 360 monthly payments each in the amount of \$1,762.00 commencing on August 1, 2001 through and including July 1, 2031 and life thereafter (the "Periodic Payments"), which I am receiving as the result of the settlement of a personal injury claim. The terms of the settlement are set forth in an agreement dated **May 8, 2001** (the "Settlement Agreement"). The Periodic Payments are due to me from **New York Life Insurance & Annuity Corporation** (the "Settlement Obligor"). The Settlement Agreement provides for the Periodic Payments to be paid to me through an annuity issued by **New York Life Insurance Company** (the "Annuity Issuer"), Annuity Contract Number **FP209122**.

A. I agree to sell to Settlement Funding, L.L.C. ("you" or "Assignee") through an assignment, all of my rights to and interest in the following payments, which I am due to receive under the Settlement Agreement:

**143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007 through and including September 1, 2019 and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019 through and including July 1, 2031** (the "Assigned Payments").

In return [or compensation] for selling and assigning to you my rights to receive these payments, you shall pay me the sum of: **\$47,201.00** (the "Assignment Price").

B. In order to induce you to proceed with this transaction, I make to you the following unconditional representations, warranties and promises:

1. No one other than me has any interest or claim of any kind or nature in, to or under the Assigned Payments.
2. I am not indebted to anyone that would in any way affect either the assignment of the Assigned Payments referenced above or Assignee's absolute rights to receive the Assigned Payments.
3. I agree to conduct my affairs so as to ensure that you receive these payments exactly in the amounts, and exactly at the times stated in paragraph A above.

C. I understand and agree that I will be in breach of this Absolute Assignment Agreement if:

1. Any of the representations set forth in Paragraphs B (1) and B (2) at any time turn out to be untrue.
2. I fail to perform the promise set forth in Paragraph B (3) above.
3. Either the Settlement Obligor or the Annuity Issuer refuses or fails to make any one or more of the Assigned Payments as a result of any act by me, my estate, my representatives, or any of my heirs.

4. I fail to promptly forward to you any of the Assigned Payments that might be received by me from Settlement Obligor or Annuity Issuer after the Assignment to you has been completed.
5. I fail to fulfill any other obligation of mine under this Agreement.

D. Your obligation to complete this transaction, and to pay me the Assignment Price depends upon the following conditions being satisfied, unless waived by you.

1. You shall be satisfied, in your sole reasonable judgment, that there are no claims or interests of any kind or nature that do or could affect your rights to or interest in the Assigned Payments and/or prevent or interfere with your receipt of the Assigned Payments on the dates and in the amounts described above in Paragraph A, exactly in such amounts and at the times set forth therein.
2. You have received a final non-appealable court order and/or a signed acknowledgment from Settlement Obligor and Annuity Issuer (collectively referred to as the "Order"), which you, in your sole judgment, consider sufficient to recognize, authorize, and provide for the transfer by assignment of the Assigned Payments (which may continue to be made out to my name) to you, Assignee, and to insure that the Periodic Payments due on or after the day of the Order will be forwarded directly to you.

E. **Security Interest.** You and I intend this Agreement to create a security interest in the rights to and interest in payments due to me under the Settlement Agreement which I am assigning to you under this Transfer Agreement as "General Intangibles" to the extent permitted under that version of Article 9 of the Uniform Commercial Code (governing Secured Transactions) that is in effect in the state designated in Paragraph F below. This Agreement shall also function as a security agreement. This security interest secures payment of the rights assigned by me to you and the performance of my obligations under Paragraph B above. I authorize you to direct any account debtor or obligor on an instrument, including, without limitation, Settlement Obligor or Annuity Issuer, to make periodic payments directly to you and as contemplated by the Uniform Commercial Code. You (Assignee) are authorized to file a UCC-1 Financing Statement to perfect your rights and the security interest intended to be created under this Agreement.

F. Except as otherwise required by applicable statutory law, this Agreement shall be governed by and interpreted in accordance with the law of the state of residence of the Assignor on the date of this Agreement.

G. I hereby grant to you an Irrevocable Power of Attorney with full powers of substitution to do all acts and things that I might do regarding the Assigned Payments, and any and all rights I have under the Settlement Agreement. I understand and intend that by doing so, I am giving to you all of the power and right I currently have under the Settlement Agreement to endorse checks, drafts or other instruments, to alter, edit and change payment instructions and/or beneficiary designations, and/or to perform any other act in my name that, in your sole judgment as my Attorney-in-Fact, you feel is necessary or expedient for you to obtain all of the benefits of the bargain contemplated by this transaction. This power of attorney is coupled with an interest and shall survive my death or disability.

H. **Payments Received by the Party Other Than the Party Intended to Receive the Payments.**

1. If, prior to the completion of the transfer provided for in this Agreement, I receive any



of the Assigned Payments or any portion thereof, I understand and agree an equal amount shall be deducted from the Assignment Price, and the Assignment Price shall be reduced in the same amount as these payments, and that the terms of this Agreement regarding the payments to be assigned, shall be treated as amended to reflect for the adjusted amount.

2. In the event you receive or otherwise come into possession of any of the Periodic Payment(s) or portion(s) of such a payment or payments that are not included in the payments being absolutely assigned to you, you agree to forward such amount(s) to me at the address set forth above within seven (7) days of receipt of such amount(s).

- I. You shall be entitled to, and are authorized by me to discharge any liens or adverse claims against me

or any of the Assigned Payments, whether or not such adverse claims are disclosed, and you are further authorized by me, provided you provide me with prior written notice, to pay any and all amounts necessary or, if the Assignment Price has been deposited into an escrow account, to instruct the escrow agent to pay any and all amounts necessary to discharge such liens or other adverse claims. I understand and agree that any such amounts that you pay are payments you are making on my behalf and shall be charged against and reduce what I actually receive out of the proceeds of the Assignment Price. Adverse claims may include disclosed amounts to be deducted by you from the Assignment Price to pay you, as servicer for Peachtree Finance Company, LLC, to enable me to obtain Peachtree Finance Company, LLC's release of its encumbrance on a portion of the Assigned Payments relating to a prior transfer transaction(s) that occurred before the enactment of any statute ("Transfer Act") regulating such transfers. I understand and acknowledge that the law now in effect requires that such encumbrance be released in order to complete the transfer that is the subject of this Agreement.

- J. This Agreement shall take effect on the date it is signed by me (the Assignor) or on such later date prescribed by applicable statutory law.

- K. All disclosure statements I receive from you in connection with this transaction are to be considered as incorporated into, and form part of the terms of this Agreement and shall be read as if the contents of the disclosure statements were set forth in full in the body of this agreement.

- L. I know that it will take some time for the Settlement Obligor and the Annuity Issuer to receive and process the court order once it is granted. I would like to receive the Assignment Price or a portion thereof as soon as possible thereafter. Accordingly, I hereby request Assignee to pay me a portion of the Assignment Price as soon as possible after the court order is granted and authorize Assignee to hold in escrow an amount it deems necessary or advisable from the Assignment Price (the "Escrow Amount") until all conditions precedent have been satisfied, including, without limitation, the receipt by Assignee of the Settlement Obligor and the Annuity Issuer's acknowledgment of the terms of the court order in writing and their agreement to honor and comply with same. At such time or earlier as Assignee may determine, I understand that Assignee will send the Escrow Amount to me minus any Assigned Payments that the Annuity Issuer and/or Settlement Obligor sent to me while the Settlement Obligor and the Annuity Issuer were processing the court order.

- M. I have the right to cancel this transfer agreement, without penalty or further obligation, within the first three business days after the date the agreement is signed, by providing you with written notice within the three (3) day period, as provided for in the next paragraph.

- N. All notices, demands, and other communications required or permitted under this transfer agreement must be made in writing, and delivered by hand, by United States Post Office, Certified Mail, Return Receipt Requested, or by overnight delivery service, to you or me as the recipient at the

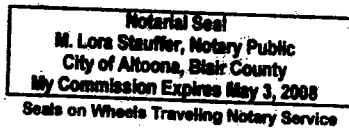
address set forth in the beginning of this Agreement, and must be evidenced by a receipt showing time, date of delivery and the person receiving the delivery.

In witness whereof I hereunto set my hand.

Ernest L. Lowe  
Ernest L. Lowe

STATE OF Pennsylvania  
COUNTY OR CITY OF Clearfield

On the 19<sup>th</sup> day of July, in the year 2007 before me, the undersigned, personally appeared **Ernest L. Lowe**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



M. Lora Stauffer  
Notary

My Commission expires on 5-03-08

Accepted:

Settlement Funding, L.L.C.

[Signature]  
Title: Sup  
Date: 7/20/07

**PLEASE DO NOT SIGN THIS  
DOCUMENT UNTIL 07/19/2007**

Authorization For Deductions

Pursuant to the terms of the Agreement, Assignee may deduct from the Purchase Price the full amount due to any and all third party creditors, judgment holders, holders of child support obligations, the holder of any other outstanding lien or claim (collectively the "Judgments/Claims") including life insurance policy payment(s) or any attorney fees in connection with the consummation of this transaction.

If Assignee is able to satisfy in full the Judgments/Claims for less than the full amount due, Assignee shall be entitled to keep the difference between the amount deducted and the amount actually paid.

Authorization to Conduct Credit and Criminal Background Checks

I, Ernest L. Lowe residing at 66 Friendship Mine Rd., Houtzdale, PA 16651-9232, hereby authorize Settlement Funding or any of its agents or designees, to conduct any and all criminal background reports, searches or checks and any and all credit history reports, searches or checks which it in its sole discretion and judgment deems necessary or advisable.

Authorization to Release Information

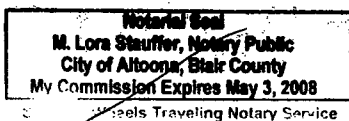
I, Ernest L. Lowe, hereby request and authorize New York Life Insurance & Annuity Corporation, New York Life Insurance Company, or any of their successors, assigns, designees, agents or administrators, or my attorney to disclose, or any other parties that may possess any information deemed necessary by Settlement Funding, or any of its agents or designees to be disclosed, make available and furnish to Settlement Funding, or any of its agents or designees any and all information pertaining to my personal injury settlement as set forth in a certain Release dated May 8, 2001, or any other documents deemed necessary by Settlement Funding, or any of its agents or designees. I specifically direct that New York Life Insurance & Annuity Corporation, New York Life Insurance Company, or any of their successors, assigns, designees, agents or administrators or any other person or entity that this authorization is given to, cooperate with Settlement Funding or any of their agents or designees regarding disclosure of information pertaining or related to my settlement or other required documentation. Please provide copies via fax or otherwise of any and all documents requested by Settlement Funding or their agents or designees regarding my settlement.

Dated: 7/19/07

Ernest L. Lowe  
Ernest L. Lowe

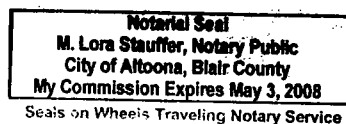
STATE OF Pennsylvania  
COUNTY OR CITY OF Clearfield

On the 19<sup>th</sup> day of July, in the year 2007 before me, the undersigned, personally appeared **Ernest L. Lowe**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their capacity(ies), and that by his/~~her~~/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



M. Lora Stauffer  
Notary

My Commission expires on 5-03-08



## AFFIDAVIT

I, Ernest L. Lowe, of full age, being duly sworn according to law, upon my oath depose and say:

1. I currently reside at 66 Friendship Mine Rd., Houtzdale, PA 16651-9232.

2. I am the recipient of certain guaranteed payments under a structured settlement dated June 12, 2001. The entity presently obligated to make the payments due under the structured settlement is New York Life Insurance & Annuity Corporation. In order to fund its payment obligations under the structured settlement New York Life Insurance & Annuity Corporation purchased an annuity contract FP209122 from New York Life Insurance Company.

3. I voluntarily entered into an Absolute Assignment and UCC Article 9 Security Agreement (the "Agreement") dated July 19, 2007 with Settlement Funding, LLC d/b/a Peachtree Settlement Funding ("Peachtree"). Under that Agreement, I agreed to sell and assign to Peachtree the following payments due to me under the structured settlement:

**143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007 through and including September 1, 2019 and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019 through and including July 1, 2031 (the "Assigned Payments").**

4. I understand I will forego receipt of the Assigned Payments under the Agreement. I understand that my beneficiaries/heirs and I will no longer receive any of the Assigned Payments or any portion of the Assigned Payments. I understand that all of the Assigned Payments will go to Peachtree or the assigns of Peachtree.

5. I also understand that this Affidavit is submitted for use in the court approval process initiated by Peachtree and myself to seek court approval of the transfer of payments to Peachtree.

6. I also received from Peachtree a Disclosure Statement detailing the terms of the Agreement, which I signed and returned to Peachtree. I carefully reviewed the Disclosure Statement and fully and completely understand all terms of the Disclosure Statement.

7. In the Disclosure Statement, Peachtree advised me to seek professional advice regarding the Agreement from an attorney, accountant or other professional of my choice. I have either received said advice or fully intend to receive independent professional advice regarding this transaction.

8. I am 61 years old and have supported myself for the last 43 years. Although I do not have any mental disabilities that would prevent me from being gainfully employed, I am physically disabled and therefore cannot work. I receive approximately \$1,387.00 per month from social security. In addition, I will continue to receive tax free monthly payments in the amount of \$1,000.00 through October 2007. After which time, these payments will decrease to \$400.00 per month through July 2031 when they will increase to \$1,762.00 per month and will continue for my lifetime. My wife, Carol, is employed at Roadway Inn and earns approximately \$6,000.00 annually. Therefore, I have alternate sources of income other than the portion of my periodic payments that I wish to transfer and assign to Settlement Funding.

9. I have thoroughly considered this transaction, my alternatives and the use to which I will put the proceeds of this sale. I have considered the impact of this transaction on my wife and myself. My wife and I will be able to improve our present standard of living if I am permitted to transfer and assign my right to receive the Assigned Payments to Settlement Funding as described in this Affidavit. After considering these factors I believe that this transaction is in my best interest and the best interests of my wife.

10. I intend to use the proceeds I receive from Peachtree under the Agreement for paying off debt. First, I would like to use approximately \$16,000.00 to pay off the mortgage on our second home. Upon satisfying the mortgage on this home I will then rent it out to a tenant for approximately \$290.00 per month as this will generate an extra income, to supplement our cash flow. Secondly, I would like to use approximately \$14,000.00 to pay off our home equity line of credit which has a monthly payment on approximately \$340.00. A further \$11,000.00 would be used to pay off my wife's car loan which has a monthly payment of \$287.00. Finally, I would like to use the remaining proceeds, approximately \$4,000.00, to pay for outstanding medical bills. By eliminating these debts not only will I eliminate the recurring monthly payment obligations but I will be able to add these funds back into our monthly budget. I do not have the financial wherewithal to pay for the aforementioned with my current finances. Therefore, I have decided to pursue this transaction with Peachtree.

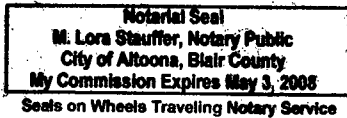
11. I have never assigned, sold or pledged any of the structured settlement payments that I am proposing to transfer and assign herein to any party or entity. In addition, my wife and I have no

dependents to support. I do not believe that approval of this transfer will negatively affect our standard of living, or make it difficult to pay our living expenses or otherwise harm us in any way. Therefore, I have determined that completing this transaction with Peachtree is in our best interest and will improve our quality of lives.

Ernest L. Lowe  
Ernest L. Lowe

STATE OF Pennsylvania  
COUNTY OR CITY OF Clearfield

On the 19<sup>th</sup> day of July, in the year 2007 before me, the undersigned, personally appeared **Ernest L. Lowe**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



M. Lora Stauffer  
Notary

My Commission expires on 5-03-08

**PLEASE DO NOT SIGN THIS  
DOCUMENT UNTIL 07/19/2007**

**PENNSYLVANIA TRANSFER DISCLOSURE**

**Payee: Ernest L. Lowe; resident of: PA**

- A. Amounts and due dates of the structured settlement payments to be transferred: 143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007 through and including September 1, 2019 and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019 through and including July 1, 2031.**
- B. Aggregate amount of such payments: \$279,204.00.**
- C. (1) Discounted present value of such payments: \$128,186.77.  
(2) The discount rate used in determining such discounted present value: 6.00% percent as of July 9, 2007.**
- D. Gross amount payable to the Payee in exchange for such payments: \$47,201.00.**
- E. Itemized listing of all brokers' commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, expenses and charges payable by the Payee or deductible from the gross amount otherwise payable to the Payee: Legal Fees: \$2,000.00; Processing Fee: \$200.00.**
- F. Net amount payable to Payee after deduction of all commissions, fees, costs, expenses and charges described above: \$45,001.00 minus any advances made to Payee against the amount payable to Payee.**
- G. An estimate of the Administrative fee(s) being charged by the Annuity Owner and or the Annuity Issuer to be paid by the transferee (not the consumer) as a result of the transfer: New York Life Insurance Company - \$500.00.**
- H. The quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments: 35.11%.**
- I. Amount of any penalty and the aggregate amount of any liquidated damages, inclusive of penalties, payable by the Payee in the event of any breach of the transfer agreement by the Payee: NONE.**

J. Payee acknowledges receipt of, and acknowledges to have read and understood, the above disclosure statement and information required to be disclosed by Payee's applicable state statute(s). Initials: ELL

By signing below you are confirming receipt of this disclosure at least 10 days prior to receipt of this contract.

Ernest L. Lowe  
Ernest L. Lowe

7/19/07  
Date



**NEW YORK TRANSFER DISCLOSURE**

**Payee: Ernest L. Lowe; resident of: PA**

- A. Amounts and due dates of the structured settlement payments to be transferred: 143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007 through and including September 1, 2019 and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019 through and including July 1, 2031.**
- B. Aggregate amount of the structured settlement payments to be transferred: \$279,204.00.**
- C. The discounted present value of the payments to be transferred: \$128,186.77. This is the calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities determined by applying the most recently published (discount) rate of 6.00% as of July 9, 2007.**
- 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 other annuity issuers that reflects the current cost of purchasing a comparable annuity for the aggregate amount of payments to be transferred: \$166,403.23 and \$152,710.24.**
- E. Gross advance amount: \$47,201.00 and the annual discount rate, compounded monthly, used to determine the gross advance amount: 17.65%.**
- F. Itemized listing of all commissions, fees, costs, expenses and charges payable by the payee or deductible from the gross amount otherwise payable to the payee and the total amount of such fees: Processing Fee: \$200.00; Legal Fe: \$2,000.00.**
- G. Net advance amount: \$45,001.00. 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. An estimate of the Administrative fee(s) being charged by the Annuity Owner and or the Annuity Issuer to be paid by the transferee (not the consumer) as a result of the transfer: New York Life Insurance Company - \$500.00.**
- I. Amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee: NONE.**

- J. Payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee.
- K. Payee is advised to seek independent professional advice from an attorney, certified public accountant, actuary or other professional advisor regarding the legal, tax and financial implications of the transfer. An independent professional advisor is engaged by you and is not affiliated with or compensated by Settlement Funding of New York, LLC. His or her compensation is not affected by whether the transfer occurs or does not occur.
- L. Payee acknowledges receipt of, and acknowledges to have read and understood, the above disclosure statement and information required to be disclosed by Payee's applicable state statute(s).

Initials: ELL

M. Date Prepared and Mailed: July 9, 2007

By signing below, you are confirming that you received a copy of this disclosure at least 10 days prior to receipt of this contract.

Ernest L. Lowe  
Ernest L. Lowe

7/19/07  
Date

**NOTICE (PA)**

**Payee: Ernest L. Lowe**

**IMPORTANT NOTICE: You are strongly urged to consult with an attorney who can advise you of the potential tax consequences of this transaction.**

**I acknowledge receipt of the above notice.**

**By signing below you are confirming that you received a copy of this disclosure at least 10 days prior to receipt of this contract.**

*Ernest L. Lowe*  
**Ernest L. Lowe**

7/19/07  
**Date**

**ACKNOWLEDGEMENT (PA)**

**Payee: Ernest L. Lowe**

**(Please initial the following statement)**

**I have received independent professional advice regarding the implications of the transfer, including considerations of the tax ramifications of the transfer.**

ELF  
**(Initials)**

Ernest L. Lowe  
**Ernest L. Lowe**

7/17/07  
**Date**



115 South Broad Street  
Kennett Square, PA 19348  
Ph: 610-444-1215 Fx: 610-444-1635  
[www.fandco.com](http://www.fandco.com)

July 17, 2007

Ernest Lowe  
66 Friendship Mine Road  
Houtzdale, PA 16651-9232

Dear Mr. Lowe:

I enjoyed speaking with you today regarding the tax and financial implications of the Absolute Assignment and UCC Article 9 Security Agreement. We discussed the amount you would receive and the amounts that you would give up if you proceed with the agreement to sell, assign and convey payments from your structured settlement agreement. We also discussed the effective interest rate being charged by Peachtree.

Based on our discussion, I believe that you understood the financial terms of the arrangement. If you have any additional questions, please call. At your request, I am forwarding a copy of this letter to Peachtree Settlement Funding.

As a Certified Public Accountant licensed to practice in the Commonwealth of Pennsylvania I am required to include the following notice in this letter:

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any tax-related matter addressed herein.

Sincerely,

W. Chad Fenstermacher, CPA

*Making Windows of Opportunity*

**UNITED STATES CODE ANNOTATED**  
**TITLE 26. INTERNAL REVENUE CODE**  
**SUBTITLE E--ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES**  
**CHAPTER 55--STRUCTURED SETTLEMENT FACTORING TRANSACTIONS**

Copr. © West Group 2002. No claim to Orig. U.S. Govt. Works.

Current through P.L. 107-136, approved 1-24-02

§ 5891. Structured settlement factoring transactions

(a) **Imposition of tax.**--There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a **structured settlement factoring transaction** a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

(b) **Exception for certain approved transactions.**--

(1) **In general.**--The tax under subsection (a) shall not apply in the case of a **structured settlement factoring transaction** in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

(2) **Qualified order.**--For purposes of this section, the term "qualified order" means a final order, judgment, or decree which--

(A) finds that the transfer described in paragraph (1)--

(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 the payee, taking into account the welfare and support of the payee's dependents, and

(B) is issued--

(i) under the authority of an applicable State statute by an applicable State court, or

(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

(3) **Applicable State statute.**--For purposes of this section, the term "applicable State statute" means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by--

(A) the State in which the payee of the structured settlement is domiciled, or

(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

(4) **Applicable State court.**--For purposes of this section--

(A) **In general.**--The term "applicable State court" means, with respect to any applicable State statute, a court of

Copr. © West 2002 No Claim to Orig. U.S. Govt. Works

the State which enacted such statute.

**(B) Special rule.**--In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

**(5) Qualified order dispositive.**--A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

**(c) Definitions.**--For purposes of this section--

**(1) Structured settlement.**--The term "structured settlement" means an arrangement--

**(A)** which is established by--

**(i)** suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

**(ii)** agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

**(B)** under which the periodic payments are--

**(i)** of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

**(ii)** payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

**(2) Structured settlement payment rights.**--The term "structured settlement payment rights" means rights to receive payments under a structured settlement.

**(3) Structured settlement factoring transaction.**--

**(A) In general.**--The term "structured settlement factoring transaction" means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

**(B) Exception.**--Such term shall not include--

**(i)** the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

**(ii)** a subsequent transfer of structured settlement payment rights acquired in a **structured settlement factoring transaction**.

**(4) Factoring discount.**--The term "factoring discount" means an amount equal to the excess of--

**(A)** the aggregate undiscounted amount of structured settlement payments being acquired in the **structured settlement factoring transaction**, over

**(B)** the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

**(5) Responsible administrative authority.**--The term "responsible administrative authority" means the

administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

**(6) State.**--The term "State" includes the Commonwealth of Puerto Rico and any possession of the United States.

**(d) Coordination with other provisions.**--

**(1) In general.**--If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a **structured settlement factoring transaction** shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

**(2) No withholding of tax.**--The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a **structured settlement factoring transaction**.

CREDIT(S)  
2002 Pocket Part

(Added Pub.L. 107-134, Title I, § 115(a), Jan. 23, 2002, 115 Stat. 2436.)

<General Materials (GM) - References, Annotations, or Tables>

## HISTORICAL AND STATUTORY NOTES

### Revision Notes and Legislative Reports

2002 Acts. Statement of President, see 2001 U.S. Code Cong. and Adm. News, p. 1812.

### Effective and Applicability Provisions

2002 Acts. Pub.L. 107-134, Title I, § 115(c), Jan. 23, 2002, 115 Stat. 2438, provided that:

**"(1) In general.**--The amendments made by this section [enacting this chapter] (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section [26 U.S.C.A. § 5891(d)]) shall apply to **structured settlement factoring transactions** (as defined in section 5891(c) of such Code (as so added) [26 U.S.C.A. § 5891(c)]) entered into on or after the 30th day following the date of the enactment of this Act [Jan. 23, 2002].

**"(2) Clarification of existing law.**--Section 5891(d) of such Code (as so added) [26 U.S.C.A. § 5891(d)] shall apply to **structured settlement factoring transactions** (as defined in section 5891(c) of such Code (as so added) [26 U.S.C.A. § 5891(c)]) entered into before, on, or after such 30th day.

**"(3) Transition rule.**--In the case of a **structured settlement factoring transaction** entered into during the period beginning on the 30th day following the date of the enactment of this Act [Jan. 23, 2002] and ending on July 1,



2002, no tax shall be imposed under section 5891(a) of such Code [26 U.S.C.A. § 5891(a)] if--

"(A) The structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the **structured settlement factoring transaction** is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction--

"(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 the structured settlement payee or is appropriate in light of a hardship faced by the payee; and

"(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the **structured settlement factoring transaction** the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code [26 U.S.C.A. § 7520]), and the expenses required under the terms of the **structured settlement factoring transaction** to be paid by the structured settlement payee or deducted from the proceeds of such transaction."

26 U.S.C.A. § 5891

26 USCA § 5891

END OF DOCUMENT

.....

1. This Court has subject matter and personal jurisdiction.
2. The transfer complies with the requirements of the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009, and does not contravene any applicable Federal or State statute or the order of any court or responsible administrative authority, or regulations or any applicable law limiting the transfer of workers' compensation claims.

3. Not less than ten (10) days prior to the date upon which the Petitioner first incurred any obligation with respect to the transfer, the Transferee, Settlement Funding, LLC provided the Petitioner a disclosure statement setting forth in boldface, minimum 12-point size type all of the following:

- a. The amounts and due dates of the structured settlement payments to be transferred.
- b. The aggregate amount of such payments.
- c. The discounted present value of such payments, together with the discount rate or rates used in determining such discounted present value.
- d. The gross amount payable to the Petitioner in exchange for such payments.
- e. An itemized listing of all brokers' commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, expenses and charges payable by the Petitioner or deductible from the gross amount otherwise payable to the Petitioner.
- f. The net amount payable to the Petitioner after deduction of all commissions, fees, costs, expenses, and charges described above.
- g. The quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments.
- h. The amount of any penalty and the aggregate of any liquidated damages, inclusive of penalties, payable by the Petitioner in the event of any breach of the transfer agreement by the Petitioner.

4. The Petitioner has established that the transfer is in his best interests, taking into account the welfare and support of the Petitioner's dependents, if any, at time of entry of this Order of Court.

5. The Petitioner has obtained independent professional advice regarding the implications of the transfer, including consideration of the tax ramifications of the transfer.

6. The transfer has been expressly approved in writing by the Petitioner, and at the time the Petitioner and the Transferee proposed to enter into the Transfer Agreement, a favorable tax result was in effect. The approvals of the Annuity Issuer and Settlement Obligor are not required.

7. The Petitioner has given written notice pursuant to 40 P.S. § 4003 (a)(6) of the Transferee's name, address, and taxpayer identification number to the Annuity Issuer, and the Structured Settlement Obligor, and a copy of the written notice has been filed with the Court.

8. Prior to entering into the Transfer Agreement the Petitioner was provided with a written notice on a separate sheet that contains the following, in boldface, minimum 12-point size type required by 40 P.S. § 4003 (b):

**“IMPORTANT NOTICE:** You are strongly urged to consult with an attorney who can advise you of the potential tax consequences of this transaction.”

9. Not less than 20 days prior to the scheduled hearing on the petition for authorization of a transfer of structured settlement payment rights under 40 P.S. § 4003, the Petitioner filed with the court and served on the Transferee a notice of the proposed transfer and the application for its authorization, including in the notice a copy of the Petitioner's Petition to the Court, a copy of the transfer agreement, a copy of the disclosure statement required under 40 P.S. § 4003, notification that the Transferee, the structured settlement obligor or the annuity issuer is entitled to support, oppose or otherwise respond to the Petition, either in person or by counsel, by submitting written comments to the court or by participating in the hearing and notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the petition must be filed.

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

NOW THEREFORE, in consideration of the foregoing findings, it is hereby ORDERED, ADJUDGED and DECREED that the Petition to Transfer Structured Settlement Payment Rights pursuant to the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009 be and is hereby GRANTED as follows:

A. The transfer by Petitioner, Ernest L. Lowe to Transferee, Settlement Funding, LLC of the Transferred Payments (143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007, through and including September 1, 2019, and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019, through and including July 1, 2031) is hereby APPROVED.

B. The Settlement Obligor, New York Life Insurance and Annuity Corporation shall direct the Annuity Issuer, New York Life Insurance Company to send the Transferred Payments to Settlement Funding and its successors and/or assigns care of the following address:

Settlement Funding, LLC  
P.O. Box 116476  
Atlanta, GA 30368-6476

or such other address as Settlement Funding and its successors and/or assigns may designate upon written notice to Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company. Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company shall not be required to change the address for the Transferred Payment absent payment of a reasonable administrative fee, which shall not be charged to or paid by the Payee.

C. The full amount of the payment stream consisting of monthly payments each in the amount of \$1,762.00 commencing October 1, 2007, through and including July 1, 2031, shall be paid to the Transferee, and its successors and/or assigns. The Transferee is hereby Ordered to

remit the non-assigned portion of the payments to the Petitioner. Commencing on August 1, 2031, and for the lifetime of Ernest L. Lowe thereafter, the entire monthly payment of \$1,762.00 shall be paid directly to Ernest L. Lowe.

D. Settlement Funding, LLC and its successors and/or assigns shall defend, indemnify and hold harmless (collectively, the “Indemnity”) the Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company from any claims, liability or damages, including, but not limited to, reasonable costs and attorneys’ fees, arising from or in connection with (a) any disclosures made in or related to this Order of Court; (b) compliance by the Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company with this Order of Court; and/or (c) the Transferee’s failure to comply with the Act.

E. Settlement Funding and Petitioner Ernest L. Lowe agree that the terms of this Order of Court are based exclusively upon the facts, representations and circumstances of this particular case. Nothing in this Order of Court shall preclude Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company from contesting any other proposed transfer of structured settlement payment rights. This Order of Court is entered without prejudice to the rights of Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company and the Court makes no findings regarding the enforceability of any non-assignment provision(s) contained in the structured settlement agreement or related documents; provided, however, that the transfer of the Transferred Payments, as provided in this Order of Court shall be valid and enforceable against Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company in accordance with its terms. This Order

of Court shall not serve as precedent in any way nor be cited in any matter. Nothing contained in this Order of Court shall be deemed to afford Petitioner Ernest L. Lowe and Settlement Funding, LLC any rights of ownership or control of the annuity or shall otherwise affect the exclusive ownership and control of the annuity by Settlement Obligor, New York Life Insurance and Annuity Corporation.

F. The death of Petitioner Ernest L. Lowe prior to the due date of the last Assigned Payment shall not affect the transfer of the Assigned Payments from Petitioner Ernest L. Lowe to Settlement Funding, and Petitioner Ernest L. Lowe understands that he is giving up his rights, and the rights of his heirs, successors and/or beneficiaries, to the Assigned Payments.

G. Pursuant to the Act, this Court orders that Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company are hereby discharged and immune from all liability to the Petitioner, anyone claiming through the Petitioner, or to any other person or entity (except Settlement Funding, LLC per the terms of this Order) for the Transferred Payments or for disclosures made in or related to this Order.

H. Compliance with the requirements and fulfillment of the conditions set forth in the Act shall be solely the responsibility of the Transferee in the transfer of the Transferred Payments, and neither Settlement Obligor, New York Life Insurance and Annuity Corporation nor the Annuity Issuer, New York Life Insurance Company shall bear any responsibility for, or any liability arising from, noncompliance with those requirements or failure to fulfill those conditions.

I. This Order shall be read in conjunction with prior order(s) of this or any other Court transferring payments to Settlement Funding, LLC and the payments transferred herein shall be in addition to payments transferred pursuant to any such prior order(s).

J. All interested parties, including Petitioner, the Transferee, the Structured Settlement Obligor, and the Annuity Issuer shall abide by the terms of the Transfer Agreement in all respects. This Order shall be considered a “qualified order” for purposes of 26 U.S.C.A. § 5891. Notice of the entry of this Order shall be served by Petitioner on all parties and Proof of Service shall be filed with the Court. Jurisdiction shall remain with this Court.

K. The Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company are directed to issue a formal acknowledgement letter of the transfer within twenty (20) days of the date of receipt of this Order. The formal acknowledgement letter shall be delivered to Settlement Funding, LLC at 3301 Quantum Boulevard, Boynton Beach, FL 33426

BY THE COURT:

\_\_\_\_\_. J.



JA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

FILED <sup>ICC</sup>  
0/9:39/51 Amy  
AUG 07 2007 MONKS

William A. Shaw  
Prothonotary/Clerk of Courts

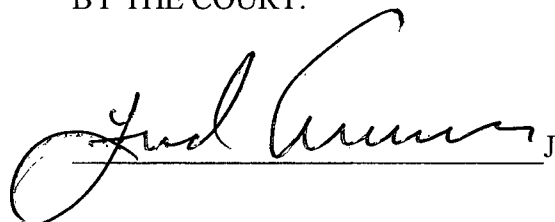
No. 07-1194-CD

**ORDER OF COURT**  
**SCHEDULING HEARING DATE**

AND NOW, this 6 day of August 2007, upon the filing and presentation of the  
Petition to Transfer Structured Settlement Payment Rights pursuant to the Structured Settlement  
Protection Act, 40 P.S. §§ 4001-4009, it is hereby ORDERED that a hearing thereon is set for  
the 25<sup>th</sup> day of September, 2007 at 1:30 P.M. in Courtroom 1 before this  
Court.

Petitioner shall provide 20 days notice of the time and date set for hearing, a copy of the  
Petition filed, and the Transfer Disclosure, to the Settlement Obligor, and the Annuity Issuer, as  
set forth in the Petition, and shall in all other respects comply with the terms of the  
aforementioned statute.

BY THE COURT:

  
J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

**FILED** No cc  
m 11:20/07  
AUG 13 2007 (GK)

William A. Shaw  
Prothonotary/Clerk of Courts

No. 07 - 1194 - CD

**NOTICE OF PROPOSED TRANSFER OF  
STRUCTURED SETTLEMENT PAYMENT RIGHTS**

To: New York Life Insurance and Annuity Corporation 51 Madison Avenue, Room 10SB New York, NY 10010 (Settlement Obligor)	New York Life Insurance Company 51 Madison Avenue, Room 10SB New York, NY 10010 (Annuity Issuer)
Settlement Funding, LLC 3301 Quantum Boulevard Boynton Beach, FL 33426 Attn: Court Order Group (Transferee)	Ernest L. Lowe 66 Friendship Mine Road Houtzdale, PA 16651 (Payee)

Please take notice that a Petition to Transfer Structured Settlement Payment Rights has been filed in the Court of Common Pleas of Clearfield County, Pennsylvania. An Order has been issued by the court requiring that responses or objections of the transferee, structured settlement obligor or the annuity issuer, be brought before the court either in writing or in person at a hearing set for September 25, 2007, at 1:30 p.m. in Courtroom 1, before the Honorable Fredric J. Ammerman. (A copy of the Scheduling Order dated August 6, 2007, is included with this notice).

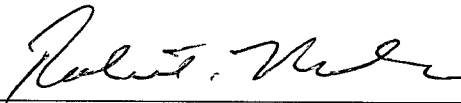
Provided with this notice is a copy of the Petition to Transfer Structured Settlement Payment Rights, including as attachments thereto a copy of the Transfer Agreement, and a copy of the Transfer Disclosure Statement required by 40 P.S. § 4003 (2).

Pursuant to 40 P.S. § 4003 (6), notice of the transferee's name, address and taxpayer identification number are as follows:

Settlement Funding, LLC  
3301 Quantum Boulevard  
Boynton Beach, FL 33426  
(TIN: 58-2292928)

Respectfully submitted,

Jones, Gregg, Creehan & Gerace, LLP

By: 

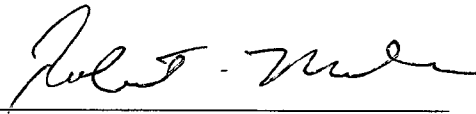
Robert L. Monks  
PA I.D.# 52760  
411 Seventh Avenue  
Suite 1200  
Pittsburgh, PA 15219  
412-261-6400  
Attorney for Petitioner, Ernest L. Lowe

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Proposed Transfer of Structured Settlement Payment Rights, the Petition to Transfer Structured Settlement Payment Rights and the Transfer Disclosure Statement, and the Order of Court Scheduling a Hearing Date have been served via certified mail, return-receipt requested upon the persons and entities, and at the addresses listed above, this 8<sup>th</sup> day of August, 2007.

Respectfully submitted,

Jones, Gregg, Creehan & Gerace, LLP

By: 

Robert L. Monks  
PA I.D.# 52760  
411 Seventh Avenue  
Suite 1200  
Pittsburgh, PA 15219  
412-261-6400  
Attorney for Petitioner, Ernest L. Lowe

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

FILED

SEP 25 2007

William A. Shaw  
Prothonotary/Clerk of Courts

No. 07 - 1194 - CD

**AFFIDAVIT OF SERVICE OF NOTICE OF  
FILING OF PETITION AND NOTICE OF HEARING**

Before me, the undersigned authority, personally appeared, Robert L. Monks, who, after being first duly sworn according to law, deposes and says that on August 8, 2007, he served true and correct copies of the Petition of Ernest L. Lowe to Transfer Structured Settlement Payment Rights including a copy of the Transfer Disclosure, a copy of the Notice of Proposed Transfer of Structured Settlement Payment Rights, and a copy of the Order of Court scheduling the hearing date for September 25, 2007, at 1:30 p.m., via certified mail, return-receipt requested, upon the following:

New York Life Insurance and Annuity Corporation  
51 Madison Avenue, Room 10SB  
New York, NY 10010  
(Settlement Obligor)

New York Life Insurance Company  
51 Madison Avenue, Room 10SB  
New York, NY 10010  
(Annuity Issuer)

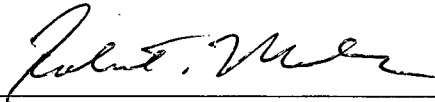
and

Settlement Funding, LLC  
3301 Quantum Boulevard  
Boynton Beach, FL 33426  
Attn: Court Order Group  
(Transferee)

Copies of the certified mail return-receipts are attached hereto as Exhibit "A."

Respectfully submitted,

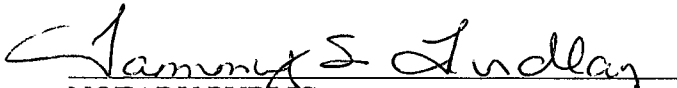
Jones, Gregg, Creehan & Gerace, LLP

By: 

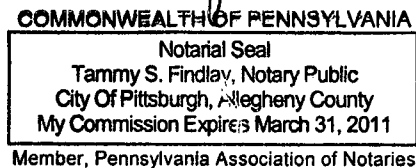
Robert L. Monks  
PA ID No. 52760  
411 Seventh Avenue, Suite 1200  
Pittsburgh, PA 15219  
412-261-6400

Counsel for Petitioner, Ernest L. Lowe

Sworn to and subscribed before me  
this 25<sup>th</sup> day of September, 2007.

  
NOTARY PUBLIC

My Commission Expires:




[Home](#) | [Help](#) | [Sign Out](#)
[Track & Confirm](#)
[FAQ](#)

## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0004 2883 3015  
Status: **Delivered**

Your item was delivered at 5:56 AM on August 13, 2007 in NEW YORK, NY 10010.

[Track & Confirm](#)

Enter Label/Receipt Number.

[Additional Details >](#)
[Return to USPS.com Home >](#)
[Go >](#)


POSTAL INSPECTORS  
Preserving the Trust

[site map](#)
[contact us](#)
[government services](#)
[jobs](#)
[National & Premier Accounts](#)

Copyright © 1999-2004 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

7006 0100 0004 2883 3015

U.S. Postal Service™	
<b>CERTIFIED MAIL™ RECEIPT</b>	
(Domestic Mail Only; No Insurance)	
For delivery information visit our web site	
<b>OFFICIAL</b>	
Postage	\$ 2.16
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.96
Sent To NY Life Ins. and Annuity Co. Street, Apt. No., or PO Box No. 51 Madison Ave., Room 10SB City, State, ZIP+4 New York, NY 10010	
PS Form 3800, June 2002 See Reverse for Instructions	

049J82041569  
\$00.00  
08/06/2007  
Mailed From 15219  
US POSTAGE


[Home](#) | [Help](#) | [Sign Out](#)
[Track & Confirm](#)
[FAQ](#)

## Track & Confirm

### Search Results

Label/Receipt Number: 7006 0100 0004 2883 3008

Status: **Delivered**

Your item was delivered at 5:56 AM on August 13, 2007 in NEW YORK, NY 10010.

[Track & Confirm](#)

Enter Label/Receipt Number.

[Additional Details >](#)
[Return to USPS.com Home >](#)
[Go >](#)

**POSTAL INSPECTORS**  
Preserving the Trust

[site map](#)
[contact us](#)
[government services](#)
[jobs](#)
[National & Premier Accounts](#)

Copyright © 1999-2004 USPS. All Rights Reserved. Terms of Use Privacy Policy

7006 0100 0004 2883 3008

### U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only, No Insurance)

For delivery information visit our website

OFFICIAL

Postage	\$ 2.16
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.96

04938204556

\$00.000

08/08/2007

Mailed From 15219

US POSTAGE

Sent To

NY Life Ins. Co.

Street, Apt. No.,  
or PO Box No.

51 Madison Ave., Room 10SB

City, State, ZIP+4

New York, NY 10010

PS Form 3800, June 2002

See Reverse for Instructions




[Home](#) | [Help](#) | [Site Map](#)
[Track & Confirm](#)
[FAQ](#)

## Track & Confirm

### Search Results

Label/Receipt Number: 7006 2760 0001 2133 0378

Status: **Delivered**

Your item was delivered at 12:46 PM on August 13, 2007 in BOYNTON BEACH, FL 33426.

[Track & Confirm](#)

Enter Label/Receipt Number.

[Go >](#)


POSTAL INSPECTORS  
Preserving the Trust

[site map](#)
[contact us](#)
[government services](#)
[jobs](#)
[National & Premier Accounts](#)

 Copyright © 1999-2004 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only, No Insurance)	
For delivery information, visit our website	
<b>OFFICIAL</b>	
Postage	\$ 2.33
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 7.13
Sent To <b>Settlement Funding, LLC</b> Street, Apt. No., or PO Box No. <b>3301 Quantum Boulevard</b> City, State, ZIP+4 <b>Boynton Beach, FL 33426</b>	
PS Form 3800, August 2006 See Reverse for Instructions	

7006 2760 0001 2133 0378

049J62041560  
\$00.000  
08/06/2007  
Mailed From 15219  
US POSTAGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

**FILED** ICC  
01/20/09/31 Atty Monks  
SEP 25 2007 (will serve)  
William A. Shaw  
Prothonotary/Clerk of Courts

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

No. 07 - 1194 - CD

**FINAL ORDER OF COURT**

AND NOW, this 25<sup>th</sup> day of September, 2007, upon presentation of the unopposed Petition of Ernest L. Lowe to Transfer Structured Settlement Payment Rights pursuant to the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009, it appearing to this Court that proper notice of the filing and presentation of this Petition was given to the Settlement Obligor, New York Life Insurance and Annuity Corporation, and to the Annuity Issuer, New York Life Insurance Company; and it further appearing that New York Life Insurance and Annuity Corporation and New York Life Insurance Company have not answered or otherwise appeared; after due consideration, this Court finds as follows:

1. This Court has subject matter and personal jurisdiction.
2. The transfer complies with the requirements of the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009, and does not contravene any applicable Federal or State statute or the order of any court or responsible administrative authority, or regulations or any applicable law limiting the transfer of workers' compensation claims.

3. Not less than ten (10) days prior to the date upon which the Petitioner first incurred any obligation with respect to the transfer, the Transferee, Settlement Funding, LLC provided the Petitioner a disclosure statement setting forth in boldface, minimum 12-point size type all of the following:

- a. The amounts and due dates of the structured settlement payments to be transferred.
- b. The aggregate amount of such payments.
- c. The discounted present value of such payments, together with the discount rate or rates used in determining such discounted present value.
- d. The gross amount payable to the Petitioner in exchange for such payments.
- e. An itemized listing of all brokers' commissions, service charges, application or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, expenses and charges payable by the Petitioner or deductible from the gross amount otherwise payable to the Petitioner.
- f. The net amount payable to the Petitioner after deduction of all commissions, fees, costs, expenses, and charges described above.
- g. The quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments.
- h. The amount of any penalty and the aggregate of any liquidated damages, inclusive of penalties, payable by the Petitioner in the event of any breach of the transfer agreement by the Petitioner.

4. The Petitioner has established that the transfer is in his best interests, taking into account the welfare and support of the Petitioner's dependents, if any, at time of entry of this Order of Court.

5. The Petitioner has obtained independent professional advice regarding the implications of the transfer, including consideration of the tax ramifications of the transfer.

6. The transfer has been expressly approved in writing by the Petitioner, and at the time the Petitioner and the Transferee proposed to enter into the Transfer Agreement, a favorable tax result was in effect. The approvals of the Annuity Issuer and Settlement Obligor are not required.

7. The Petitioner has given written notice pursuant to 40 P.S. § 4003 (a)(6) of the Transferee's name, address, and taxpayer identification number to the Annuity Issuer, and the Structured Settlement Obligor, and a copy of the written notice has been filed with the Court.

8. Prior to entering into the Transfer Agreement the Petitioner was provided with a written notice on a separate sheet that contains the following, in boldface, minimum 12-point size type required by 40 P.S. § 4003 (b):

**"IMPORTANT NOTICE:** You are strongly urged to consult with an attorney who can advise you of the potential tax consequences of this transaction."

9. Not less than 20 days prior to the scheduled hearing on the petition for authorization of a transfer of structured settlement payment rights under 40 P.S. § 4003, the Petitioner filed with the court and served on the Transferee a notice of the proposed transfer and the application for its authorization, including in the notice a copy of the Petitioner's Petition to the Court, a copy of the transfer agreement, a copy of the disclosure statement required under 40 P.S. § 4003, notification that the Transferee, the structured settlement obligor or the annuity issuer is entitled to support, oppose or otherwise respond to the Petition, either in person or by counsel, by submitting written comments to the court or by participating in the hearing and notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the petition must be filed.

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

NOW THEREFORE, in consideration of the foregoing findings, it is hereby ORDERED, ADJUDGED and DECREED that the Petition to Transfer Structured Settlement Payment Rights pursuant to the Structured Settlement Protection Act, 40 P.S. §§ 4001-4009 be and is hereby GRANTED as follows:

A. The transfer by Petitioner, Ernest L. Lowe to Transferee, Settlement Funding, LLC of the Transferred Payments (143 monthly payments each in the amount of \$600.00 commencing on November 1, 2007, through and including September 1, 2019, and 142 monthly payments each in the amount of \$1,362.00 commencing on October 1, 2019, through and including July 1, 2031) is hereby APPROVED.

B. The Settlement Obligor, New York Life Insurance and Annuity Corporation shall direct the Annuity Issuer, New York Life Insurance Company to send the Transferred Payments to Settlement Funding and its successors and/or assigns care of the following address:

Settlement Funding, LLC  
P.O. Box 116476  
Atlanta, GA 30368-6476

or such other address as Settlement Funding and its successors and/or assigns may designate upon written notice to Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company.

C. Settlement Funding, LLC and its successors and/or assigns shall defend, indemnify and hold harmless (collectively, the "Indemnity") the Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company from any claims, liability or damages, including, but not limited to, reasonable costs and attorneys' fees, arising from or in connection with (a) any disclosures made in or related to this Order of Court; (b) compliance by the Settlement Obligor, New York Life Insurance and

Annuity Corporation and the Annuity Issuer, New York Life Insurance Company with this Order of Court; and/or (c) the Transferee's failure to comply with the Act.

D. Settlement Funding and Petitioner Ernest L. Lowe agree that the terms of this Order of Court are based exclusively upon the facts, representations and circumstances of this particular case. Nothing in this Order of Court shall preclude Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company from contesting any other proposed transfer of structured settlement payment rights. This Order of Court is entered without prejudice to the rights of Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company and the Court makes no findings regarding the enforceability of any non-assignment provision(s) contained in the structured settlement agreement or related documents; provided, however, that the transfer of the Transferred Payments, as provided in this Order of Court shall be valid and enforceable against Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company in accordance with its terms. This Order of Court shall not serve as precedent in any way nor be cited in any matter. Nothing contained in this Order of Court shall be deemed to afford Petitioner Ernest L. Lowe and Settlement Funding, LLC any rights of ownership or control of the annuity or shall otherwise affect the exclusive ownership and control of the annuity by Settlement Obligor, New York Life Insurance and Annuity Corporation.

E. The death of Petitioner Ernest L. Lowe prior to the due date of the last Assigned Payment shall not affect the transfer of the Assigned Payments from Petitioner Ernest L. Lowe to Settlement Funding, and Petitioner Ernest L. Lowe understands that he is giving up his rights, and the rights of his heirs, successors and/or beneficiaries, to the Assigned Payments.

F. Pursuant to the Act, this Court orders that Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company are hereby discharged and immune from all liability to the Petitioner, anyone claiming through the Petitioner, or to any other person or entity (except Settlement Funding, LLC per the terms of this Order) for the Transferred Payments or for disclosures made in or related to this Order.

G. Compliance with the requirements and fulfillment of the conditions set forth in the Act shall be solely the responsibility of the Transferee in the transfer of the Transferred Payments, and neither Settlement Obligor, New York Life Insurance and Annuity Corporation nor the Annuity Issuer, New York Life Insurance Company shall bear any responsibility for, or any liability arising from, noncompliance with those requirements or failure to fulfill those conditions.

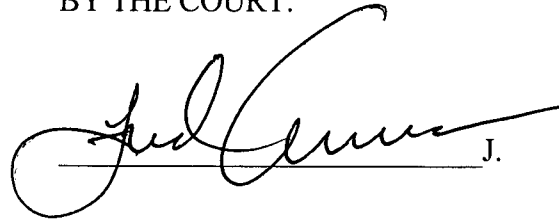
H. This Order shall be read in conjunction with prior order(s) of this or any other Court transferring payments to Settlement Funding, LLC and the payments transferred herein shall be in addition to payments transferred pursuant to any such prior order(s).

I. All interested parties, including Petitioner, the Transferee, the Structured Settlement Obligor, and the Annuity Issuer shall abide by the terms of the Transfer Agreement in all respects. This Order shall be considered a “qualified order” for purposes of 26 U.S.C.A. § 5891. Notice of the entry of this Order shall be served by Petitioner on all parties and Proof of Service shall be filed with the Court. Jurisdiction shall remain with this Court.

J. The Settlement Obligor, New York Life Insurance and Annuity Corporation and the Annuity Issuer, New York Life Insurance Company are directed to issue a formal acknowledgement letter of the transfer within twenty (20) days of the date of receipt of this

Order. The formal acknowledgement letter shall be delivered to Settlement Funding, LLC at 3301 Quantum Boulevard, Boynton Beach, FL 33426.

BY THE COURT:

 J.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA  
CIVIL DIVISION

IN RE: PETITION OF ERNEST L. LOWE  
TO TRANSFER STRUCTURED  
SETTLEMENT PAYMENT  
RIGHTS

No. 07 – 1194 - CD

**AFFIDAVIT OF SERVICE**  
**OF FINAL ORDER OF COURT APPROVING PETITION**

Before me, the undersigned authority, personally appeared, Robert L. Monks, who, after being first duly sworn according to law, deposes and says that on September 26, 2007, he served a true and correct copy of the Final Order of Court entered September 25, 2007, Approving the Petition of Ernest L. Lowe to Transfer Structured Settlement Payment Rights via regular U.S. mail, postage prepaid, upon the following:

New York Life Insurance and Annuity Corporation  
51 Madison Avenue, Room 10SB  
New York, NY 10010  
(Settlement Obligor)

New York Life Insurance Company  
51 Madison Avenue, Room 10SB  
New York, NY 10010  
(Annuity Issuer)

and

Settlement Funding, LLC  
3301 Quantum Boulevard  
Boynton Beach, FL 33426  
Attn: Court Order Group

**FILED** No cc  
SEP 28 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

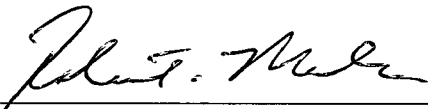
(Transferee)

and

Ernest L. Lowe  
66 Friendship Mine Rd.  
Houtzdale, PA 16651  
(Payee)

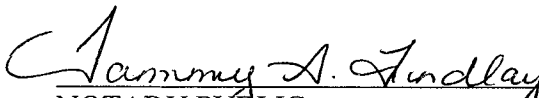
Respectfully submitted,

Jones, Gregg, Creehan & Gerace, LLP

By:   
Robert L. Monks  
PA ID No. 52760  
411 Seventh Avenue, Suite 1200  
Pittsburgh, PA 15219  
412-261-6400

Counsel for Petitioner, Ernest L. Lowe

Sworn to and subscribed before me  
this 26<sup>th</sup> day of September, 2007.

  
NOTARY PUBLIC

My Commission Expires:

