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## **AIG – ANALYSIS IN THE CONTEXT OF STRUCTURED SETTLEMENTS**

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As the dust settles on the federal “bailout” of AIG, it seems important to commit to writing what we have been telling our attorney clients, structured settlement annuity recipients, and other callers who have inquired about the safety of their existing “AIG” structured settlements. So let me start with our **CONCLUSION**:

*“It is our considered opinion at CCI that all structured settlement annuities issued by the two AIG life insurance subsidiaries offering this type of annuity with a “Qualified Assignment” are safe, and will continue to pay 100% of all annuity benefits to BOTH plaintiffs and to those attorneys who are recipients of structured attorneys’ fees.”*

A point worth mentioning: This was our opinion BEFORE the bailout, and it remains our opinion today . . . the day after the bailout announcement. Let me explain.

### **FACTS**

American International Group, Inc. (AIG) is an insurance conglomerate/holding company which owns approximately 130 separate and diverse corporations, most of which are in the “insurance” business in some form.

Four of these 130 corporations are the principal participants in the structured settlement business.

Two of the four are life insurers, American International Life Assurance Company of New York (AI Life) and American General Life Insurance Company (AmGen Life). Life insurers issue the annuities used to fund structured settlements.

The other two of these four AIG companies function in the structured settlement market as “assignment companies.” They are the corporate entities that assume the defendant’s (or defendant’s insurer’s) future periodic payment obligation to the

plaintiff (and to the plaintiff's attorney in cases with attorney fee structures) pursuant to a Qualified Assignment (*novation*) Agreement. These two assignment companies are American Home Assurance Company (AmHome) and American General Annuity Service Corp. (AGASC). AmHome assumes the future periodic payment obligation on New York cases where AI Life issues the annuity and AGASC does the same on non-NY cases where AmGen Life is the annuity issuer.

[A fifth company, AGC Life Insurance Company, guarantees the payment obligations of AGASC, and a sixth company, National Union Fire Insurance Company of Pittsburgh, PA acts as assignee when the underlying settled claim was insured by AmHome.]

As mandated by tax law, these assignment companies must own the annuities in cases involving a qualified assignment.

Based upon everything we have determined by research, read or heard in the press, including statements from the New York State Insurance Department and the National Association of Insurance Commissioners (NAIC), as well as AIG itself, it appears reasonably certain that not one of the AIG companies named above is involved in the type of risks (sub-prime mortgage investments and credit default swaps) that have caused the crisis unfolding before us. These are risks entirely borne by other corporate entities owned by AIG.

All of AIG's structured settlement subsidiaries appear to be solvent, backed by sufficient statutory reserves, surplus and general account assets to continually meet 100% of their structured settlement annuity obligations. None of the assets of these companies appear susceptible to be used to either pay or collateralize the debts of any AIG entity, including the parent corporation.

In his Tuesday September 16<sup>th</sup> federal bailout announcement, Governor Patterson clearly stated that his Monday (Sept. 15<sup>th</sup>) directive to the New York State Superintendent of Insurance to allow assets of AIG subsidiaries to be used to collateralize \$20billion of loans to cover AIG day to day operating expenses was NOT being employed. AIG itself announced that this type of plan, originally

reported by the New York Times, was "not pursued."

Describing the "\$85 Billion Secured Revolving Credit Facility" (federal bailout), AIG stated that the loan, ". . . is backed by profitable, well-capitalized operating subsidiaries with substantial value . . ." This means that the shares of the subsidiaries, and NOT the assets of the subsidiaries, back up the loan. If AIG were to default on its federal loan obligations, the stock of these subsidiaries (and not their assets) would be available for sale to repay the Federal Reserve. AIG would no longer own these subsidiaries, but the subsidiaries themselves would still be viable, functioning, solvent entities whose annuity obligations are backed by assets as described above.

Based upon the foregoing, it is reasonable to conclude, as a matter of fact, that the federal bailout DOES NOT INVOLVE THE USE OF ANY SUBSIDIARY ASSETS TO BE USED TO GUARANTEE OR COLLATERALIZE THE \$85BILLION LOAN TO AIG.

Additionally, New York State has perhaps the most stringent reserve requirements and carefully drawn insurance regulations in the nation to protect life and annuity policies issued by all New York licensed insurers. [Over the 27 plus years in which I have been CCI's general counsel, we have been involved in cases around the country where even non-New York judges have insisted on New York licensed or domiciled life insurers to be the structured settlement annuity issuer as a condition of approving infants' settlements . . . a testament to NY's diligent regulation of the insurance industry.]

## ANALYSIS

### *Consequences of Bankruptcy:*

Since the assets of the AIG companies involved in the structured settlement annuity business are separate and distinct from the assets of AIG, under a worst-case scenario where AIG had to file for bankruptcy, those separate and distinct assets would not be available to satisfy creditors of AIG. Instead, the trustee in bankruptcy would marshal AIG's assets, i.e. the stock of its 130 subsidiaries, sell this stock to raise funds to pay AIG's creditors, leaving the subsidiaries intact to

continue meeting their annuity obligations, *albeit*, under new ownership.

*Federal Bailout Consequences:*

Since the assets of AIG (not the assets of its subsidiaries) are pledged (in the form of a 79% stake which the Federal Reserve now has in AIG), to back up the \$85 billion credit line, the same result as in bankruptcy would occur if AIG fails to repay whatever money it actually borrows from the credit line. The Federal Reserve would presumably sell the stock in these companies to raise sufficient cash to repay itself, plus interest. The subsidiary companies themselves would continue operating. Since those entities in the structured settlement annuity business are financially solvent viable entities with sufficient assets and reserves to meet all annuity and life policy obligations, no structured settlement recipient (plaintiffs or their attorneys) should lose a penny of annuity benefit payment.

**SUMMARY**

This morning, I heard a financial reporter during the business report on WCBS News Radio 880 in New York describe the life and annuity obligations of the various AIG life insurer subsidiary corporations as "Safe and Separate". I also was told that New York State's Superintendent of Insurance, Eric Dinallo, provided the same analysis during several television interviews today.

**CONCLUSION**

*It is our considered opinion at CCI that all structured settlement annuities issued by the two AIG life insurance subsidiaries offering this type of annuity with a "Qualified Assignment" are safe, and will continue to pay 100% of all annuity benefits to BOTH plaintiffs and to those attorneys who are recipients of structured attorneys' fees.*

I have been saying the same thing all week . . . even when we thought that AIG, the parent/holding company, might file for bankruptcy. Why? Because AI Life, AmGen Life, (and the other AIG subsidiary corporations in the structured settlement industry) are solvent; have statutory reserves, surplus and quality general account assets committed only to backing up their life and annuity policy obligations; are not responsible for the debt of the parent corporation or any of the approximately 130 other separate corporations in the AIG group; and face no exposure for the types of risks assumed by other corporations in the group, or obligations of the parent, AIG.

In a bankruptcy, the shares of these life insurers, (and not their assets), and the shares of other valuable AIG subsidiaries which are owned by AIG, would likely be sold by the trustee in bankruptcy. This would not affect AI Life's or AmGen Life's ability to meet their life and annuity policy obligations. Similarly, in the federal bailout announced late last evening, it is the assets of AIG, that is, the stock of the subsidiary corporations which AIG owns, and not the assets of these subsidiaries, that back up the federal loan.

*AI Life and AmGen Life structured annuities are indeed Safe and Separate.*