

ANDREW N. MAIS, COMMISSIONER OF THE
CONNECTICUT INSURANCE DEPARTMENT,

Plaintiff,

v.

PHL VARIABLE INSURANCE COMPANY, ET
AL.,

Defendants.

SUPERIOR COURT
JUDICIAL DISTRICT
OF HARTFORD

May 17, 2024

**PETITION FOR ORDER OF REHABILITATION AND APPOINTMENT OF
STATE INSURANCE COMMISSIONER AS REHABILITATOR OF PHL VARIABLE
INSURANCE COMPANY, CONCORD RE, INC., AND PALISADO RE, INC.**

To the Superior Court to be held in Hartford, within and for the Judicial District of Hartford, comes the Honorable Andrew N. Mais, Insurance Commissioner of the State of Connecticut (the “Commissioner”), petitioning for an order of rehabilitation, substantially in the form attached hereto as Exhibit A, (i) commencing rehabilitation proceedings for, and appointing the Commissioner as rehabilitator (“Rehabilitator”) of PHL Variable Insurance Company (“PHL”), Concord Re, Inc. (“Concord”) and Palisado Re, Inc. (“Palisado,” and together with PHL and Concord, the “Companies”), pursuant to Conn. Gen. Stat. § 38a-914; and (ii) directing the Commissioner as Rehabilitator to take immediate possession of the Companies’ assets and to administer the assets under the general supervision of the Court (the “Petition”). In support of the Petition, the Commissioner relies on and incorporates by reference the affidavit of Michael Shanahan, Insurance Certified Supervising Examiner in the Financial Regulation Division of the Connecticut Insurance Department (the “Shanahan Affidavit” attached as Exhibit C), and represents as follows:

I. PARTIES

1. The Commissioner is the duly appointed Insurance Commissioner of the State of

Connecticut, charged with the duty of administering and enforcing the provisions of Title 38a of the Connecticut General Statutes, the insurance laws of the State of Connecticut.

2. PHL is a Connecticut-domiciled life insurance company having its principal offices at One American Row, Hartford, Connecticut 06103. It holds a certificate of authority to transact the business of insurance in Connecticut and is licensed in 48 states, the District of Columbia and Puerto Rico.

3. Palisado and Concord are Connecticut-domiciled captive insurance companies and wholly-owned subsidiaries of PHL. Their only business is the reinsurance of PHL's liabilities.

II. JURISDICTION

4. The Companies are subject to the provisions of the Insurers Rehabilitation and Liquidation Act, Conn. Gen. Stat. §§ 38a-903 to 38a-961 (the "Act").

5. The Commissioner has the sole authority to institute and maintain this proceeding before this Court pursuant to Conn. Gen. Stat. § 38a-906(a).

6. Pursuant to the Act, the Commissioner is authorized to apply to this Court for an order directing him to rehabilitate an insurer that, among other grounds, (a) is in a hazardous financial condition or (b) consents to rehabilitation.

7. Venue is proper in this Court pursuant to Conn. Gen. Stat. § 38a-906(e).

8. The Board of Directors of PHL, on behalf of PHL and as shareholder of Concord and Palisado, has passed the resolution attached as Exhibit B consenting to the rehabilitation of the Companies. The Connecticut Insurance Department (the "Department") has concluded that the transactions referred to in the Resolution were not and are not feasible and the Board of Directors has not identified any other viable transaction. As a result, the Department has concluded that rehabilitation is in the best interest of the Companies and their policyholders.

III. BACKGROUND

9. PHL is a provider of life insurance and annuity products and related supplemental contracts.¹ The life insurance products include universal life, whole life, variable life, and term. The annuity products include fixed annuities, indexed annuities, and variable annuities. A detailed description of PHL's in-force business is in Section II of the Shanahan Affidavit.

10. PHL is a direct, wholly-owned subsidiary of PHL Delaware LLC, a Delaware domiciled limited liability company ("PHL Delaware") whose ultimate parent company is Golden Gate Private Equity, Inc., a Delaware-domiciled corporation ("GG Holding Company").

11. Prior to 2021, PHL Delaware was a direct subsidiary of Nassau Insurance Group Holdings, L.P., which, together with its affiliates, including Nassau Insurance Group Holdings GP, LLC, Nassau Financial Group, L.P., Nassau Re (Cayman), Ltd. ("Nassau Re Cayman") and Nassau Financial Group Ltd. (collectively, the "Nassau Companies"), are wholly-owned subsidiaries of GG Holding Company.

12. In November 2021, the Department approved a corporate reorganization pursuant to which PHL and its subsidiaries were transferred by the Nassau Companies to GG Holding Company and thereby deconsolidated from the Nassau Companies.

13. Each of the Companies has a four person Board of Directors and two officers. The same individuals serve as such for each of the Companies

14. The Companies have no employees who are not officers. The Nassau Companies and certain of their affiliates provide services to PHL under a series of administrative, investment and shared services agreements (collectively the "Service Agreements"). The Service Agreements cover all day-to-day operations of the Companies.

¹ Life insurance policies and annuities are herein referred to as "policies" except where the context otherwise requires.

15. PHL ceased underwriting and issuing new policies at year-end 2019. In order to enhance PHL's ability to run-off its existing liabilities and meet all future policyholder obligations, PHL sought and received the Department's approval of a series of related party transactions that closed at year-end 2019. These included the following:

a. In November 2019, Concord was formed as a Connecticut-domiciled captive insurance company. PHL entered into a reinsurance agreement with Concord pursuant to which Concord reinsured 100% of PHL's liabilities not otherwise reinsured or "ceded" to third-party reinsurers.

b. Concord entered into an Excess of Loss Reinsurance Agreement (as amended and restated, the "XOL Agreement") with Nassau Re Cayman, pursuant to which Nassau Re Cayman would provide reinsurance coverage to Concord under a formula specified in the agreement.

c. The Nassau Companies made a capital contribution to PHL.

16. At the time these transactions closed at the end of 2019, PHL's projections showed that PHL and Concord would maintain adequate assets to pay all policyholders in full.

17. By year-end 2020, PHL's financial condition had deteriorated significantly. This deterioration was the result of increased mortality, in part due to the COVID-19 pandemic, the sustained low-interest rate environment and investments that did not perform as projected.

18. In early 2021, to address the challenging conditions facing PHL, it sought and received the Department's approval of a further series of transactions. The first set of these transactions closed in mid-2021. These included the following:

a. PHL reinsured a block of corporate owned life insurance referred to as "Group Executive Ordinary" ("GEO"). The insurance policies comprising the GEO business were issued by Sun Life and Health Insurance Company (U.S.) (formerly known as Phoenix American Life

Insurance Company) and originally reinsured to Nassau Life Insurance Company (“Nassau Life,” formerly known as Phoenix Life Insurance Company). Nassau Life then ceded an 80% interest in this reinsurance arrangement to PHL through a further reinsurance agreement (commonly referred to as a “retrocession”).

b. In May 2021, PHL transferred its interest in the retrocession of the GEO business to its affiliate Nassau Life and Annuity Company (“NLA”) through a further retrocession agreement effective March 31, 2021. NLA paid a purchase price (or “ceding commission”) to PHL for the retrocession, which was used to prepay expenses under the Service Agreements. PHL will have the option to unwind (or “recapture”) the retrocession to NLA and take back the GEO block of policies after a specified amount is received by NLA. Based on PHL’s fourth quarter 2022 projections, PHL expects this to occur between 2032 and 2033.

19. A further set of transactions closed in November 2021. These transactions included the following:

a. On November 12, 2021, Palisado was formed as a Connecticut-domiciled captive insurance company and wholly-owned subsidiary of PHL. The XOL Agreement was amended and restated and Nassau Re Cayman transferred its rights and obligations thereunder to Palisado effective November 15, 2021. The amount of coverage provided under the XOL Agreement was increased.

b. The Nassau Companies made an additional capital contribution to PHL.

c. A new slate of independent directors and officers for the Companies was appointed.

d. PHL and its subsidiaries were transferred by the Nassau Companies to GG Holding Company and thereby deconsolidated from the Nassau Companies.

20. As part of these transactions, PHL updated its financial modeling and produced

revised projections that showed sufficient near term claims-paying ability. The Department subsequently required that these projections be updated quarterly, with changes to assumptions underlying the projections as PHL believed necessary to reflect emerging experience. PHL has since provided the quarterly updates.

21. The Companies' financial condition continued to deteriorate, and on March 31, 2023, the Commissioner, pursuant to Conn. Gen. Stat. § 38a-962b, placed the Companies under an order of administrative supervision (the "Supervision Order") having determined that regulatory supervision was appropriate to help safeguard the financial security of the Companies. The Companies consented to the Supervision Order.

22. The Supervision Order was determined to be necessary as a result of the continued deterioration of the Companies' financial condition as well as uncertainty about its ability to remedy its financial condition. The Companies have been operating thereunder since March 31, 2023.

23. As detailed in the Shanahan Affidavit, as part of its heightened supervision of the Companies, the Department, working with its outside actuarial and financial professionals, developed its own set of economic actuarial assumptions based on its view of the Companies' experience (the "CID Assumptions"). The Department requested that PHL run the financial model that produces its liability projections using the CID Assumptions quarterly starting in the third quarter 2023. This modeling demonstrates that the Companies are in such condition that the further transaction of their business would be financially hazardous to their policyholders, creditors and the public. The projections as of the fourth quarter 2023, using the CID Assumptions, show the following:

- a. In the aggregate, on a present value basis, the Companies have capital and surplus

of approximately negative \$900 million.

b. The Companies' aggregate assets are projected to be exhausted in 2030. At that time, approximately \$1.46 billion of policyholder liabilities will remain unpaid.

24. In PHL's Actuarial Memorandum in Support of the Statutory Statement of Opinion Regarding the Adequacy of Reserves, as filed with PHL's statutory financial statement as of December 31, 2022,² PHL's appointed actuary stated that the results of his analysis has led to the issuance of an "inconclusive statement of opinion." The opinion acknowledges that 100% of PHL's net liabilities are reinsured to Concord and states that it is "unclear whether Concord Re will be able to meet its obligations throughout the entire duration of the reinsurance agreement with PHL."

25. The Companies have advised the Department that GG Holding Company will not provide additional capital or cause its subsidiaries or affiliates to do so in order to improve the Companies' financial condition.

IV. BASIS FOR RELIEF

26. As a result of the above, and based on the Shanahan Affidavit, the Companies are operating in a financially hazardous condition, a ground for rehabilitation pursuant to Conn. Gen. Stat. § 38a-914(1).

27. The Board of Directors of each of the Companies consented to the entry of an order of rehabilitation as sought by this Petition, as evidenced by Exhibit B.

28. The Companies lack sufficient assets to pay their ultimate liabilities and

² On April 29, 2024, PHL filed its statutory financial statement as of December 31, 2023, which reflects further deterioration of PHL's financial condition. PHL's external auditors, KPMG, issued a "going concern" opinion, dated April 29, 2024, stating that "the Company has stated that substantial doubt exists about the Company's ability to continue as a going concern." PHL's appointed actuary similarly provided an "adverse" opinion in the Statement of Actuarial Opinion that accompanied the December 31, 2023, financial statements citing an increasing likelihood that assets will not be sufficient to satisfy obligations in all future years.

obligations; they do not have access to additional capital from their parent or affiliates; they face short and intermediate term shortages of liquidity; and they do not have a realistic plan to address their deteriorated financial condition.

29. The Department has concluded that placing the Companies into rehabilitation is necessary to protect the interests of policyholders, creditors and the public.

30. The Commissioner should be appointed as rehabilitator for the Companies and be directed to proceed with rehabilitation pursuant to Conn. Gen. Stat. § 38a-915.

31. This Petition, pursuant to Conn. Gen. Stat. § 38a-907(a)(1), shall operate as an automatic stay applicable to all officers, managers, directors, trustees, owners, employees, attorneys, agents, creditors and policyholders of each Company and all other persons or entities of any nature, other than the Rehabilitator, which shall be permanent and survive the entry of an order of rehabilitation, which shall enjoin, restrain and otherwise prohibit:

- a) the transaction of further business of any Company unless so authorized by the Rehabilitator;
- b) transferring, selling, concealing, terminating, canceling, destroying, disposing or assigning any assets, funds or other property of any nature of any Company;
- c) any interference, in any manner, with the Rehabilitator in his possession of or title to the property and assets of any Company or in the discharge of his duties as Rehabilitator;
- d) any waste of any Company's assets or property;
- e) dissipation and transfer of any Company's bank accounts and negotiable instruments;
- f) the institution or further prosecution of any actions or proceedings in which any Company is a party;
- g) the obtaining of preferences, judgments, attachments, garnishments or liens against any Company, its assets, or its policyholders;
- h) the levying of execution against any Company, its assets, or its policyholders;

- i) the making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of any Company;
- j) the withholding from the Rehabilitator or his designees of books, accounts, documents, or other records relating to the business of any Company; or
- k) any other threatened or contemplated action that might lessen the value of any Company's assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of the receivership proceeding.

Notwithstanding anything to the contrary in this paragraph 31, this Petition shall not enjoin, restrain or otherwise prohibit PHL's producers from communicating with PHL policyholders in connection with their policies, or the Nassau Companies from providing administrative, investment and other services pursuant to the Services Agreements provided that such services are pursuant to direction provided by the Rehabilitator.

WHEREFORE, the Commissioner requests that the Court, pursuant to Conn. Gen. Stat. § 38a-915, issue a rehabilitation order (1) commencing rehabilitation proceedings with respect to the Companies and appointing the Commissioner as Rehabilitator of the Companies without bond, (2) directing the Commissioner as Rehabilitator to take immediate possession of the Companies' assets and to administer the assets under the general supervision of the Court; and (3) granting such other and further relief as to the Court shall appear just and proper.

Dated: May 17, 2024

Respectfully submitted,

PETITIONER
ANDREW N. MAIS, INSURANCE COMMISSIONER
OF THE STATE OF CONNECTICUT

WILLIAM TONG, ATTORNEY GENERAL

By /s/ AAG John Langmaid 434418

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EXHIBIT A

Proposed Order of Rehabilitation

ANDREW N. MAIS, COMMISSIONER OF THE
CONNECTICUT INSURANCE DEPARTMENT,

Plaintiff,

v.

PHL VARIABLE INSURANCE COMPANY, ET
AL.,

Defendants.

SUPERIOR COURT

JUDICIAL DISTRICT
OF HARTFORD

_____, 2024

**PROPOSED ORDER OF REHABILITATION AND APPOINTMENT OF STATE
INSURANCE COMMISSIONER AS REHABILITATOR OF PHL VARIABLE
INSURANCE COMPANY, CONCORD RE, INC., AND PALISADO RE, INC.**

On the Petition for Order of Rehabilitation and Appointment of State Insurance Commissioner as Rehabilitator dated May 17, 2024 (the “Petition”) of the Honorable Andrew N. Mais, Insurance Commissioner of the State of Connecticut (the “Commissioner”), pursuant to Conn. Gen. Stat. § 38a-914(1), seeking the entry of an order of rehabilitation and related relief concerning PHL Variable Insurance Company (“PHL”), Concord Re, Inc. (“Concord”), and Palisado Re, Inc. (“Palisado,” together with PHL and Concord, the “Companies” and each a “Company”), and on the Affidavit of Michael Shanahan in support thereof and submitted therewith, and on the certificate of service filed with the Petition, and the Companies having consented to the Petition, and good and sufficient cause appearing therefor,

THE COURT FINDS AND ORDERS AS FOLLOWS:

1. The Companies are each in such condition that further transaction of business would be financially hazardous to its policyholders, creditors and the public within the meaning of Conn. Gen. Stat. § 38a-914(1).

2. The board of directors of PHL and the shareholder of Concord and Palisado have consented to the rehabilitation of such Company within the meaning of Conn. Gen. Stat. § 38a-914(12).

3. Notice of the Petition was duly served on the Companies, and no other or further notice was required by law.

4. The Petition is **GRANTED**, and each of the Companies is placed in rehabilitation under the Insurers Rehabilitation and Liquidation Act, Conn. Gen. Stat. §§ 38a-903 to 38a-961 (the “Act”) as of _____ AM/PM of this _____ day of _____, 2024, and shall hereafter operate in accordance with the Act, this Order and further orders of this Court (the “Act and the Orders”).

5. Pursuant to Conn. Gen. Stat. § 38a-915(a), the Commissioner and his successors in office are hereby appointed as rehabilitator as defined in Conn. Gen. Stat. § 38a-905(19) (the “Rehabilitator”) of the Companies, vested with all powers set forth in the Act and the Orders.

Powers of the Rehabilitator

6. Pursuant to Conn. Gen. Stat. § 38a-915(a), the Rehabilitator shall directly, or through third parties duly authorized by him after the date hereof, conduct and continue the Companies’ businesses and affairs as he deems to be in the best interests of policyholders, creditors and the Companies’ estates subject to the Act and the Orders.

7. The Rehabilitator is hereby vested with all legal and equitable right, title, and interest in and to all of the Companies’ property as of the date of this Order and any property acquired by the Companies hereafter (the “Assets”). The Rehabilitator shall take possession and control of the Assets to the extent he considers it to be necessary and in the best interests of policyholders, creditors and the Companies’ estates. The Assets shall include the Companies’ property wherever located, including tangible and intangible assets, real and personal property, contracts, rights of action, documents, books, records, data, information, accounts, bank accounts, certificates of deposit, securities, funds, furniture, equipment, fixtures, and office supplies. The

Assets shall include any Company's interest in property securing obligations of third parties to such Company, and any Company's interest in property securing its obligations to any third party. The Assets shall also include insurance policies in which the Companies are covered or named, whether purchased by the Companies, one or more of their affiliates or third parties, including policies covering the Companies' liabilities as well as policies covering liability for the errors and omissions of officers, directors and employees.

8. The Rehabilitator is authorized to examine the Companies' businesses and affairs and take such actions as he deems necessary or appropriate to reform, revitalize, rehabilitate or run-off the Companies. If the Rehabilitator determines that further efforts to rehabilitate the Companies would substantially increase the risk of loss to creditors, policyholders or the public, or would be futile, he may apply to this Court for an Order of Liquidation pursuant to Conn. Gen. Stat. § 38a-918. The Rehabilitator shall have all the powers of the directors, officers and managers of the Companies, whose authority shall be suspended, except as they are redelegated by the Rehabilitator. The Rehabilitator may retain those of the Companies' current management personnel and other employees as he, in his discretion, determines would facilitate the rehabilitation of the Companies.

9. The Rehabilitator shall have all the powers and duties set forth in Conn. Gen. Stat. § 38a-916, including the authority to appoint one or more special deputies (the "Deputy Rehabilitators") who shall have such the powers and responsibilities as shall be delegated by the Rehabilitator under the Act and the Orders.

10. The Rehabilitator may employ counsel, clerks, employees, accountants, actuaries, consultants, assistants and other personnel (together with the Deputy Rehabilitators, the "Designees") as he deems necessary. The compensation of any Designees and all expenses of

taking possession of the Companies and of preparing for and conducting the proceedings and activities under the Act and this Order shall be fixed by the Rehabilitator and approved by the Court. Such compensation and expenses shall be paid out of the Assets. All Designees shall submit disputes concerning their rights, obligations and compensation in their capacity as Designees to this Court, which shall have exclusive jurisdiction over such disputes. The Designees shall not be deemed to be employees of the State of Connecticut and shall serve at the pleasure of the Rehabilitator.

11. Pursuant to Conn. Gen. Stat. § 38a-909, the Rehabilitator and the Designees (collectively, the “Indemnitees”) shall have no personal liability for their acts or omissions in connection with their duties; provided that such acts or omissions are or were undertaken in good faith and without willful misconduct, gross negligence, or criminal intent. All expenses, costs, and attorneys’ fees incurred by the Indemnitees in connection with any lawsuit brought against them in their representative capacities shall be subject to the approval of the Rehabilitator, except that in the event that the Rehabilitator is the Indemnitee, this Court’s approval shall be required. All expenses, costs, and attorneys’ fees of the Indemnitees shall be exclusively paid out of the Assets.

12. The Rehabilitator may, in his discretion, pay expenses incurred in the administration of the Companies’ estates (“Administrative Expenses”), including the costs of preserving or recovering the Assets, the costs of commencing these proceedings, taking possession of the Companies and the preparation therefor, the cost of goods and services provided to the Companies’ estates, reasonable professional fees (as approved by the Court), compensation to Designees retained by the Rehabilitator, a reasonable allocation of costs and expenses associated with time spent by the personnel of the Connecticut Insurance Department (the “Department”) in connection with the Companies’ rehabilitation, and obligations of the Companies incurred before

the entry of this Order; provided that the Rehabilitator shall have determined that the payment of such obligations are necessary for preservation of the Assets or otherwise in the best interests of the Companies' estates.

13. In the event that the Assets are not sufficient or appropriately liquid to pay the Administrative Expenses, the Commissioner may advance costs so incurred out of any appropriation for the maintenance of the Department. Any amounts so advanced for Administrative Expenses shall be repaid to the Department out of the first available money of the Companies.

14. The Rehabilitator shall have the authority to pursue all appropriate claims and remedies on behalf of the Companies, including, the powers granted pursuant to Conn. Gen. Stat. §§ 38a-916(f), 38a-928, and 38a-929 to avoid fraudulent transfers, and the powers pursuant to Conn. Gen. Stat. § 38a-916(d) with regard to any criminal or tortious conduct or breach of any contractual or fiduciary obligation detrimental to the Companies by any officer, manager, agent, producer, employee or other person or entity.

15. Pursuant to Conn. Gen. Stat. § 38a-916(e), if the Rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger, policy restructuring or other transformation of the Companies is appropriate, the Rehabilitator shall prepare a plan to effect such changes. Upon application of the Rehabilitator for approval of the plan, and after such notice and hearing as the Court may prescribe, the Court may either approve or disapprove the proposed plan or may modify the plan and approve it as modified.

Turnover of Assets

16. The Rehabilitator shall have the right to instruct and direct any trustee, bailee, or any agent in possession or control of Assets acting for or on behalf of any of the Companies to

take action or refrain from taking action as the Rehabilitator shall determine.

17. All persons or legal entities of any type (“Entities”) who have Assets in their possession, custody or control shall immediately:

- a) provide the Rehabilitator with an accounting of such Assets within thirty (30) calendar days of the entry of this Order, regardless of whether such Entities dispute the Rehabilitator’s entitlement to such Assets;
- b) tender possession, custody, and control of such Assets to the Rehabilitator within thirty (30) calendar days of the entry of this Order, regardless of whether such Entities dispute the Rehabilitator’s entitlement to such Assets; and
- c) take all necessary steps to safeguard, preserve, and retain the Assets.

The Separate Account

18. PHL established a separate account pursuant to Conn. Gen. Stat. § 38a-433 (the “Separate Account”) that has issued policies and annuities and holds designated Assets (the “Separate Account Assets”) that are held exclusively for the benefit of such policies. (Life insurance policies and annuities are herein referred to as “policies” except where the context otherwise requires.) The Separate Account Assets are Assets of the PHL estate, and are entitled to the protection of the Act and the Orders. The Separate Account Assets may be used solely for the benefit of policyholders (“Separate Account Policyholders”) whose policies were issued by the Separate Account and for the payment of the expenses of administering the Separate Account. The Rehabilitator is not a trustee with respect to the Separate Account Assets. The Separate Account Assets shall not be used for the benefit of other holders of policies issued by PHL unless and until all obligations to Separate Account Policyholders and administrative expenses incurred by the estate with respect to the Separate Account shall have been paid in full or full payment thereof shall have been provided for as determined by the Court.

Automatic Stay

19. Pursuant to Conn. Gen. Stat. § 38a-907, all Entities including, but not limited to,

administrators, officers, managers, directors, trustees, owners, employees, attorneys, agents, creditors, policyholders, reinsurers and cedents of the Companies, having notice of this proceeding or of this Order, other than the Rehabilitator or persons acting on behalf of the Companies with the consent of the Rehabilitator, are hereby enjoined, restrained and prohibited from:

- a) the transaction of any business of, or on behalf of, the Companies unless so authorized by the Rehabilitator;
- b) transferring, selling, concealing, terminating, canceling, destroying, disposing or assigning any Assets;
- c) interfering, in any manner, with the Rehabilitator in his possession and control of or title to the Assets or in the discharge of his duties as Rehabilitator;
- d) wasting Assets;
- e) the dissipation and transfer of bank accounts and negotiable instruments;
- f) the institution or further prosecution of any actions at law or in equity or in other proceedings against the Companies, the Rehabilitator, or the Designees in connection with their duties pursuant to the Act and the Orders, or exercising any right adverse to the right of the Companies to or in the Assets;
- g) the obtaining of preferences, judgments, attachments, garnishments or other like liens or encumbrances against the Companies or the Assets;
- h) the levying of execution or foreclosing upon or making any levy against the Companies or the Assets;
- i) the making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the Assets;
- j) the withholding from the Rehabilitator or his Designees of books, accounts, documents, or other records relating to the Companies' businesses and affairs; or
- k) any other threatened or contemplated action that might lessen the value of the Assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of the Companies' rehabilitation.

Notwithstanding anything to the contrary in this paragraph 19, this Order shall not enjoin, restrain or otherwise prohibit PHL's producers from communicating with PHL policyholders in connection with their policies, or the Nassau Companies from providing administrative, investment and other services pursuant to the Services Agreements (as such term is defined in the Petition) provided that such services are pursuant to direction provided by the Rehabilitator as provided in paragraphs 24 and 29 of this Order.

20. The commencement or continuation of any legal action to which any of the

Companies is a party in any jurisdiction is automatically stayed pursuant to Conn. Gen. Stat. § 38a-907(a)(1)(F), and every party to such contemplated or pending legal action is ordered and enjoined to desist commencement or prosecution thereof. The Rehabilitator shall not be required to petition courts in Connecticut or other states in order to obtain the benefit of the automatic stay. Notwithstanding the stay described in this paragraph 20, the Rehabilitator, in his sole discretion, may commence or continue any legal action to which any of the Companies is a party.

21. All officers, managers, directors, trustees, owners, employees or agents of the Companies, or any other Entities with authority over or in charge of any segment of the Companies' affairs, including, but not limited to, banks, savings and loan associations, financial or lending institutions, brokers, stock or mutual associations, investment managers or administrators shall, in accordance with Conn. Gen. Stat. § 38a-908, fully cooperate with, and shall not obstruct or interfere with, the Rehabilitator in the performance of his duties. The definition of "to cooperate" shall include, but not be limited to, a duty to do the following:

- a) reply promptly to any inquiry from the Rehabilitator, including a written reply when requested;
- b) provide the Rehabilitator with immediate, full and complete possession, control, access to, and use of all books, accounts, documents, and other records, information, or property of or pertaining to the Companies in his, her or its possession, custody, or control;
- c) provide the Rehabilitator with full and complete access to and control of all Assets, documents, data, computer systems, security systems, buildings, leaseholds, and property of or pertaining to the Companies; and
- d) disclose orally or in writing, in the transmission requested by the Rehabilitator, the exact whereabouts of such items and information referenced in paragraphs (b) and (c) above, if not in possession, custody or control of the officers, directors, trustees, employees or agents of the Companies, or any other person, firm, association, partnership, corporation or other Entity in charge of any aspect of such Companies' affairs.

Contracts

22. Pursuant to Conn. Gen. Stat. § 38a-915(c), the entry of this Order shall not constitute an anticipatory breach of any Company's contracts, nor shall it be grounds for

termination, revocation or cancellation of any Company's contracts. All Entities that have contracts with the Companies as of the date of this Order are stayed and enjoined from terminating such contracts, and shall continue to perform their obligations under such contracts unless and until otherwise ordered by the Court or directed by the Rehabilitator.

23. The Rehabilitator may, in his discretion, terminate any contracts in accordance with the applicable provisions of such contracts or may reject any contract upon order of the Court.

Financial Institutions and Custodians

24. Any bank, savings and loan association, depository institution, securities broker, securities dealer, financial institution or other Entity that has on deposit or in its possession, custody or control any funds, deposits, securities or any other Assets of the Companies (a "Financial Institution"), shall immediately (a) cease following directions previously issued by the Companies with respect to such Assets unless expressly authorized by the Rehabilitator, (b) seek instructions with respect to the disposition of the Assets from the Rehabilitator or his duly authorized representatives, (c) maintain and protect the Assets in accordance with commercially reasonable standards until instructions have been received and (d) transfer title, custody and control of the Assets in accordance with the instructions of the Rehabilitator. The Rehabilitator is authorized to maintain any existing account of the Companies at a Financial Institution provided that the title of the account shall be changed to recognize that the Assets are under the custody and control of the Rehabilitator for the benefit of the Companies' receivership estates.

25. No Financial Institution shall exercise any form of set-off, recoupment, lien, or any other form of self-help remedy against any Asset, including any refusal or failure to pay any obligation owed to any Company, without the permission of the Rehabilitator or authorization from the Court.

26. The Rehabilitator may, in his discretion, authorize Financial Institutions to honor checks issued on or before the date of the Petition even if such checks are not presented until after such date.

Agents and Brokers

27. All insurance agents, brokers or other Entities that sold insurance policies and/or collected premiums on behalf of the Companies (“Agents”) shall account for all earned premiums and commissions, and shall account for and pay all premiums received and commissions unearned due to policies canceled in the normal course of business, directly to the Rehabilitator within 30 days of this Order. No Agent shall use premium monies owed to the Companies for refund of unearned premiums or for any purpose other than payment to the Rehabilitator. The authority of Agents to issue or modify policies or annuities is suspended pending further direction of the Rehabilitator. The payment of commissions or other compensation to Agents shall continue for a period of six (6) months from the entry of this Order, at which time the Rehabilitator shall evaluate whether the continued payment of commissions or other compensation to Agents is in the best interest of the Companies and their policyholders. At that time, if the Rehabilitator determines that the continued payment of commissions or other compensation to Agents is not in the best interest of the Companies and their policyholders, he is authorized to immediately suspend such payment without further order of the Court.

Reinsurance and Reinsurers

28. The Rehabilitator is hereby vested with the right, title, and interest in and to all funds recoverable under treaties and agreements of reinsurance entered into by the Companies as the ceding insurer or as the assuming insurer. The amounts recoverable by the Rehabilitator from any reinsurer shall not be reduced or diminished as a result of this rehabilitation proceeding or by

reason of any partial payment or distribution by the Companies on a reinsured policy, contract, or claim. Each such reinsurer is hereby enjoined and restrained from terminating, canceling, failing to extend or renew, or reducing or changing coverage under any reinsurance policy, reinsurance contract or letter of credit. The Rehabilitator may terminate or reject any ceded or assumed reinsurance agreement or contract that is contrary to the best interests of the Companies' rehabilitation, or rescind such agreement or contract if permitted by other applicable law.

Administrators, Managers and Other Agents

29. Any administrator, manager, agent or other Entity that has been authorized to act for or on behalf of the Companies in the investment of its assets, the management of claims, the underwriting or administration of policies or any other aspect of the Companies' business (the "Business") shall immediately (a) cease following directions previously issued by the Companies with respect to the Business, (b) seek instructions with respect to the further administration of the Business from the Rehabilitator or his duly authorized representatives, (c) maintain and protect the Business in accordance with commercially reasonable standards until instructions have been received and (d) undertake the administration of the Business solely in accordance with the instructions of the Rehabilitator.

Creditor Claims

30. All creditor claims against the Companies are within the exclusive jurisdiction of this Court and will be determined, resolved, paid, and/or discharged, in whole or in part, according to the terms and conditions approved by the Court. Proofs of claim by any policyholder, creditor or other Entity shall not be required to be filed at this time, and will not be required until the Court shall have established procedures for filing and considering claims against the Companies and their estates.

Miscellaneous

31. Pursuant to Conn. Gen. Stat. § 38a-915(b), if the Companies remain in rehabilitation, the Rehabilitator shall submit an accounting to the Court of the Companies’ financial condition and progress toward rehabilitation on or before November 20, 2024, and thereafter at six-month intervals. Each accounting shall also include a report concerning the Rehabilitator’s opinion as to the likelihood that a plan of rehabilitation will be prepared by the Rehabilitator and the timetable for doing so.

32. This Court shall retain jurisdiction over this matter for all purposes necessary to effectuate and enforce the Act and the Orders. The Rehabilitator may at any time make further application for any such further relief, including, without limitation, any restraining order, preliminary or permanent injunctions, and other orders as he deems necessary.

33. Pursuant to Conn. Gen. Stat. § 38a-915(a), the filing or recording of this Order or a certified copy hereof with the Clerk of the Superior Court for the Judicial District of Hartford shall impart the same notice as a deed, bill of sale or other evidence of title duly filed or recorded with the recorder of deeds would have imparted.

34. The title of this case shall hereafter be “In the matter of PHL Variable Insurance Company, Inc., et al.” but the case number shall remain the same.

35. The determination by the Court that the Companies are in hazardous financial condition shall not be a finding of insolvency within the meaning of any life and health insurance guaranty association statute.

APPROVED AND SO ORDERED this ___ day of _____, 2024.

Hon. []
Superior Court Judge

EXHIBIT B

Consent to Rehabilitation

**PHL Variable Insurance Company
Concord Re, Inc.
Palisado Re, Inc.**

We, the undersigned, being all of the members of the Boards of Directors PHL Variable Insurance Company; Concord Re, Inc.; and Palisado Re, Inc. (collectively, the “Company”) in order to address the issue of consent to rehabilitation proceedings that may be initiated by the Connecticut Insurance Department (the “Department”), do hereby waive notice of a meeting and consent to the following resolutions, such actions to have the same force and effect as if taken at a meeting duly called and held for such purposes:

WHEREAS, the Board of Directors has regularly convened to review potential means of addressing the Company’s financial condition and to consider alternatives to rehabilitation;

WHEREAS, the Company is subject to an Order of Administrative Supervision by the Department;

WHEREAS, the Board of Directors regularly convened to discuss and attempt to identify potential transactions, means of raising capital and otherwise mitigate the Company’s financial distress;

WHEREAS, the Department has told the Board in writing that it is the view of the Department that the proposed Wilton Re transaction cannot be completed under the Connecticut division statute, Conn. Gen. Stat. §§ 38a-156R to 38a-156X;

WHEREAS, the Department has communicated that it will not consider other alternatives to rehabilitation such as a cost-of-insurance rate increase;

WHEREAS, the Department and its advisors have presented to certain members of the Board of Directors the outline of a potentially viable rehabilitation plan, in which the Department would, among other things, seek a court order revising policy terms and conditions and placing a moratorium on payments to facilitate possible transactions involving the Company’s business on terms that would be accretive to the Company;

WHEREAS, the Board of Directors has sought and received the advice of counsel in light of these circumstances and is not aware at this time of any viable, strategic alternative to rehabilitation to address Company’s financial condition; and

WHEREAS, as authorized in the Company’s articles and bylaws, the Board of Directors has determined that it is in the best interest of the Company and its policyholders to consent to rehabilitation.

NOW, THEREFORE, IT IS HEREBY RESOLVED, that barring any reconsideration by the Department with respect to the Wilton Re transaction or other possible transaction involving the Division Statute, PHL Variable Insurance Company consents to the entry of an Order of Rehabilitation and the appointment of the Honorable Andrew N. Mais, Insurance Commissioner

of the State of Connecticut, and his successors in office, as Rehabilitator of PHL Variable Insurance Company pursuant to Conn. Gen. Stat. §§ 38a-903 to 38a-961, inclusive (the “Act”);

FURTHER RESOLVED, PHL Variable Insurance Company, as the holder of all of the shares of each of Concord Re, Inc. (“Concord”) and Palisado Re, Inc. (“Palisado”) entitled to vote, consents to the entry of an Order of Rehabilitation and the appointment of the Honorable Andrew N. Mais, Insurance Commissioner of the State of Connecticut, and his successors in office, as Rehabilitator of each of Concord and Palisado, pursuant to the Act.

FURTHER RESOLVED, this resolution shall be fully operative, and no further document shall be required to evidence or implement the foregoing consent; and

FURTHER RESOLVED, each officer of PHL Variable Insurance Company, Concord and Palisado is hereby authorized and directed to take any and all further action that shall be necessary or convenient to facilitate the commencement of rehabilitation proceedings for PHL Variable Insurance Company, Concord and Palisado, if the Department commences such proceedings.



Gina Collopy O’Connell



Gregory Serio



Joseph Tedone



Eric Marhoun

Dated: 5/9/2024

**PHL Delaware LLC
PHL Variable Insurance Company
Concord Re, Inc.
Palisado Re, Inc.
Westgate Delaware LLC
DSM Sands LLC**

We, the undersigned, being all of the members of the Boards of Directors and Managers of PHL Delaware LLC; PHL Variable Insurance Company; Concord Re, Inc.; Palisado Re, Inc.; Westgate Delaware LLC; and DSM Sands LLC (collectively, the "Company") do hereby waive notice of a meeting and consent to the following resolution, such action to have the same force and effect as if taken at a meeting duly called and held for such purpose.

**Waiver of Notice of Special Meetings and
Approval of Special Meeting Minutes**

- WHEREAS,** Multiple special joint Board of Directors and Managers meetings of the Company were held in February 2024; and
- WHEREAS,** The Directors and Managers have waived notice of said special meetings; and
- WHEREAS,** The Directors and Managers have reviewed all of the draft special joint meeting minutes and consent to their approval.

NOW THEREFORE, BE IT:

- RESOLVED,** That the undersigned Directors and Managers hereby waive notice of the special joint meetings of the Boards of Directors and Managers held on the dates below; and
- RESOLVED,** That the Directors and Managers hereby approve the minutes of the special joint meetings of the Board of Directors and Managers meetings held on:

February 1, 2024
February 13, 2024
February 23, 2024

February 7, 2024
February 15, 2024



Gina Collopy O'Connell



Joseph Tedone



Gregory Serio



Eric Marhoun (all except PHL Delaware LLC)

Dated: 4/30/24

EXHIBIT C

Shanahan Affidavit

ANDREW N. MAIS,	:	SUPERIOR COURT
COMMISSIONER OF THE CONNECTICUT	:	
INSURANCE DEPARTMENT,	:	
Plaintiff,	:	JUDICIAL DISTRICT OF HARTFORD
	:	
v.	:	
	:	
PHL VARIABLE INSURANCE COMPANY,	:	May 17, 2024
ET AL.,	:	
Defendants.	:	

**AFFIDAVIT OF MICHAEL SHANAHAN IN SUPPORT
OF PETITION FOR REHABILITATION AND MOTION FOR A MORATORIUM ON
CERTAIN BENEFIT PAYMENTS AND TRANSACTIONS**

I, Michael Shanahan, being duly sworn, hereby depose and say:

1. I am over eighteen years of age and believe in the obligations of an oath.
2. I am the Insurance Certified Supervising Examiner in the Financial Regulation Division of the Connecticut Insurance Department (the "Department") supervising the statutorily required quinquennial financial condition examination of PHL Variable Insurance Company ("PHL"). As Supervising Examiner, I supervise a staff of examiners and other professionals employed by the Department, as well as individuals at professional firms engaged by the Department who work on the examination of PHL and report to me.
3. I make this affidavit based on my own review of documents provided by PHL and its wholly owned subsidiaries Concord Re, Inc. ("Concord") and Palisado Re, Inc. ("Palisado") and, together with PHL and Concord, the "Companies", my review of documents prepared by my staff and outside professionals under my supervision and interviews with my staff, outside professionals and representatives of the Companies.
4. On the basis of the foregoing, I have developed the information in this affidavit related to the Companies, which I believe to be true and correct.
5. I submit this affidavit in support of the Petition for Order of Rehabilitation and

Appointment of State Insurance Commissioner as Rehabilitator of the Companies and the Rehabilitator's Motion for a Moratorium on Certain Benefit Payments and Transactions, filed on May 17, 2024.

I. Background and History

6. PHL is a Connecticut-domiciled life insurance and annuity company. It holds a certificate of authority to transact the business of insurance in Connecticut and is licensed in 48 states, the District of Columbia and Puerto Rico.

7. Concord and Palisado are Connecticut-domiciled captive insurance companies and wholly-owned subsidiaries of PHL. Their only business is the reinsurance of PHL's liabilities.

8. PHL is a direct, wholly-owned subsidiary of PHL Delaware LLC, a Delaware domiciled limited liability company ("PHL Delaware") whose ultimate parent company is Golden Gate Private Equity, Inc., a Delaware-domiciled corporation ("GG Holding Company"). GG Holding Company also owns Nassau Insurance Group Holdings, L.P. and its affiliates, Nassau Insurance Group Holdings GP, LLC, Nassau Financial Group, L.P., Nassau Re (Cayman), Ltd. ("Nassau Re Cayman") and Nassau Financial Group Ltd. (collectively, the "Nassau Companies"). Prior to November 2021 PHL Delaware was a direct subsidiary of Nassau Insurance Group Holdings, L.P.

9. Each of the Companies has a four person Board of Directors and two officers. The same individuals serve as such for each of the Companies.

10. The Companies have no employees who are not officers. The Nassau Companies and certain of their affiliates provide services to PHL under a series of administrative, investment and shared services agreements (collectively the "Service Agreements"). The Service Agreements cover all day-to-day operations of the Companies.

11. PHL ceased underwriting and issuing new policies at year-end 2019. In order to enhance PHL's ability to run-off its existing liabilities and meet all future policyholder obligations, PHL sought and received the Department's approval of a series of related party transactions.

2019 Transactions

12. The first set of transactions closed at year-end 2019. They include the following:

a. In November 2019, Concord was formed as a Connecticut-domiciled captive insurance company. PHL entered into a reinsurance agreement with Concord pursuant to which Concord reinsured 100% of PHL's liabilities not otherwise reinsured or "ceded" to third-party reinsurers.

b. Concord entered into an Excess of Loss Reinsurance Agreement (as amended and restated, the "XOL Agreement") with Nassau Re Cayman, pursuant to which Nassau Re Cayman would provide reinsurance coverage to Concord under a formula specified in the agreement.

c. The Nassau Companies made a capital contribution to PHL.

13. After the closing of these transactions, PHL's projections showed that PHL and Concord would maintain adequate assets to pay all policyholders in full.

14. By year-end 2020, PHL's financial condition had deteriorated significantly as a result of increased mortality, in part due to the COVID-19 pandemic, the sustained low-interest rate environment and investments that did not perform as projected.

2021 Transactions

15. The next set of transactions closed in mid-2021. These included the following:

a. PHL reinsured a block of corporate owned life insurance referred to as "Group Executive Ordinary" ("GEO"). The insurance policies comprising the GEO business were

issued by Sun Life and Health Insurance Company (U.S.) (formerly known as Phoenix American Life Insurance Company) and originally reinsured to Nassau Life Insurance Company (“Nassau Life” formerly known as Phoenix Life Insurance Company). Nassau Life then ceded an 80% interest in this reinsurance arrangement to PHL through a further reinsurance agreement (commonly referred to as a “retrocession”).

b. In May 2021, PHL transferred its interest in the retrocession of the GEO business to affiliate Nassau Life and Annuity Company (“NLA”) through a further retrocession agreement effective March 31, 2021. NLA paid a purchase price (or “ceding commission”) to PHL for the retrocession, which was used to prepay expenses under the Service Agreements. PHL will have the option to unwind (or “recapture”) the retrocession to NLA and take back the GEO block of policies after a specified amount is received by NLA. Based on PHL’s fourth quarter 2022 projections, PHL expects this to occur between 2032 and 2033.

16. Later in 2021, to address the continued deterioration of PHL’s and Concord’s financial condition, it sought and received the Department’s approval for the last set of transactions, which closed in November 2021. These included the following:

a. On November 12, 2021, Palisado was formed as a Connecticut-domiciled captive insurance company and wholly-owned subsidiary of PHL. The XOL Agreement was amended and restated and Nassau Re Cayman transferred its rights and obligations thereunder to Palisado effective November 15, 2021. The amount of coverage provided under the XOL Agreement was increased.

b. The Nassau Companies made an additional capital contribution to PHL.

c. A new slate of independent directors and officers for the Companies was appointed.

d. PHL and its subsidiaries were transferred by the Nassau Companies to another entity owned by GG Holding Company and thereby deconsolidated from the Nassau Companies.

17. As part of these transactions, PHL updated its financial modeling and produced revised projections that showed sufficient near term claims-paying ability. The Department subsequently required that these projections be updated quarterly, with changes to assumptions underlying the projections as PHL believed necessary to reflect emerging experience. PHL has since provided the quarterly updates.

Order of Supervision

18. On March 31, 2023, Andrew N. Mais, Commissioner of the Connecticut Insurance Department, pursuant to Conn. Gen. Stat. § 38a-962b, with the consent of the Companies, placed the Companies under an order of administrative supervision (the “Supervision Order”) having determined that regulatory supervision was appropriate to help safeguard the financial security of the Companies.

19. The Supervision Order was determined to be necessary as a result of the continued deterioration of the Companies’ financial condition as well as uncertainty about its ability to remedy its financial condition. The Companies have been operating thereunder since March 31, 2023.

II. PHL’s In-force Business

20. PHL is an insurance company that wrote both simple and complex life insurance policies and annuities. (Life insurance policies and annuities are herein referred to as “policies” except where the context otherwise requires.) The complex policies had sophisticated investment features that allowed policyholders to select investments pertaining to the policy.

21. PHL has a separate account (the “Separate Account”) as well as a general account (the “General Account”). A separate account is a subset of an insurance company’s assets that have been segregated within the insurance company pursuant to Conn. Gen. Stat. § 38a-433 to support a specified group of policies that were issued by the separate account. The Separate Account policies state that they are issued by a separate account.

22. The Separate Account of PHL issued variable universal life policies and variable annuities (together, the “Variable Products”) out of subaccounts titled PHL Variable Accumulation Account, PHL Variable Accumulation Account II and PHLVIC Variable Universal Life Account (collectively, the “Unitized Subaccounts”). The Unitized Subaccounts are registered as unit investment trusts under the Investment Company Act of 1940. The Variable Products combine features of traditional insurance policies (such as death benefits and annuity payments) with features of an investment account (such as selection of mutual funds or other investments to be held in the Unitized Subaccount for the benefit of the policyholder). The Variable Products are “unitized,” which means that the policyholder’s premium payments buy an investment “unit” of the relevant subaccounts and the subaccounts actually hold the particular investments selected by the policyholder. The value a policyholder would receive in exchange for canceling the policy (generally referred to as the “surrender value”) will largely be determined by the market value of the investments selected by the policyholder in the subaccounts. Based on the Department’s examination and analysis to date, assets in the Unitized Subaccounts are comprised of the investments selected by holders of Variable Products.

23. The Separate Account also issued fixed indexed deferred annuity products (the “FIAs”) out of a subaccount titled MVA1 Separate Account (the “Non-unitized Subaccount”). The FIAs combine features of traditional insurance policies (such as death benefits and annuity

payments) with investment features. Under the investment feature, the Non-unitized Subaccount establishes an account for each policyholder based on the amount of premium paid by that policyholder. The policyholder is then permitted to select a crediting rate for the account, which typically corresponds to an investment index (such as the S&P 500). Periodically, the policyholder's account is adjusted to reflect the performance of the index as if the amount in the account had actually been invested in the assets represented by the index. However, unlike the Unitized Subaccounts, the investments in the Non-Unitized Subaccount are not required to be comprised of the investments chosen by policyholders and they are not comprised of such investments.

24. PHL has approximately \$0.8 billion (fair value) of investment assets in the Unitized Subaccount, and approximately \$2.2 billion (general account basis or book value) in the Non-Unitized Subaccount, each as reported in PHL's statutory financial statement as of December 31, 2022, filed with the Department on May 1, 2023 (the "2022 Financial Statement").¹

25. The General Account includes all other assets of PHL and supports policies issued by PHL that were not specifically designated as having been issued by the Separate Account. It also supports certain obligations under Separate Account policies (e.g., guaranteed interest rate investments and guaranteed death benefits under certain policies). PHL has approximately \$1.4 billion of admitted assets in the General Account as reported in the 2022 Financial Statement.

26. Assets in the Separate Account are used first to satisfy liabilities of Separate Account policies. If assets remain after such liabilities are satisfied, they are available to pay the

¹ On April 29, 2024, PHL filed its statutory financial statement as of December 31, 2023, which reflects further deterioration of PHL's financial condition. PHL's external auditors, KPMG, issued a "going concern" opinion, dated April 29, 2024, stating that "the Company has stated that substantial doubt exists about the Company's ability to continue as a going concern." PHL's appointed actuary similarly provided an "adverse" opinion in the Statement of Actuarial Opinion that accompanied the December 31, 2023, financial statements citing an increasing likelihood that assets will not be sufficient to satisfy obligations in all future years.

liabilities of the General Account. Under applicable regulations, the General Account is obligated to provide assets to the Separate Account in the event that the Separate Account has insufficient assets to satisfy its obligations, including under policy provisions that guaranty a fixed death benefit or fixed annuity payments.

27. The General Account issued a wide array of policies. These include traditional term life insurance policies, whole life insurance policies and fixed annuities. The General Account also issued more complex policies, such as universal life policies, with investment features similar to the FIAs. Like those products, the accounts of the policyholders are not backed by unitized subaccounts. As a result, the assets in the General Account do not directly define the crediting rate for the investment features of those policies.

28. Among the more complex policies issued by the General Account was the Phoenix Accumulator Universal Life (“PAUL”) series, which was the primary universal life product sold by PHL until 2009. Under these policies, the policyholder may pay premiums at any time in various amounts, subject to specified minimums. The policy pays a specified death benefit in a fixed amount and has a cash value that will vary depending on the amount of premium paid by the policyholder and market conditions.

29. The majority of PAUL sales from 2004 to 2007 were to policyholders with issue ages over 70 and high face amounts. A material number of these policies were later sold by policyholders to unrelated third party investors. In a typical transaction, the investor paid a fixed amount to the policyholder, who transferred the right to receive death benefits under the policy to the investor. Upon the policyholder’s death, the investor will receive the death benefit.

30. The investor-owned policies are problematic for PHL because the investors typically pay only the minimum premium required to keep the policy in force. The policies were

priced on the assumption that the policyholders would pay significantly more than the minimum premium in order to take advantage of the investment features of the policy. This would have provided more funds that PHL could have invested before being required to pay death benefits to the policyholder. These policies comprise PHL's most unprofitable block and are a major cause of the continued deterioration of the Companies' financial condition.

III. The Companies' Financial Condition

31. Since entry of the Supervision Order, the Department has continued to monitor the Companies' financial condition and conducted regular meetings with the Companies and the Companies' representatives to discuss its financial condition and the Companies' plans to remedy that condition.

32. As part of its ongoing supervision of the Companies, the Department, working with its outside actuarial and financial professionals, has conducted an examination and analysis of the Companies' financial condition, including claims and investment experience, and the actuarial assumptions underlying its liability projections.

33. The Department, working with its outside actuarial and financial professionals, developed its own set of economic actuarial assumptions based on its view of the Companies' experience (the "CID Assumptions"). The Department requested that PHL run the financial model that produces its liability projections using the CID Assumptions quarterly starting in the third quarter 2023. The projections as of the fourth quarter 2023 show the following:

a. In the aggregate, on a present value basis, the Companies have capital and surplus of approximately negative \$900 million.

b. The Companies' aggregate assets are projected to be exhausted in 2030. At that time, approximately \$1.46 billion of policyholder liabilities will remain unpaid.

34. Based on the Department's examination and analysis, there are not sufficient assets in the General Account to meet its investment or benefit obligations to policyholders and also satisfy its ongoing obligations for operating expenses.

35. In PHL's Actuarial Memorandum in Support of the Statutory Statement of Opinion Regarding the Adequacy of Reserves, as filed with the 2022 Financial Statement, PHL's appointed actuary stated that the results of his analysis has led to the issuance of an "inconclusive statement of opinion." The opinion acknowledged that 100% of PHL's net liabilities are reinsured to Concord and stated that it is "unclear whether Concord Re will be able to meet its obligations throughout the entire duration of the reinsurance agreement with PHL." In PHL's Actuarial Memorandum in support of its December 31, 2023, financial statements, its appointed actuary provided an "adverse" opinion, stating that "adverse morality experience led to further deterioration in Concord Re's surplus position, increasing the likelihood that its assets will not be sufficient to satisfy its obligations in all future years."

36. The Companies have advised the Department that GG Holding Company will not provide additional capital or cause its subsidiaries or affiliates to do so in order to improve the Companies' financial condition.

37. If PHL were required to continue paying policy obligations in the ordinary course, it would exhaust its assets before all policyholders were paid thereby favoring policyholders whose obligations became due soon over policyholders whose obligations became due later.


38. If PHL were required to continue paying policy obligations in the ordinary course, it could be required to liquidate a substantial portion of the assets of the General Account and the Non-unitized Subaccount in a short period. The assets in these accounts include a large volume of complex and below investment grade investments, for which there is a limited market. A sale

of such assets under time pressure could result in depressed sales prices.

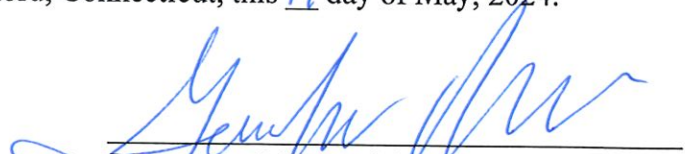
39. The Companies lack sufficient assets to pay their ultimate liabilities and obligations; they do not have access to additional capital from their parent or affiliates; they face short and intermediate term shortages of liquidity; and they do not have a realistic plan to address their deteriorated financial condition.

40. On the basis of the foregoing, I believe that the Companies are in a financial condition that is hazardous to their policyholders, creditors and the public. The Department has concluded that placing the Companies into rehabilitation is necessary to protect the interests of policyholders, creditors and the public.

I have read the preceding statement and to the best of my knowledge, information and belief, it is true.


Michael Shanahan

Subscribed and sworn to me at Hartford, Connecticut, this 17 day of May, 2024.


[Notary or Officer of the Superior Court]

