

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MARTIN FLEISHER, AS TRUSTEE OF THE)	
MICHAEL MOSS IRREVOCABLE LIFE)	Civil Action No.
INSURANCE TRUST II and JONATHAN)	11-cv-8405(CM)(JCF)
BERCK, AS TRUSTEE OF THE JOHN L. LOEB,)	
JR. INSURANCE TRUST, on behalf of)	
themselves and all others similarly situated,)	
)	
Plaintiff,)	
)	
vs.)	
)	
PHOENIX LIFE INSURANCE COMPANY,)	
)	
Defendant.)	
)	
)	
)	

SPRR LLC, on behalf of itself and all others)	
similarly situated,)	Civil Action No. 14-cv-8714 (CM)
)	
Plaintiff,)	
)	
vs.)	
)	
PHL VARIABLE INSURANCE CO.,)	
)	
Defendant.)	
)	
)	
)	
)	

[PROPOSED] FINAL JUDGMENT

WHEREAS, Class Plaintiffs Martin Fleisher, as Trustee of the Michael Moss Irrevocable Life Insurance Trust II and Jonathan Berck, as Trustee of the John L. Loeb, Jr. Insurance Trust,

in Civil Action No. 11-cv-8405(CM), and Plaintiff SPRR LLC in Civil Action No. 14-cv-8714 (together, “Class Plaintiffs” or “Named Plaintiffs”), for themselves and on behalf of the proposed Settlement Class, entered into an agreement (the “Settlement”) with Defendants Phoenix Life Insurance Company and PHL Variable Insurance Company (together, “Defendants” or “Phoenix”).

WHEREAS, On June 3, 2015 the Court entered its Order granting preliminary approval of the proposed settlement (“Preliminary Approval Order”) (Dkt. # 303). Among other things, the Preliminary Approval Order authorized Class Plaintiffs to disseminate notice of the Settlement, the fairness hearing, and related matters to the Class. Notice was provided to the Class pursuant to the Preliminary Approval Order on June 17, 2015, and the Court held a fairness hearing on September 9, 2015 at 10 a.m.

WHEREAS, on September 9, 2015, this Court entered a Decision and Order Approving Class Action Settlement And Approving Motion For Attorneys’ Fees (11-cv-8405 Dkt. # 318).

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The capitalized terms used herein shall have the meanings set forth in the Stipulation of Settlement, Exhibit B to the Declaration of Steven G. Sklaver in Support of Preliminary Approval of Settlement (Docket # 299-2) (the “Settlement”).

2. The eight individuals and entities who timely and validly requested exclusion from the Class as identified in the Declaration of Joel Botzet, filed August 19, 2015, are excluded. These individuals and entities are not included in or bound by this Order and Final Judgment and are not entitled to any recovery from the settlement proceeds obtained through this Settlement.

3. Policy No. 97523619, identified by Michael Bindow as insuring his father and owned by Rosalyn Bindow, is not a Class Policy and is not entitled to any recovery from the settlement proceeds obtained through this Settlement.

4. This Order and Final Judgment shall operate as a complete bar order that discharges and releases the Released Claims by the Releasers as to all the Releasees.

5. The institution and prosecution, by Class Plaintiffs and any Class Member, either directly, individually, representatively, derivatively or in any other capacity, by whatever means, of any other action against the Releasees in any court, or in any agency or other authority or arbitral or other forum wherever located, asserting any of the Released Claims is permanently barred, enjoined and restrained.

6. The Settlement Administrator is authorized to distribute from the Settlement Fund to Class Members the amounts that Class Counsel and the Settlement Administrator have determined are owed to each Class Member under the terms of the approved Distribution Plan.

7. Class Members are permanently barred, enjoined and restrained from making any claims against the Settlement Fund, and all persons, including the Claims Administrator, Plaintiffs and Class Plaintiffs' Counsel and Defendants and Defendants' counsel, involved in the processing of distributions from the Settlement Fund are released and discharged from from any claims arising out of such involvement.

8. There is no just reason for delay in directing entry of a Final Judgment as to Defendants.

9. The Settlement Fund Escrow Account established by Class Plaintiffs and Defendants, and into which Defendants deposited a total \$5,000,000 seven calendar days after preliminary approval and into which Defendants deposited \$29,759,820.88, the remainder of the

Settlement Fund, seven calendar days after final approval, and the Attorneys' Fee Escrow Account, into which Defendants deposited a total of \$6,000,000, are approved as a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

10. Neither the Settlement, nor any act performed or document executed pursuant to the Settlement, may be deemed or used as an admission of wrongdoing in any civil, criminal, administrative, or other proceeding in any jurisdiction.

11. Plaintiffs are authorized to pay from the Settlement Fund costs and expenses incurred and expected to be incurred by the Settlement Administrator in assisting Class Members with filing and processing claims and distributing the Net Settlement Fund, including the \$22,799 incurred to date.

12. Plaintiffs are authorized to pay from the Settlement Fund Class Counsel's outstanding expenses of \$11,606.88, which were incurred after the motion for fees and costs.

13. The Action is dismissed with prejudice as to Defendants and, except as provided in § 15 of the Settlement Agreement, without costs to either party.

14. Without affecting the finality of this Order and Final Judgment, the Court retains continuing and exclusive jurisdiction over the enforcement of this Order and Final Judgment and the enforcement of the Settlement, including all future proceedings concerning the administration and enforcement of the Settlement Agreement.

ENTERED this ____ day _____ of 2015.

Colleen McMahon
UNITED STATES DISTRICT JUDGE