



(dated May 19, 2010), and in the Findings of Fact Nos. 1-6, 19-32, 36 of this Court's May 27, 2010 decision (Dkt. 136), and are incorporated herein by reference.

3. On behalf of the court-appointed Rehabilitator of the Segregated Account, I have been directly involved in the regulatory analysis of the proposed settlement and commutation of Certificate Guaranty Insurance Policy No. AB0960BE ("the WPFC Policy"), which the Segregated Account of Ambac intends to close with respect to a December 23, 2005 \$500 million securitization facility (the "Facility") entered into among the following:

(a) The Weinstein Company LLC ("TWC"); (b) certain lenders (the "Lenders"), including Morrigan TRR Funding LLC ("Morrigan"), which, on information and belief, is a wholly-owned subsidiary of Goldman Sachs Group, Inc., and is the only Lender currently in the transaction; (c) HSBC Bank USA, National Association (the "Agent"), as administrative and collateral agent; (d) The Weinstein Portfolio Funding Company LLC ("WPFC"), a special purpose subsidiary of TWC; and (e) Ambac.

4. The current outstanding principal amount of the Notes is \$450,300,000. OCI has been informed that all of the Notes are currently held by Morrigan, and that Assured Guaranty, Ltd. ("Assured") has guaranteed repayment to Morrigan of, or has provided credit protection to Morrigan's parent, Goldman Sachs, in respect of a portion of the unpaid principal of such Notes and interest thereon.

5. Under the proposed settlement of the Facility (the "TWC Settlement"), the Segregated Account and Ambac would be completely released from the WPFC Policy (which guarantees unpaid principal of, and accrued and unpaid interest on, the Notes under the Facility) in exchange for a cash payment of \$65 million and delivery of \$50 million (principal amount) in Segregated Account surplus notes. As discussed below, OCI, in its role as Rehabilitator of the

Segregated Account, believes that the TWC Settlement is in the best interest of policyholders of the Segregated Account as well as its rehabilitation, and requests the Court's approval of this settlement.

## II. THE PROPOSED TWC SETTLEMENT

6. The Rehabilitator has monitored the status of the WPFC Policy, and restructuring negotiations between Ambac and TWC since the commencement of this rehabilitation proceeding, through regular meetings with Ambac and its advisors. Following the failure of Ambac's restructuring negotiations with TWC, commutation negotiations commenced with Morrigan and Assured. Consistent with the Plan of Operation, the Rehabilitator had representatives of Ambac handle much of the day-to-day negotiating work on behalf of the Segregated Account, with the Rehabilitator, through me, the Special Deputy Commissioner and OCI (with assistance from our advisors) actively monitoring and directing those negotiations.

7. The Segregated Account has negotiated with Morrigan and Assured a proposed settlement of its potential exposure on the WPFC Policy, and the Rehabilitator seeks the Court's approval of the TWC Settlement for the reasons discussed below.

- A. **The TWC Settlement caps the Segregated Account's liability under the WPFC Policy at a favorable amount as compared to the projected claims on the WPFC Policy (discounted to present value).**

8. Under the TWC Settlement, the Segregated Account and Ambac will be completely released from liability on the WPFC Policy in exchange for a payment of \$65 million cash and delivery of \$50 million of surplus notes (the "Commutation Surplus Notes"). The Commutation Surplus Notes will be issued from the Segregated Account and rank *pari passu* with any surplus or contribution notes or similar obligations of the Segregated Account or of Ambac's General Account. Payments of principal and interest on the Commutation Surplus

Notes are subject to the prior approval of OCI. Any payments under the Commutation Surplus Notes will be made in concert with any payments made on surplus notes issued to other Segregated Account policyholders under the expected plan of rehabilitation. Neither Morrigan nor Assured will receive any preferential treatment in terms of when, or on what terms, payments are made under the Commutation Surplus Notes.

9. Ambac’s legal advisors retained Centerview Partners LLC, a global financial advisory firm with expertise in the analysis and valuation of assets such as WPFC’s film library, to assist in the negotiations. Centerview’s analysis showed a present value of potential claims. The chart below summarizes our analysis of the most likely range of those claim exposures, with a percentage comparison to the consideration under the proposed TWC Settlement.

<u>Dollars in Millions*</u>	<u>Prospective Losses</u>		
	Low	Average	High
	\$264	\$282	\$300
Cash	65	65	65
Cash as a Percentage of Prospective Losses	24.6%	23.0%	21.7%
Notes	50	50	50
Notes as a Percentage of Prospective Losses	18.9%	17.7%	16.7%
Total Consideration as a Percentage of Prospective Losses	43.5%	40.8%	38.3%

\* Discounted to present value using a 5.1% rate

10. In considering whether the proposed TWC Settlement is in the best interests of the Segregated Account and its policyholders, OCI considered information about the claims that Morrigan would have absent consummation of the proposed TWC Settlement. Jefferies & Co. and Gordian Group, LLC—the professional financial advisors that OCI first retained in early 2008 in regard to Ambac, and continues to use in regard to the Segregated Account—actively assisted OCI in its monitoring and evaluation of the WPFC Policy. Subject to contractual confidentiality undertakings, OCI’s financial advisors had access to confidential Ambac

information directly and through its professional financial advisors regarding the WPFC Policy. It was meaningful to OCI and me that the Centerview analysis is not inconsistent with the expectations OCI had based upon its own concurrent and ongoing assessment.

11. Based on their extensive evaluation of these exposures over time, OCI and its financial advisors believe that the Centerview analysis is fair and reasonable and useful to OCI and the Rehabilitator for purposes of making informed regulatory decisions about the WPFC Policy and the proposed TWC Settlement. In discussing the summarized data from the Centerview analysis, OCI does not waive in any respect its contractual and statutory confidentiality privileges and protections against producing any further or other information pertaining to the Centerview analysis, work product or any other Ambac-related information in OCI's possession.

**B. The TWC Settlement resolves the risks to the Segregated Account posed by the projected decline expected in the value of WPFC's film library, which serves as collateral for the indebtedness under the Facility.**

12. The collateral which secures the Facility (WPFC's film library) is depreciating in value. Based on its assessment of the Facility, OCI and its financial advisors believe that the actual losses are more likely than not to develop in the future above rather than below the loss estimates in the chart at paragraph 9 above due to the potential for greater-than-anticipated collateral deterioration and TWC's financial condition, among other factors. The fact that the settlement caps the exposure with certainty is another factor underlying OCI's belief that the TWC Settlement is in the best interest of the non-commuting policyholders and resolves the risks posed by the projected decline in the value of WPFC's film library, which serves as the collateral for the Notes.

- C. The amounts of cash and surplus notes to be paid by the Segregated Account under the TWC Settlement is substantially less than the amounts Morrigan would receive on its projected claims on the WPFC Policy under the Rehabilitator's projected plan of rehabilitation.**

13. As discussed above, the present value of losses associated with the WPFC exposures (using a 5.1% discount rate) could reach \$300 million in the absence of remediation. The proposed TWC settlement resolves that exposure for a total consideration of \$65 million cash and \$50 million in notes.

14. As reflected in its initial rehabilitation filings, OCI is in the process of crafting a plan of rehabilitation to submit to this Court which will provide a pay-as-you-go claim procedure for policyholders. I expect that, under that plan, policyholders will receive approximately a split of 25% in cash and 75% in surplus notes on their allowed claims. The consideration to be paid to Morrigan under the TWC Settlement, as a percentage of its projected claims, is substantially less than the consideration that will be paid to policyholders in the Segregated Account pursuant to the Rehabilitator's expected plan of rehabilitation.

- D. The TWC Settlement would moot litigation regarding competing claims to various funds under the Facility and related documents.**


15. The Agent, HSBC, has filed an interpleader complaint in this rehabilitation proceeding, asking the Court to resolve disputes among Morrigan, Ambac, TWC and WPFC regarding their respective entitlement to various funds under the Facility and related documents. Absent the TWC Settlement, it is anticipated that the amounts at issue in that interpleader dispute, and the complexity of that case, will grow as future payments become due. An additional benefit of the TWC Settlement is that it will moot this dispute and avoid the time, expense and disruption associated with this collateral litigation.

**III. THE REHABILITATOR REQUESTS COURT APPROVAL OF THE TWC SETTLEMENT**

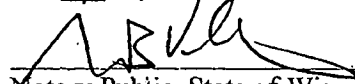
16. Consistent with my views and those of OCI's advisors, the Rehabilitator believes that settling the Facility exposure at a major discount inures to the benefit of all other policyholders in the Segregated Account.

17. The Rehabilitator further believes that time is of the essence in approving the TWC Settlement. The present advantageous terms may not be available to the Rehabilitator if approval is not received quickly, for a number of reasons, including the fact that amortization and other payments under the Facility are due on June 28, 2010. In addition, the interpleader complaint has delayed the distribution of cash to TWC and WPFC, which may adversely affect TWC and WPFC.

Dated this 14th day of June, 2010.

  
\_\_\_\_\_  
Roger A. Peterson

Subscribed and sworn to before me  
this 14 day of June, 2010.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin.  
My Commission: is permanent