

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

In the Matter of the Rehabilitation of:

Case No. 10-CV-1576

Segregated Account of Ambac Assurance Corporation

AFFIDAVIT OF DAVID P. BARRANCO IN SUPPORT OF CONFIRMATION OF THE
SECOND AMENDED PLAN OF REHABILITATION OF THE SEGREGATED ACCOUNT
OF AMBAC ASSURANCE CORPORATION

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

DAVID P. BARRANCO, being first duly sworn on oath, deposes and states that:

1. My name is David P. Barranco. I am a Senior Managing Director of Ambac Assurance Corporation ("AAC") and Head of Risk Management. I have held this position since September 2016. AAC is a Wisconsin-domiciled stock insurance corporation regulated by the Office of the Commissioner of Insurance ("OCI") of the State of Wisconsin.

2. I joined AAC in 1999 as an Assistant Vice President in the Surveillance Department for the International and Structured Finance insured portfolio where I primarily focused on remediation and credit analysis of policies originated in connection with AAC's International Joint Venture at that time with MBIA. In 2001, I became the Surveillance Manager, as a Vice President and then First Vice President, for AAC's growing structured credit insured portfolio. In 2005, I became a Director of European Structured Finance for Ambac Assurance UK Ltd. ("AUK") in London. There, my responsibilities were to originate structured finance and structured corporate business in the United Kingdom and Continental Europe. In

2008, I returned to AAC in New York as a Senior Portfolio Risk Manager focused on remediation and restructuring activities related to insurance policies that ultimately were allocated to the Segregated Account of Ambac Assurance Corporation (“Segregated Account”). In 2010, I became a Managing Director and in 2012, a Senior Managing Director and Executive Officer of Risk Restructuring related to the Segregated Account. In 2013, I also picked up responsibilities for Corporate Development at Ambac Financial Group, Inc. Finally, in September 2016, I took over responsibilities for all of Risk Management, including both the General Account and Segregated Account. These duties include, among other things, responsibilities for portfolio risk management, remediation and de-risking activities for all AAC insured policies. In addition, I have been an Executive Director to the board of AUK since September 2011. Prior to joining AAC, I worked at Standard and Poor’s for about 5 years, including two years as a ratings analyst for mortgage-backed securities and three years as equity analyst. Prior to Standard and Poor’s, I worked as a municipal bond research analyst at JJ Kenny Drake. Overall, I have over 20 years’ experience, including 18 years at AAC, in credit disciplines related to risk management and analysis, structuring and underwriting, remediation and restructuring, and capital markets.

3. I make this affidavit in support of the Motion by the Rehabilitator for Confirmation of the Second Amended Plan of Rehabilitation of AAC’s Segregated Account (the “Second Amended Plan”). Specifically, I make the following statements in response to the Objection to confirmation of the Second Amended Plan (“MHPI Objection”) filed by certain developers of housing pursuant to the Military Housing Privatization Initiative (the developers being referred to herein as the “MHPI Objectors”).

4. This Affidavit is being submitted to explain the importance to AAC and its policyholders of protecting AAC from claims that the rehabilitation of the Segregated Account triggered contract defaults (or in the case of the MHPI Objectors' claims, referred to as an "Ambac Default" or "Credit Enhancer Default").

5. The statements in this affidavit are based on personal knowledge, information and belief.

The Importance of Article 6.13 of the Second Amended Plan ("Article 6.13")

6. AAC's General Account has paid and anticipates that it will continue to pay all claims as contractually required.

7. In preparing this affidavit, I reviewed the Affidavits of Cathleen Matanle, which were filed on May 20, 2010 ("Matanle Aff. 5/20/10") and August 17, 2010 ("Matanle Aff. 8/17/10"). I attach a true copy of Matanle Aff. 5/20/10 as Exhibit A and a true copy of Matanle Aff. 8/17/10 as Exhibit B.

8. I direct the reader's attention to Matanle Aff. 5/20/10 paragraphs 25 through 35 because the statements made therein explain the importance to AAC of contract rights and the consequences that default would at that time have had on AAC and its policyholders. I also direct attention to Matanle Aff. 8/17/10 paragraphs 3 through 10, because the statements made by Ms. Matanle both explain the use of and provide an excellent description of AAC's "control rights", which she defined as follows: "Ambac's contractual rights include[ing] rights to approve amendments, waivers and consents, rights to access records, rights to receive information, rights to remove certain transaction parties with ongoing administrative

responsibilities, rights to declare events of default, trigger events and early amortization events and rights to direct enforcement actions and the exercise of remedies, including the disposition of collateral. These rights, individually and collectively, are referred to herein as ‘control rights.’”

9. The rights that Ms. Matanle described are, and upon conclusion of the Segregated Account’s rehabilitation will remain, essential to AAC’s on-going remediation efforts, which in turn, are essential to loss mitigation and preservation of value. Throughout the course of the Rehabilitation, the Segregated Account and the General Account have utilized their control rights for the benefit of their policyholders. They have used, and continue to use, such control rights to mitigate their liability exposures, reduce volatility in their insured books and maximize recoveries, all of which inures to the benefit of their policyholders. AAC’s continued ability to exercise such control rights is essential in facilitating AAC’s ability to proceed as a durable insurer after termination of the Rehabilitation and merger of the Segregated Account back into the General Account. The Second Amended Plan, including Article 6.13, is designed in a manner that both is consistent with the rehabilitation process to date and allows AAC to continue to exercise its control rights for the benefit of its policyholders. But, if the General Account were not to be protected by Article 6.13, defaults could exist or be alleged to exist with respect to General Account contracts, resulting in many circumstances of control rights vesting in third parties, which is value destructive and contrary to the Rehabilitator’s durability assumptions.

10. Protecting AAC’s contract rights (including control rights) from default declarations by counterparties and policyholders remains important as the Segregated Account anticipates exiting rehabilitation and being merged into AAC. The concerns stated in Ms.

Matanle's affidavits remain valid. In addition, the prospect of an end to rehabilitation of the Segregated Account makes protection of AAC's contract rights critical for the reasons stated herein.

11. The MHPI Objectors focus on Article 6.13 as it applies to policies in AAC's General Account. By protecting contract rights as to policies in both the General and Segregated Account, which are to be merged, Article 6.13 enables AAC to support the Second Amended Plan to help facilitate a durable exit by the Segregated Account. The defaults and alleged defaults that Article 6.13 addresses could otherwise prevent AAC from receiving reimbursements because AAC would not be able to remediate potential losses, and could trigger the loss of other of AAC's rights under transaction documents, including rights to direct a trustee with respect to, among other things, commencing or prosecuting a legal proceeding or liquidating underlying collateral, and rights to consent to transaction amendments, which allows AAC to control transaction amendments that are potentially adverse to AAC.

12. In the event that this case were to be misconstrued or misunderstood as a rehabilitation of AAC's General Account or as a receivership of AAC, the General Account or its assets, default declarations in violation of Article 6.13 could cause AAC to forfeit important control rights. Because, as is explained in Matanle Aff. 8/17/10 ¶¶ 5-10, AAC has specific expertise and skill in utilizing control rights to mitigate losses, which benefits both AAC and the bondholders, AAC is best situated to exercise control rights for the benefit of all policyholders. If confirmation of the Second Amended Plan were to jeopardize AAC's ability to utilize control rights, *i.e.*, if Article 6.13 were not included, the effect would be detrimental to the amounts

available to pay all policyholders, including those whose policies were allocated to the Segregated Account. It would also adversely affect the public at large.

13. Whereas the preservation of control rights was required at the time this case began in order to allow remediation efforts aimed at reducing potential strains on claims-paying resources, *see* Matanle Aff. 8/7/10, ¶¶ 7, 30-35, a durable rehabilitation exit is aided by preservation of all contract rights as provided by Article 6.13 and the Second Amended Plan as a whole. Just as retention of those contract rights during the rehabilitation case has enabled AAC to mitigate losses and maximize recoveries, thereby helping to remove the original reasons for the creation of the Segregated Account and its rehabilitation, the loss of these contract rights (including control rights) that are protected by Article 6.13 would impede consummation of the Consensual Transaction (as defined by the Second Amended Plan) and the Second Amended Plan.

14. The testimony of Wisconsin Commissioner of Insurance Director of Bureau of Financial Analysis and Examinations, Roger Peterson, provided at the hearing on confirmation of the initial Plan of Rehabilitation of the Segregated Account, Tr. 11/16/10, 167:21-168:5, (“Reasons why we rejected the full Rehabilitation had to do with the failure to preserve durable coverage, loss of control rights, ah, undue financial hardship on certain AAC policyholders”) also remains true. The consequences of full rehabilitation of AAC would risk loss of durable coverage, loss of control rights and undue financial hardship on AAC policyholders, regardless of the account to which their policies were allocated. The record establishes that the purpose of leaving certain liabilities in the General Account to avoid contractual triggers was to assure that no defaults would occur with respect to those policies.

These protections continue to be necessary at exit. If the end result of the targeted proceeding is – as the MHPI Objectors would like to assert – that defaults are triggered as to General Account contracts, the entire purpose of the Segregated Account rehabilitation structure would be defeated.


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New York, New York
December 11, 2017



David P. Barranco

Subscribed and sworn to before me
this 11 day of December, 2017.



Notary Public, State of New York
My commission expires: _____

JOHN ELLSWORTH
Notary Public, State of New York
No. 01EL4905735
Qualified in New York County
Commission Expires June 6, 2018