

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**DAVID A. MORLAN, DAVID G. DZIUBAN,)
DENNIS R. SCHNEIDERMAN, and JULIE)
A. AHRENS, Each Individually and on)
Behalf of All Others Similarly Situated,)**

Plaintiffs,

vs.

CIVIL NO. 99-274-GPM

**UNIVERSAL GUARANTY LIFE)
INSURANCE COMPANY, UNITED TRUST)
ASSURANCE COMPANY, UNITED)
SECURITY ASSURANCE COMPANY,)
UNITED TRUST GROUP, INC., and FIRST)
COMMONWEALTH CORPORATION,)**

Defendants.

FINAL APPROVAL ORDER

MURPHY, Chief District Judge:

This case was certified to proceed as a class action on August 28, 2000. After the resolution of several appeals filed in this case, on March 27, 2003, the Court amended the class definition and defined the class to include all persons and their estates, guardians, and representatives, who at any time in 1989 or thereafter sold life insurance for United Trust Assurance Company, United Security Assurance Company, and/or Universal Guaranty Life Insurance Company under an independent agent agreement or contract. This does not include persons who signed only general agent agreements during this time. On April 9, 2003, the Court issued amended forms of notice to be sent to the absent class members, including a form request for exclusion, and to be published. Fifty-three

class members timely excluded themselves from this class action. Thereafter, the parties reached a settlement, and, after a hearing, the Court preliminarily approved the settlement by Order dated August 14, 2003. This matter came before the Court on October 27, 2003, for final approval of the proposed settlement of this class action.

As an initial matter, Plaintiffs' motion for leave to file certain briefs in excess of the applicable page limitations (Doc. 212) is **GRANTED**, and the Clerk of Court is **DIRECTED** to file *instanter* "Plaintiffs' Motion for Final Approval of Proposed Settlement," "Class Counsel's Petition for Attorney Fees and Costs," "Application for Incentive Awards to Class Representatives," and "Class Counsel's Motion to Strike Objection Filed by Charles D. Statler."

Having carefully reviewed the entire record in this matter, and having fully considered all of the factors relevant and necessary to the evaluation of the approval of class action settlements, the Court finds that all of the requirements of Federal Rule of Civil Procedure 23 have been met; that the members of the Class have been adequately represented at all times; and that the proposed settlement of this class action is fair, reasonable, and adequate. Consequently, for the reasons set forth below and on the record during the October 27th hearing, the Settlement Agreement is approved as follows.

1. The Court has jurisdiction over the subject matter of this action and over all parties to this action, including all members of the Class.
2. The requirements of Federal Rule of Civil Procedure 23 have been met as to the Class. The Class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the Class, which questions predominate over any questions affecting only individual Class Members; the claims of Class

Representatives Morlan, Dziuban, Schneiderman, and Ahrens are typical of the claims of the Class Members; Class Representatives Morlan, Dziuban, Schneiderman, and Ahrens have fairly and adequately protected the interests of the Class Members; Class Counsel is experienced in handling class claims and claims involving similar employment issues; neither the Class Representatives nor Class Counsel have any interests antagonistic to those of the Class; a class action is superior for the fair and efficient adjudication of the Class's claims.

3. The Class, as previously certified and defined, includes all persons and their estates, guardians, and representatives, who at any time in 1989 or thereafter sold life insurance for United Trust Assurance Company, United Security Assurance Company, and/or Universal Guaranty Life Insurance Company under an independent agent agreement or contract. The Class does not include persons who signed only general agent agreements. The Class also does not include the 53 persons who previously excluded themselves from the Class by mailing a Request for Exclusion form to Class Counsel (*see* Notice to the Court Regarding Opt-Outs, Doc. 146).
4. As more fully set forth during the October 27th hearing, Charles D. Statler is not a Class Member. Therefore, he lacks standing to object to the Settlement Agreement. The motion to strike his objections is **GRANTED**, and the objections filed by Mr. Statler at Documents 154 and 195 are **STRICKEN**.
5. The Court finds that the provisions for notice to the Class by mail and by publication satisfy the requirements of due process and Federal Rule of Civil Procedure 23.
6. The Court finds that the settlement is fair, reasonable, adequate, and made in good

faith in that the Class Members are entitled to purchase a life insurance policy at a discounted rate as more specifically set forth in the Settlement Agreement. As set forth on the record during the October 27th hearing, this entitlement, regardless of the applicant's insurability, and the transferability of this entitlement confers a substantial benefit on the Class. Therefore, Plaintiffs' and Defendants' motions for final approval of the Settlement Agreement are **GRANTED**.

7. The Court finds that the provision in the Settlement Agreement for Class Counsel's fees and costs is fair and reasonable to compensate them for their work and expenses in this case and is supported by Class Counsel's petition. Therefore, Class Counsel's petition is **APPROVED**, and Class Counsel are **awarded** attorney fees and costs in the total amount of \$1,880,000 to be paid by Defendants.¹
8. The Court finds that the Class Representatives are entitled to receive payments for their special efforts that benefitted the absent Class Members. Having reviewed the materials submitted and heard the Class Representatives' testimony during the hearing, the provision in the Settlement Agreement and the Application for Incentive Awards to Class Representatives are **APPROVED in part**. Class Representative David A. Morlan is **awarded** \$25,000 for his service as Class Representative throughout the entirety of this protracted litigation. Class Representative David G. Dziuban is **awarded** \$20,000 for his valuable services to the Class. Likewise, Class

¹The Settlement Agreement contemplates fees and costs in the amount of \$1,850,000. However, because the Court is not awarding to the Class Representatives the full amount contemplated by the parties, pursuant to Paragraph 2.2 of the Settlement Agreement, the remainder of the amount agreed upon is awarded to Class Counsel.

Representative Dennis R. Schneiderman is **awarded** \$20,000 for his valuable services to the Class. With respect to Class Representative Julie A. Ahrens, the Court found her testimony to lack credibility and, consequently, finds suspect her motives in representing the Class. Accordingly, Ms. Ahrens is **awarded** \$5,000 for her services. These awards, which total \$70,000, shall be paid by Defendants.

9. Neither this Final Approval Order nor the Settlement Agreement constitutes a finding by this Court or an admission or concession by the parties of any actual or potential fault, liability, or wrongdoing.
10. This Final Approval Order applies to all claims settled under the terms of the Settlement Agreement and binds all Class Members that did not previously exclude themselves.
11. The parties are **DIRECTED** to implement and consummate the Settlement Agreement according to its terms and provisions. At such time as this Final Approval Order and the judgment issued hereon become final under the terms of the Settlement Agreement, Class Members and transferees may obtain proofs of claims and applications for the discounted insurance from Universal Guaranty Life Insurance Company, Attn: Class Settlement Administrator, 5250 South Sixth Street, Springfield, Illinois 62703. The Class Settlement Administrator can be reached by telephone at (217)241-6300.

12. At such time as the Settlement Agreement is executed, the parties shall make a complete report to the Court, at which time the Court will enter judgment.

IT IS SO ORDERED.

DATED this 20th day of November, 2003.

s/ G. Patrick Murphy
G. PATRICK MURPHY
Chief United States District Judge