

Gordon H. Leavitt

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September 4, 2014

Via Email: public-affairs@dfs.ny.gov

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Re: In the Matter of the Plan of Reorganization of SBLI USA Mutual Life Insurance Company, Inc., and the Proposed Acquisition of Control of SBLI USA Mutual Life Insurance Company, Inc., by Prosperity Life Insurance Group, LLC

Dear Messrs. Easton, Maffei and Dean:

As multi-decade policyholders of several SBLI USA Mutual Life Insurance Company, Inc. ("SBLI" or the "Company") policies, we respectfully submit this written submission in opposition to the plan of Reorganization of SBLI and the proposed acquisition of control of SBLI by Prosperity Life Insurance Group, LLC ("Prosperity"). For the reasons more fully set forth herein, SBLI's proposed demutualization should be rejected by the Department of Financial Services because it is *not* fair and equitable to SBLI's policyholders in both substance and detail, in addition to *not* being in the best interest of both the mutual life insurer *and its policyholders*, in contravention of the requirements of N.Y. Ins. Law § 7312. See section 1 of L. 1988, ch. 683; amended L. 1988, ch. 684, § 1 (Sept. 1, 1988), reprinted in N.Y. Ins. Law § 7312 note (McKinney 2000).

First, under the current plan, it is indisputable that policyholders in the aggregate will be paid materially less than SBLI's current book value. In fact, policyholders are being paid less than 50% of SBLI's current book value. This fact is undeniable. Policyholders are being paid only \$36 million, but the mean book value of the Company is \$58.2 million and its median book value is \$57.7 million (see p. 33 of the policyholder information booklet ("PIB")). If we examine statutory book values, upon which Prosperity chose to rely for its confirmatory process, the discount to book value is even worse. The mean statutory book value of the Company is \$66.4

million and the median statutory book value of the Company is \$73 million (PIB at 35). Accordingly, policyholders are actually being asked to provide Prosperity with a day one windfall of between \$22.2 million and \$37 million on a book value basis, which is more than half of the Company's statutory book value. How can the Department conclude that this is fair and equitable to SBLI's policyholders in substance and detail? How can the Department conclude that this is in the best interest of policyholders? The current plan is a fire sale, not a sale that makes economic sense to the policyholders. Particularly when considered against the much improved economic situation of SBLI since the end of 2013 and first quarter of 2014, after the fairness opinions relied upon by the Company were issued.

Second, a primary and predominant benefit to policyholders is the financial security to which they are entitled under the policies they own. Currently, all of SBLI's assets are available to secure the benefits of policies. Those assets are reported in the PIB to be \$1,478,396,000. Under the current proposal, although a closed block will protect the payment of the unguaranteed current dividends scale for dividend paying individual ordinary life policies, the assets to be placed in that closed block are materially less than those that currently secure the benefits of policyholders. To be exact, the closed block assets are only \$909,144,185 or a difference of almost \$570 million, or 38.5%. The "guarantee" behind the establishment of the proposed closed block is even more elusive when one considers the open-record admission by SBLI that the current dividends scale is actually unrealistic in view of the substantial investment losses experienced by SBLI in recent years.¹ See oral testimony of Mr. Meola and Mr. Akker on August 21, 2014, Tr. at 63-65; 67-68 (discussing SBLI's heavy investment losses and its internal debate about whether to lower the dividend scale) and the supplemental written statement of Mr. Meola dated August 26, 2014 at 2 ("If over time the experience of the Closed Block is less favorable than the assumptions underlying the dividend scales, total dividend payments will be lower"). How can the Department conclude that this is fair and equitable to SBLI's policyholders in substance and detail? How can the Department conclude that this is in the best interest of policyholders? The proposed closed block is an inadequate and far from reasonable protection of the policyholder's rights.

Third, the \$190 proposed to be paid to each policyholder, irrespective of the number of policies owned or the dollar amounts thereof that contributed to the Company's surplus and overall profitability, is completely arbitrary, patently unfair and wholly inadequate to compensate policyholders for the rights and interest they are being asked to relinquish. SBLI incorrectly claims that the \$190 per policyholder payment is fair because it reflects the \$36 million consideration to be received from Prosperity divided by the total number of policyholders. However, as pointed out above, the \$36 million consideration to be received from Prosperity is itself suspect because it assumes an unfair discount of more than half of the Company's statutory book value. Moreover, the \$190 per policyholder payment is also unfair because it treats all policyholders equally without recognizing the materially enhanced contribution made by

¹ When a closed block is used, the statute requires the insurer to fund it with assets in an amount which, together with anticipated revenue from the participating business, is reasonably expected to be sufficient to support the business, including, but not limited to, provisions for payment of claims, expenses, and taxes, and to provide for continuation of current payable dividend scales, if the experience underlying such scales continues, *and for appropriate adjustments in such scales if the experience changes.*

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long-term policyholders to the Company's surplus and profitability. Although the Company claims that the records needed to compute a variable consideration component do not exist and the actuarial methods available to substitute for such records on a statistical basis would be prohibitively expensive, the fact is that the Company has enough information at its disposal to determine on a year by year basis how much was contributed to the Company's surplus by policies over time, going back to the inception of SBLI. This is so because Mr. Leavitt, one of the undersigned, who is the former chief actuary of SBLI (retired in 1995), distinctly recalls the maintenance during his tenure at SBLI of records showing the increase in surplus by year, which information was routinely filed with the N.Y. Insurance Department and continues to be required to be filed pursuant to the insurance laws and regulations, specifically 11N.Y.C.R.R. §§ 80-1.4, 89.2-89.3, 96.9 and similar rules. Accordingly, SBLI could relatively easily and inexpensively use that information to compute the amount of consideration that should be paid to longer-term policyholders, whether as fixed or additional variable consideration. How can the Department conclude that it is fair and equitable to SBLI's policyholders in substance and detail when the current plan of consideration ignores the contributions to surplus made by longer term policyholders, which actuarial information was, in fact, maintained by the Company, filed with the New York Insurance Department (and its successor the Department of Financial Services), and could be used to compute the allocation of consideration that should be made to longer term policyholders? How can the Department conclude that this is in the best interest of those policyholders?

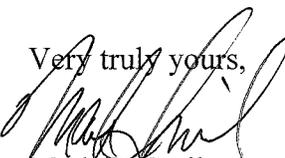
Fourth, as detailed above the PIB misleadingly conceals the foregoing glaring deficiencies under the current plan and woefully fails to provide the full and fair information necessary for policyholders to make an intelligent decision regarding whether to support or oppose this demutualization. This is underscored by the panel's request at the public hearing to have SBLI make additional submissions. How can the Department conclude that this is fair and equitable to SBLI's policyholders in substance and detail? How can the Department conclude that it is in the best interest of policyholders for the Company to be demutualized when the PIB circulated to solicit the policyholders' votes failed to fully and fairly provide the information critical to policyholders making the serious decision of whether to vote for or against demutualization?

Finally, for all of the foregoing reasons it is apparent that the proposed demutualization is **not** fair and equitable to SBLI's policyholders in substance and detail and **not** in the best interest of policyholders. Accordingly, the Department should decline to approve this demutualization. If SBLI cannot come up with an alternative proposal that is in policyholders' best interests, then the Department is empowered to protect the policyholders under the receivership or liquidation options. Under either of these options policyholders are substantially more likely to be treated fairly and will receive materially more compensation than they will under the proposed demutualization.

Very truly yours,


Gordon H. Leavitt

Very truly yours,


Mark D. Smilow