

**ONTARIO
SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST**



**IN THE MATTER OF
CONFEDERATION LIFE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
*INSURANCE COMPANIES ACT, S.C. 1991, AS AMENDED***

**AND IN THE MATTER OF THE
*WINDING-UP ACT, R.S.C. 1985, C.W-11, AS AMENDED***

B E T W E E N:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE COMPANY

Respondent

MOTION RECORD

GOODMANS LLP
Barristers & Solicitors
250 Yonge Street
Suite 2400, Box 24
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M5B 2M6

Gale Rubenstein (LSUC # 17088E)
Tel: (416) 597-4148
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Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

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Respondent

NOTICE OF MOTION

KPMG Inc., the liquidator (the “Liquidator”) of Confederation Life Insurance Company (“Confed”) will make a motion before the Honourable Mr. Justice Blair on Friday, the 7th day of January, 2005 at 9:30 a.m., or as soon after that time as the motion can be heard at 130 Queen Street West, Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. an Order substantially in the form attached as Schedule “A” hereto; and

2. such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Liquidator is seeking an order:

- (a) approving an agreement between Confed, KPMG Inc., and Sun Life Assurance Company (UK) Limited (“SLOCUK”) in substantially the form attached thereto (the “Settlement Agreement”); and
- (b) authorizing and directing the Liquidator to take no further steps with respect to policies issued by the former Confed branch in the U.K., including, without limitation, calling for claims of policyholders thereof, and to distribute the assets of Confed, or any part thereof, among the persons entitled thereto without reference to such claims.

2. Confed operated in the United Kingdom through its subsidiary, Confederation UK Holdings PLC (“Confed U.K.”), which in turn owned a number of companies operating in the financial services industry, including insurance. Confed also operated as a branch. Prior to the liquidation, all of the insurance policies had been transferred from the branch to Confed U.K. with the exception of the “with profit” policies, being those policies that had a participation element (the “With Profit Policies”). At the time of the liquidation, these were the only branch policies remaining.

3. The Liquidator entered into an agreement to transfer all Confed U.K. operations to Sun Life Assurance Company of Canada (“Sun Life”) in August 1994. This Court approved the agreement by Order dated August 16, 1994.

4. Approximately 36,000 With Profit Policies were transferred to Sun Life in 1994. Sun Life transferred its U.K. branch to SLOCUK in 2000. An issue has arisen in the U.K. in the last several years with respect to certain of the With Profit Policies called “mortgage endowment policies”. The Liquidator has received a number of complaints forwarded to it by SLOCUK concerning the mortgage endowment policies that were originally issued by Confed. There are now in total approximately 25 such complaints.

5. An issue arose as between the Liquidator and SLOCUK as to whether, if in fact there is any liability to such policyholders, the liability would reside with Confed or with SLOCUK.

6. The Liquidator proposes entering into the Settlement Agreement after having considered the alternatives. The Liquidator considers that the Settlement Agreement brings certainty and finality to the estate in a reasonably cost effective manner and provides a fair and appropriate process for former Confed U.K. policyholders who may wish to seek redress.

7. In the Liquidator’s view, the Settlement Agreement is reasonable in all of the circumstances and is in the best interest of the estate.

8. Rules 1.04, 2.03 and 3.02 of the *Rules of Civil Procedure*;

9. Sections 33, 35, 109 and 162 of the *Winding-up and Restructuring Act*;

10. The Orders of this Honourable Court made herein on August 15, 1994, August 16, 1994, September 10, 1997 October 7, 1999 and December 3, 1999; and

11. Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the

motion:

1. Report of the Liquidator dated January 5, 2005; and
2. Such further and other material as counsel may advise and this Honourable Court permit.

January 5, 2005

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Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

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Attention: Frank Miller

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Fax: (416) 955-9688

AND TO: Fraser Milner Casgrain
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Box 100
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M5X 1B2

Attention: Robb Heintzman

Tel: (416) 863-4511
Fax: (416) 863-4592

Solicitors for Confederation Trust Company

AND TO: Osler, Hoskin & Harcourt
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M5X 1B8

Attention: Edward A. Sellers

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Solicitors for The Chase Manhattan Bank

AND TO: Goodman and Carr
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Attention: Gary Luftspring

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Solicitors for the Former Officers and Directors of
Confederation Life Insurance Company

AND TO: Office of the Superintendent of Financial Institutions
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M5H 3T9

Attention: Naren Sheth

Tel: (416) 973-6118
Fax: (416) 952-1662

AND TO: UBS Warburg LLC
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U.S.A. 10171-0026

Attention: Soren Reynertson

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Solicitors for UBS AG

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Attention: James Walsh

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Fax: (212) 371-4318

AND TO: Michael Winschuh
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N6A 3V8

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Attention: James H. Grout

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Fax: (416) 304-1313

AND TO: Bordner Ladner Gervais, LLP
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Attention: Roger Jaipargas

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Fax: (416) 361-7067

AND TO: Bordner Ladner Gervais, LLP
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Attention: Patrick T. McCarthy, Q.C.

Tel: (403) 232-9500
Fax: (403) 266-1395

**ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) FRIDAY, THE 7TH DAY
JUSTICE R.A. BLAIR ad hoc) OF JANUARY, 2005

**IN THE MATTER OF
CONFEDERATION LIFE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
*INSURANCE COMPANIES ACT, S.C. 1991, AS AMENDED***

**AND IN THE MATTER OF THE
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B E T W E E N:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE COMPANY

Respondent

O R D E R

THIS MOTION made by KPMG Inc., the liquidator (the “Liquidator”) of Confederation Life Insurance Company (“Confed”), was heard this day at Osgoode Hall, 130 Queen St. W., Toronto, Ontario.

ON READING the Report of the Liquidator dated January 5, 2005, filed, and upon hearing submissions of counsel for the Liquidator.

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and any supporting materials be and the same is hereby abridged such that the service effected on the parties shall be good and sufficient service for this motion, that this motion is properly returnable this day and that any further service of the Notice of Motion and supporting materials be and the same is hereby dispensed with.

2. **THIS COURT ORDERS** that an agreement (the “Settlement Agreement”) between Confed, KPMG Inc. and Sunlife Assurance Company of Canada (UK) Limited (“SLOCUK”) in substantially the form attached as Schedule “A” be and the same is hereby approved.

3. **THIS COURT ORDERS** that the Liquidator be and is authorized and empowered to proceed with and carry out the transactions contained in and contemplated by the Settlement Agreement, to perform Confed’s obligations thereunder, and to execute and deliver such documentation and take such acts and do such things as may be necessary in connection therewith and to agree to such modifications or changes to the Settlement Agreement as may be necessary or desirable without the need to seek or obtain any further authority or approval from the Court.

4. **THIS COURT ORDERS AND DECLARES** that the approval of the Settlement Agreement does not constitute an admission by Confed, SLOCUK or the Liquidator of liability or damages, and cannot be used as evidence against any of them, or for any other purposes in any other proceeding or matter including, without limitation, proceedings within the winding-up of Confed.

5. **THIS COURT ORDERS AND DECLARES** that upon completion of the Settlement Agreement the Liquidator is authorized and directed to take no further steps with respect to policies issued by the former Confed branch in the U.K., including, without limitation, calling for claims of policyholders thereof, and to distribute the assets of Confed, or any part thereof, among the persons entitled thereto without reference to such claims.

SETTLEMENT AGREEMENT

THIS AGREEMENT dated the _____ day of January, 2005 among:

**CONFEDERATION LIFE INSURANCE COMPANY,
IN LIQUIDATION**, a mutual company incorporated in
Canada
(**"Confederation"**)

- and -

KPMG INC.
(**"KPMG"**)

- and -

**SUN LIFE ASSURANCE COMPANY OF CANADA,
(UK) LIMITED**, a company registered in England
(**"SLOCUK"**)

WHEREAS:

1. By order made August 15, 1994, the Ontario Court of Justice (General Division) ordered that Confederation Life Insurance Company be wound-up pursuant to the *Winding-Up Act*, R.S.C. 1985 C.W. -11, as amended.
2. On August 16, 1994, Confederation, Sun Life Assurance Company of Canada ("Sun Life"), The Superintendent of Financial Institutions (Canada) (then provisional liquidator of Confederation) and KPMG (then known as Peat Marwick Thorne Inc. and in its capacity as agent for the liquidator as Confederation) entered into a share purchase agreement (the "Agreement") pursuant to which Confederation agreed to sell its shares in Confederation UK Holdings plc to Sun Life and pursuant to which the business of Confederation's United Kingdom branch was transferred to Sun Life under a scheme sanctioned by the High Court of England and Wales in accordance with Section 49 and Schedule 2C of the *Insurance Companies Act 1982*. Subsequently KPMG became permanent liquidator of Confederation.
3. On March 23, 2000 Sun Life's United Kingdom branch (which included the Confederation Branch Policies (as defined hereafter)) was transferred to SLOCUK under a scheme sanctioned by the High Court of England and Wales pursuant to Part I of Schedule 2C of the *Insurance Companies Act 1982*.
4. Since the transfer of the business of Confederation's United Kingdom branch to Sun Life Confederation, SLOCUK and Sun Life have all received various complaints from policyholders alleging the mis-selling of various policies of the former Confederation United Kingdom branch.

5. The liquidation of Confederation is nearing completion and the parties hereto wish to fully and finally settle all matters between them in relation to all liabilities arising out of or pertaining to the policies issued by Confederation's United Kingdom branch, and/or the manner in which such policies were sold.

NOW THEREFORE the parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions. Where used in this Agreement, the following expressions shall have the following respective meanings:

- (a) “**Affiliate**” means, in relation to a corporation, a corporation which Controls, is Controlled by or is under common Control with such corporation.
- (b) “**Agreement**” means this agreement and all schedules hereto, as the same may be amended by the parties from time to time.
- (c) “**Business Day**” means every day except a Saturday, Sunday or a statutory holiday under the laws of Ontario or the federal laws of Canada or the laws of England.
- (d) “**Canadian Court**” means the Superior Court of Justice of Ontario, formerly the Supreme Court of Ontario General Division.
- (e) “**Canadian Court Approval**” means an order of the Canadian Court approving Confederation's entry into, and performance of, this Agreement.
- (f) “**Claim**” means any claim, action, suit, demand or proceeding of any nature whatsoever, whether commenced or pursued in a court, administrative tribunal or in any other forum whatsoever, including any claim, action, suit, demand or proceeding brought or asserted by Sun Life or any of Sun Life's or SLOCUK's Affiliates.
- (g) “**Control**” means, with respect to a corporation, (i) holding, directly or indirectly, securities of that corporation sufficient to elect or appoint a majority of its directors, or (ii) exercising *de facto* control of such corporation whether through the ownership of securities, by contract or trust or otherwise.
- (h) “**Confederation Branch Policies**” means all with profit policies of insurance issued by the branch operated by Confederation in the United Kingdom, whether or not in force at the time of the transfer of the business of Confederation's United Kingdom branch to Sun Life.
- (i) “**With Profit Liabilities**” mean all liabilities of any nature and kind whatsoever arising out of or with respect to the Confederation Branch Policies or the manner in which they were advertised, marketed or sold, including tortious liabilities, liabilities arising with respect to the mis-selling of the Confederation Branch Policies, and extra contractual obligations deemed or found to be appurtenant to

or associated with the Confederation Branch Policies; provided that "With Profit Liabilities" shall not include liabilities arising out of the acts of KPMG in its capacity as liquidator of Confederation of which at least one of SLOCUK, Sun Life or their Affiliates have not been made aware prior to the date hereof.

1.2 Construction. In this Agreement, except as otherwise expressly provided:

- (a) All grammatical changes in gender, tense and number required to give meaning to any provision of this Agreement shall be deemed to have been made;
- (b) The division of this Agreement into Articles and Sections and the use of headings are for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement or any of its provisions;
- (c) The parties agree that they participated equally in the preparation of this Agreement and that the language of this Agreement should not be presumptively construed against any of them; and
- (d) "Includes" means including without limitation.

ARTICLE 2 **CANADIAN COURT APPROVAL**

2.1 Condition Precedent. The obligations of the parties hereunder are subject to the obtaining of the Canadian Court Approval. Confederation agrees to use all commercially reasonable efforts to obtain the Canadian Court Approval on or before January 14, 2005. Confederation will afford SLOCUK and its representatives the opportunity to review and comment upon the materials to be provided by Confederation to the Canadian Court in order to obtain the Canadian Court Approval and SLOCUK agrees to provide all such information and provide all such cooperation in connection with the obtaining of the Canadian Court Approval as Confederation may reasonably request.

2.2 Termination. This Agreement shall terminate and be of no further force or effect if the Canadian Court Approval has not been obtained by March 31, 2005.

ARTICLE 3 **PAYMENT, ASSUMPTION AND INDEMNITY**

3.1 Payment. Within three (3) Business Days of the obtaining of the Canadian Court Approval, Confederation will pay SLOCUK the sum of UK 500,000 pounds by certified cheque or bank draft in the United Kingdom, or by wire transfer to an address in the United Kingdom designated by SLOCUK.

3.2 Assumption. Subject only to receipt of the payment referred to in Section 3.1 (it being acknowledged that no further act or formality shall be required to make the obligations of SLOCUK set out in this Section 3.2 effective or binding once such payment has been received) SLOCUK hereby assumes the With Profit Liabilities, and SLOCUK hereby agrees to indemnify and save Confederation and KPMG harmless on demand from and against all Claims (and all damages, fines or penalties assessed, levied or awarded therein and all reasonable fees and

disbursements associated therewith or incurred by reason thereof) asserted or brought on the basis of, or in relation to, any With Profit Liabilities.

3.3 Procedure for Indemnification. If either of Confederation or KPMG becomes aware of a Claim in respect of which it intends to seek indemnification under Section 3.2, it shall promptly notify SLOCUK of the Claim. SLOCUK shall be given the opportunity to lead the defence or settlement or such Claim provided that within ten (10) Business Days of being notified by Confederation or KPMG of the Claim they acknowledge in writing that such Claim is one to which the indemnity in Section 3.2 applies and that they are prepared to fulfill their obligations in relation thereto under Section 3.2. Otherwise, SLOCUK will only be entitled to participate in the settlement of such Claim, and will be bound by any result or settlement obtained by Confederation or KPMG in connection therewith. Should SLOCUK elect to lead the defence or settlement of a Claim in accordance with the foregoing, Confederation and KPMG will render all cooperation in connection therewith as SLOCUK may reasonably request.

3.4 Covenant not to Sue. Subject only to receipt of the payment referred to in Section 3.1 (it being acknowledged that no further act or formality shall be required to make the obligations of SLOCUK set out in this Section 3.4 effective or binding once such payment has been received), SLOCUK agrees to release and discharge Confederation from all obligations, causes of action, claims and costs whatsoever relating to or arising out of the With Profit Liabilities, and covenant not to sue Confederation in connection therewith.

3.5 No Admission. This Agreement shall not constitute an admission by any party hereto that any Confederation Branch Policies were mis-sold or marketed in an improper or tortious manner or in a manner so as to give rise to obligations not reflected in the express wording of the Confederation Branch Policies or that any liability relating to any of the foregoing would, but for the provisions of this Agreement, be the liability of any party hereto.

3.6 Warranty. KPMG warrants that it has advised SLOCUK and/or Sun Life and/or one of their Affiliates of all complaints it has received in relation to the Confederation Branch Policies or the manner in which they were advertised, marketed or sold.

ARTICLE 4 **GENERAL**

4.1 Notices. All notices required or permitted to be sent under and pursuant to this Agreement shall be in writing, and shall be delivered by hand, or night courier, or sent by telecopier to:

- (a) Confederation Life Insurance Company, in liquidation

Commerce Court West
199 Bay Street, 33rd Floor
P.O. Box 31
Toronto, Ontario M5L 1B2

Attention: Robert O. Sanderson

Telephone No.: (416) 777-8520
Facsimile No.: (416) 777-3683

(b) KPMG Inc.

Commerce Court West
199 Bay Street, 33rd Floor
P.O. Box 31
Toronto, Ontario M5L 1B2

Attention: Robert O. Sanderson

Telephone No.: (416) 777-8520

Facsimile No.: (416) 777-3683

(c) Sun Life Assurance Company of Canada (UK) Limited

Matrix House
Basingstoke
Hampshire England RG21 4DZ

Attention: The Chief Executive Officer

Telephone No.: 01256 849 923

Facsimile No.: 01256 849 392

or to such other person, address or fax number of which the addressee may from time to time have notified the addressor in writing. A notice shall be deemed to be sufficiently given on the day it is delivered by hand or on the day it is received if couriered on the day on which transmission is confirmed if telecopied, except that if such day is not a Business Day or if notice is delivered by hand or sent by telecopier after 5:00 p.m. at the receiving party's location, then notice shall be deemed to be sufficiently given on the next Business Day.

4.2 Further Acts. The parties acknowledge that their cooperation is required to facilitate the matters provided for herein. The parties shall do or cause to be done all such further acts and things that may reasonably be necessarily or desirable to give full effect to this Agreement.

4.3 Governing Law. This Agreement shall be governed by the laws of England and Wales.

4.4 Waiver. No waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence or forbearance by a party shall constitute a waiver of such party's right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter, or any other provision of this Agreement at any time.

4.5 Counterparts. This Agreement may be executed in one or more counterparts which, together, shall constitute one and the same agreement. This Agreement shall not be binding upon a party until it has been executed by all other parties and delivered to it. Delivery may be effected by facsimile transmission.

4.6 Assignment. This Agreement or any rights or obligations of a party hereunder may not be assigned directly or indirectly without the prior written consent of each other party. Any assignment without such consent shall be null and void.

4.7 Enure and Binding Effect. This Agreement shall enure to the benefit or and be binding upon the parties hereto and their respective successors and permitted assigns.

4.8 Personal Liability. It is acknowledged that, save and except for the purposes of Sections 3.2 and 3.3, KPMG Inc. is executing this Agreement solely in its capacity as liquidator of Confederation and not in its personal capacity and shall not incur any personal liability under or by virtue of this Agreement, whether in tort, contract or otherwise. Recourse in respect of the obligations of Confederation under this Agreement shall be limited to the assets of Confederation. The agreements of SLOCUK set out in Sections 3.2 and 3.3 are made in favour of Confederation and KPMG in its personal capacity. KPMG may seek a discharge as liquidator of Confederation at any time hereafter without notice to SLOCUK.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized representative on the date set forth below

**CONFEDERATION LIFE INSURANCE
COMPANY, IN LIQUIDATION, BY ITS
LIQUIDATOR, KPMG INC.**

Per: _____

Name:
Title:

**KPMG INC., in its personal capacity (for
purposes of Sections 3.2 and 3.3) and in its
capacity as Liquidator of Confederation**

Per: _____

Name:
Title:

**SUN LIFE ASSURANCE COMPANY OF
CANADA (UK) LIMITED**

Per: _____

Name:
Title:

THE ATTORNEY GENERAL OF CANADA
Applicant

and

CONFEDERATION LIFE INSURANCE COMPANY
Respondent

Commercial List Court File No: 97-BK-000543

ONTARIO SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST

Proceeding commenced at TORONTO

ORDER

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Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

Our File No. 94.1219

THE ATTORNEY GENERAL OF CANADA

and

CONFEDERATION LIFE INSURANCE COMPANY

Applicant

Respondent

Commercial List Court File No: 97-BK-000543

ONTARIO
SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION

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Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

GOODMANS\5108250.1

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF
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B E T W E E N:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE COMPANY

Respondent

**REPORT OF KPMG INC., THE LIQUIDATOR OF
CONFEDERATION LIFE INSURANCE COMPANY**

JANUARY 5, 2005

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CONFEDERATION LIFE INSURANCE COMPANY

Respondent

**REPORT OF KPMG INC., THE LIQUIDATOR OF
CONFEDERATION LIFE INSURANCE COMPANY**

JANUARY 5, 2005

I. NATURE OF THE MOTION

1. This Report is filed in support of a motion by KPMG Inc., the liquidator (the “Liquidator”) of Confederation Life Insurance Company (“Confed”), for an order:

- (a) approving an agreement between Confed, KPMG Inc., and Sun Life Assurance Company of Canada (UK) Limited (“SLOCUK”) in substantially the form attached as Schedule “A” (the “Settlement Agreement”); and

- (b) authorizing and directing the Liquidator to take no further steps with respect to policies issued by the former Confed branch in the U.K., including, without limitation, calling for claims of policyholders thereof, and to distribute the assets of Confed, or any part thereof, among the persons entitled thereto without reference to such claims.

II. BACKGROUND

U.K. Business

2. Confed operated in the United Kingdom through its subsidiary, Confederation U.K. Holdings PLC (“Confed U.K.”), which in turn owned a number of companies operating in the financial services industry, including insurance. Confed also operated as a branch. Prior to the liquidation, all of the insurance policies had been transferred from the branch to Confed U.K., with the exception of the “with profit” policies, being those policies that had a participation element (the “With Profit Policies”). At the time of the liquidation, these were the only policies remaining in the branch.

3. The Liquidator entered into an agreement to transfer all Confed U.K. operations to Sun Life Assurance Company of Canada (“Sun Life”) in August 1994. This was completed through two basic arrangements, the transfer of shares of Confederation U.K. Holding PLC, and a “section 49” policy portfolio transfer under English corporate insurance law, with respect to the only remaining branch policy liabilities, being the With Profit Policies. This Court approved the agreement by Order dated August 16, 1994, a copy of which is attached as Schedule “B”. In 2000, Sun Life transferred its U.K. Branch to SLOCUK under a scheme sanctioned by the High Court of England and Wales.

Call for Claims

4. By Order dated October 7, 1999 (the “October 7th Order”), this Court fixed December 20, 1999 as the last day on or before which the following were required to send in their claims:

- (a) persons, wherever located, with debt or other claims against Confed in existence on August 12, 1994, whether certain or contingent, liquidated or unliquidated (the “Ordinary Creditors”), provided that such claims are not claims under policies of insurance and are not subordinated by their terms to all other indebtedness of Confed; and
- (b) policyholders who held Confed policies on August 12, 1994, other than policyholders whose policies were issued by the United Kingdom, Cuban or United States branches of Confed, who assert that the claims under their policies have not been fully satisfied or recognized through the assumption of their policies by another insurer or payments made by, or in the process of being made by the Liquidator (the “Additional Policyholder Claims”).

5. The October 7th Order also directed the form and manner in which the Liquidator was to give notice of the last day fixed on or before which Ordinary Creditors and policyholders asserting Additional Policyholder Claims were to file their proofs of claim.

6. The October 7th Order was amended by Order dated December 3, 1999 (the “December 3rd Order”) to extend the last day for the publication of notice and for the filing of claims to February 15, 2000. Copies of the October 7th Order and the December 3rd Order are attached hereto as Schedules “B” and “C”. The Liquidator published the notices and mailed the proofs of claim in accordance with the orders.

7. Therefore, effectively, the only jurisdiction in which the Liquidator called for claims from policyholders was Canada, because the Liquidator had been put on notice of a vanishing premium claim in Quebec (ultimately settled), and because the group pension policies in Canada had not been transferred to another insurer, but had remained with Confed. In all other jurisdictions, including the U.K., all policy liabilities had been transferred to other insurers, and there had been no such notice of policyholder claims.

With Profit Policies

8. Approximately 36,000 With Profit Policies were transferred to Sun Life in 1994. An issue has arisen in the U.K. in the last several years with respect to certain of the With Profit Policies called “mortgage endowment policies”, of which approximately 3,000 are still outstanding. These policies were sold in connection with creation of home mortgages. Their basic purpose was to build cash value that could be used by policyholders to pay their mortgages at the time of maturity. Cash value generally depends on the performance of the investments in which the policies participated.

9. The issue is similar to the vanishing premium issue in Canada and the U.S.: essentially, questions have been raised concerning the practices of the agents selling the policies and the nature of the promises they made. The regulator in the U.K., Financial Services Authority, has developed a detailed system for providing notice to mortgage endowment policyholders concerning the status of their policies and the likelihood that there will be sufficient funds to retire their mortgages at maturity.

10. As the Liquidator has reported to this Court, since the completion of the call for claims, the Liquidator has received a number of complaints, forwarded to it by SLOCUK, concerning the mortgage endowment policies originally issued by Confed, all but one since February, 2003. There are now in total approximately 25 such complaints. The Liquidator has been advised by English legal counsel that policyholders are not precluded from making complaints even after their policies have matured and been paid, or have been surrendered.

11. An issue arose as between the Liquidator and SLOCUK as to whether, if in fact there is any liability to such policyholders, the liability would reside with Confed or with SLOCUK. The Liquidator has retained English counsel who has been providing advice to the Liquidator since the receipt of the initial complaints. English and Canadian counsel have advised that, among other arguments, there is an argument that relevant limitation periods have expired with respect to those policies issued more than 15 years ago.

12. The Liquidator and SLOCUK agreed, on without prejudice basis, to share information, including the results of investigations by SLOCUK with respect to any complaints received. The Liquidator agreed to pay certain of SLOCUK's direct costs. The Liquidator was of the view, based on the Liquidator's discussions with SLOCUK and the information it had, and with the advice of its Canadian counsel, that a general call for claims was not warranted at the time of the last distribution. The Liquidator was also of the view that the process proposed, which was consistent with the process suggested by the Association of British Insurers, dealt equitably with those policyholders who made complaints and that the general process mandated by the British Financial Services Authority for advising policyholders as to the financial status of their policies, would adequately inform policyholders of any potential concerns.

13. The Liquidator has continued its discussions with SLOCUK, and has been advised of investigations undertaken by SLOCUK of complaints received. As of the date hereof, it remains questionable whether there will be any financial liability under any of the Confed policies although there have been and will continue to be "investigation costs" in examining each complaint. However, the Liquidator has carefully considered its position, including the factors referred to below, and entered into negotiations with SLOCUK.

III. AGREEMENT

Terms

14. The Liquidator and SLOCUK have now agreed to enter into the Settlement Agreement, a copy of which is attached as Schedule "A". The major terms of the Settlement Agreement are:

- (a) Payment of £500,000 by the Liquidator to SLOCUK;
- (b) The assumption by SLOCUK of all liabilities of any nature and kind whatsoever arising out of or with respect to the With Profit Policies, including liabilities relating to the manner in which such policies had been sold and excluding any

liabilities arising as a result of any act of the Liquidator of which SLOCUK has not been made aware;

- (c) Indemnification by SLOCUK of both Confed and the Liquidator in respect of the assumed liabilities;
- (d) A release and covenant by SLOCUK not to sue Confed with respect to any obligations, causes of action, claims or costs whatsoever relating to or arising out of the assumed liabilities; and
- (e) The agreement is conditional on the approval of this Court.

Factors Considered by the Liquidator

15. The Liquidator considers the Settlement Agreement to be in the best interests of the estate of Confed. In reaching this conclusion, the Liquidator has considered the alternatives, including:

- (a) The Liquidator could take the position that all responsibility for any issues with respect to the With Profit Policies resides with SLOCUK. The Liquidator does not propose to comment on the likelihood that this position would be successful since, if the Settlement Agreement is not completed, there may be litigation. However, it is clear that such litigation would be costly and may take years to resolve;
- (b) If SLOCUK agreed, the Liquidator could continue the present arrangement with SLOCUK, under which the Liquidator pays for the review or investigation of complaints from policyholders, which, as indicated, is being conducted in accordance with guidelines of the Association of British Insurers and, ultimately, in the event of policyholder complaints or if considered appropriate by the regulator, the Financial Services Authority, would be subject to regulatory review. This is a costly process, and the Liquidator's own costs in responding to questions

and complaints, and in dealing with SLOCUK, must also be considered. In addition, the process has no end point, since policyholders come forward even after their policies have matured and been paid;

- (c) The Liquidator could call for claims in the U.K. This cost would be significant, and may lead to litigation with SLOCUK in any event; and
- (d) The Liquidator could seek a determination that the limitation period has expired for all policies whose inception is more than fifteen years ago, which would encompass a significant majority of the policies. This, again, would be costly and may precipitate litigation in the U.K. that would also be costly and time consuming.

16. The Liquidator has also considered:

- (a) The liquidation is drawing to a close and the Liquidator requires certainty if further distributions are to be made to those entitled on a timely basis, and the estate is to be completed;
- (b) The Settlement Agreement is the only alternative the Liquidator has thus far identified that brings certainty and finality to the estate in a reasonably cost effective manner;
- (c) The Settlement Agreement eliminates uncertainty for former Confed policyholders who might otherwise have to deal with both SLOCUK and Confed and, essentially, ensures that they will be dealt with under U.K. law and in the same manner as U.K. with profit policyholders of other U.K. companies, in accordance with processes established by the industry and regulatory bodies.

IV. Recommendations

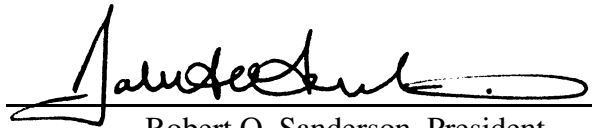
17. In the Liquidator's view, the Settlement Agreement is reasonable in all of the circumstances and in the best interests of the estate.

18. The Liquidator therefore recommends approval of the Settlement Agreement and an order for the relief requested herein.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

KPMG INC., the Liquidator of Confederation Life
Insurance Company

Per:


Robert O. Sanderson, President

Schedule "A"

SETTLEMENT AGREEMENT

THIS AGREEMENT dated the _____ day of January, 2005 among:

**CONFEDERATION LIFE INSURANCE COMPANY,
IN LIQUIDATION**, a mutual company incorporated in
Canada
(**"Confederation"**)

- and -

KPMG INC.
(**"KPMG"**)

- and -

**SUN LIFE ASSURANCE COMPANY OF CANADA,
(UK) LIMITED**, a company registered in England
(**"SLOCUK"**)

WHEREAS:

1. By order made August 15, 1994, the Ontario Court of Justice (General Division) ordered that Confederation Life Insurance Company be wound-up pursuant to the *Winding-Up Act*, R.S.C. 1985 C.W. -11, as amended.
2. On August 16, 1994, Confederation, Sun Life Assurance Company of Canada ("Sun Life"), The Superintendent of Financial Institutions (Canada) (then provisional liquidator of Confederation) and KPMG (then known as Peat Marwick Thorne Inc. and in its capacity as agent for the liquidator as Confederation) entered into a share purchase agreement (the "Agreement") pursuant to which Confederation agreed to sell its shares in Confederation UK Holdings plc to Sun Life and pursuant to which the business of Confederation's United Kingdom branch was transferred to Sun Life under a scheme sanctioned by the High Court of England and Wales in accordance with Section 49 and Schedule 2C of the *Insurance Companies Act 1982*. Subsequently KPMG became permanent liquidator of Confederation.
3. On March 23, 2000 Sun Life's United Kingdom branch (which included the Confederation Branch Policies (as defined hereafter)) was transferred to SLOCUK under a scheme sanctioned by the High Court of England and Wales pursuant to Part I of Schedule 2C of the *Insurance Companies Act 1982*.
4. Since the transfer of the business of Confederation's United Kingdom branch to Sun Life Confederation, SLOCUK and Sun Life have all received various complaints from policyholders alleging the mis-selling of various policies of the former Confederation United Kingdom branch.

5. The liquidation of Confederation is nearing completion and the parties hereto wish to fully and finally settle all matters between them in relation to all liabilities arising out of or pertaining to the policies issued by Confederation's United Kingdom branch, and/or the manner in which such policies were sold.

NOW THEREFORE the parties agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions. Where used in this Agreement, the following expressions shall have the following respective meanings:

- (a) “**Affiliate**” means, in relation to a corporation, a corporation which Controls, is Controlled by or is under common Control with such corporation.
- (b) “**Agreement**” means this agreement and all schedules hereto, as the same may be amended by the parties from time to time.
- (c) “**Business Day**” means every day except a Saturday, Sunday or a statutory holiday under the laws of Ontario or the federal laws of Canada or the laws of England.
- (d) “**Canadian Court**” means the Superior Court of Justice of Ontario, formerly the Supreme Court of Ontario General Division.
- (e) “**Canadian Court Approval**” means an order of the Canadian Court approving Confederation's entry into, and performance of, this Agreement.
- (f) “**Claim**” means any claim, action, suit, demand or proceeding of any nature whatsoever, whether commenced or pursued in a court, administrative tribunal or in any other forum whatsoever, including any claim, action, suit, demand or proceeding brought or asserted by Sun Life or any of Sun Life's or SLOCUK's Affiliates.
- (g) “**Control**” means, with respect to a corporation, (i) holding, directly or indirectly, securities of that corporation sufficient to elect or appoint a majority of its directors, or (ii) exercising *de facto* control of such corporation whether through the ownership of securities, by contract or trust or otherwise.
- (h) “**Confederation Branch Policies**” means all with profit policies of insurance issued by the branch operated by Confederation in the United Kingdom, whether or not in force at the time of the transfer of the business of Confederation's United Kingdom branch to Sun Life.
- (i) “**With Profit Liabilities**” mean all liabilities of any nature and kind whatsoever arising out of or with respect to the Confederation Branch Policies or the manner in which they were advertised, marketed or sold, including tortious liabilities, liabilities arising with respect to the mis-selling of the Confederation Branch Policies, and extra contractual obligations deemed or found to be appurtenant to

or associated with the Confederation Branch Policies; provided that "With Profit Liabilities" shall not include liabilities arising out of the acts of KPMG in its capacity as liquidator of Confederation of which at least one of SLOCUK, Sun Life or their Affiliates have not been made aware prior to the date hereof.

1.2 Construction. In this Agreement, except as otherwise expressly provided:

- (a) All grammatical changes in gender, tense and number required to give meaning to any provision of this Agreement shall be deemed to have been made;
- (b) The division of this Agreement into Articles and Sections and the use of headings are for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement or any of its provisions;
- (c) The parties agree that they participated equally in the preparation of this Agreement and that the language of this Agreement should not be presumptively construed against any of them; and
- (d) "Includes" means including without limitation.

ARTICLE 2 **CANADIAN COURT APPROVAL**

2.1 Condition Precedent. The obligations of the parties hereunder are subject to the obtaining of the Canadian Court Approval. Confederation agrees to use all commercially reasonable efforts to obtain the Canadian Court Approval on or before January 14, 2005. Confederation will afford SLOCUK and its representatives the opportunity to review and comment upon the materials to be provided by Confederation to the Canadian Court in order to obtain the Canadian Court Approval and SLOCUK agrees to provide all such information and provide all such cooperation in connection with the obtaining of the Canadian Court Approval as Confederation may reasonably request.

2.2 Termination. This Agreement shall terminate and be of no further force or effect if the Canadian Court Approval has not been obtained by March 31, 2005.

ARTICLE 3 **PAYMENT, ASSUMPTION AND INDEMNITY**

3.1 Payment. Within three (3) Business Days of the obtaining of the Canadian Court Approval, Confederation will pay SLOCUK the sum of UK 500,000 pounds by certified cheque or bank draft in the United Kingdom, or by wire transfer to an address in the United Kingdom designated by SLOCUK.

3.2 Assumption. Subject only to receipt of the payment referred to in Section 3.1 (it being acknowledged that no further act or formality shall be required to make the obligations of SLOCUK set out in this Section 3.2 effective or binding once such payment has been received) SLOCUK hereby assumes the With Profit Liabilities, and SLOCUK hereby agrees to indemnify and save Confederation and KPMG harmless on demand from and against all Claims (and all damages, fines or penalties assessed, levied or awarded therein and all reasonable fees and

disbursements associated therewith or incurred by reason thereof) asserted or brought on the basis of, or in relation to, any With Profit Liabilities.

3.3 Procedure for Indemnification. If either of Confederation or KPMG becomes aware of a Claim in respect of which it intends to seek indemnification under Section 3.2, it shall promptly notify SLOCUK of the Claim. SLOCUK shall be given the opportunity to lead the defence or settlement or such Claim provided that within ten (10) Business Days of being notified by Confederation or KPMG of the Claim they acknowledge in writing that such Claim is one to which the indemnity in Section 3.2 applies and that they are prepared to fulfill their obligations in relation thereto under Section 3.2. Otherwise, SLOCUK will only be entitled to participate in the settlement of such Claim, and will be bound by any result or settlement obtained by Confederation or KPMG in connection therewith. Should SLOCUK elect to lead the defence or settlement of a Claim in accordance with the foregoing, Confederation and KPMG will render all cooperation in connection therewith as SLOCUK may reasonably request.

3.4 Covenant not to Sue. Subject only to receipt of the payment referred to in Section 3.1 (it being acknowledged that no further act or formality shall be required to make the obligations of SLOCUK set out in this Section 3.4 effective or binding once such payment has been received), SLOCUK agrees to release and discharge Confederation from all obligations, causes of action, claims and costs whatsoever relating to or arising out of the With Profit Liabilities, and covenant not to sue Confederation in connection therewith.

3.5 No Admission. This Agreement shall not constitute an admission by any party hereto that any Confederation Branch Policies were mis-sold or marketed in an improper or tortious manner or in a manner so as to give rise to obligations not reflected in the express wording of the Confederation Branch Policies or that any liability relating to any of the foregoing would, but for the provisions of this Agreement, be the liability of any party hereto.

3.6 Warranty. KPMG warrants that it has advised SLOCUK and/or Sun Life and/or one of their Affiliates of all complaints it has received in relation to the Confederation Branch Policies or the manner in which they were advertised, marketed or sold.

ARTICLE 4 **GENERAL**

4.1 Notices. All notices required or permitted to be sent under and pursuant to this Agreement shall be in writing, and shall be delivered by hand, or night courier, or sent by telecopier to:

- (a) Confederation Life Insurance Company, in liquidation

Commerce Court West
199 Bay Street, 33rd Floor
P.O. Box 31
Toronto, Ontario M5L 1B2

Attention: Robert O. Sanderson

Telephone No.: (416) 777-8520
Facsimile No.: (416) 777-3683

(b) KPMG Inc.

Commerce Court West
199 Bay Street, 33rd Floor
P.O. Box 31
Toronto, Ontario M5L 1B2

Attention: Robert O. Sanderson

Telephone No.: (416) 777-8520

Facsimile No.: (416) 777-3683

(c) Sun Life Assurance Company of Canada (UK) Limited

Matrix House
Basingstoke
Hampshire England RG21 4DZ

Attention: The Chief Executive Officer

Telephone No.: 01256 849 923

Facsimile No.: 01256 849 392

or to such other person, address or fax number of which the addressee may from time to time have notified the addressor in writing. A notice shall be deemed to be sufficiently given on the day it is delivered by hand or on the day it is received if couriered on the day on which transmission is confirmed if telecopied, except that if such day is not a Business Day or if notice is delivered by hand or sent by telecopier after 5:00 p.m. at the receiving party's location, then notice shall be deemed to be sufficiently given on the next Business Day.

4.2 Further Acts. The parties acknowledge that their cooperation is required to facilitate the matters provided for herein. The parties shall do or cause to be done all such further acts and things that may reasonably be necessarily or desirable to give full effect to this Agreement.

4.3 Governing Law. This Agreement shall be governed by the laws of England and Wales.

4.4 Waiver. No waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence or forbearance by a party shall constitute a waiver of such party's right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter, or any other provision of this Agreement at any time.

4.5 Counterparts. This Agreement may be executed in one or more counterparts which, together, shall constitute one and the same agreement. This Agreement shall not be binding upon a party until it has been executed by all other parties and delivered to it. Delivery may be effected by facsimile transmission.

4.6 Assignment. This Agreement or any rights or obligations of a party hereunder may not be assigned directly or indirectly without the prior written consent of each other party. Any assignment without such consent shall be null and void.

4.7 Enure and Binding Effect. This Agreement shall enure to the benefit or and be binding upon the parties hereto and their respective successors and permitted assigns.

4.8 Personal Liability. It is acknowledged that, save and except for the purposes of Sections 3.2 and 3.3, KPMG Inc. is executing this Agreement solely in its capacity as liquidator of Confederation and not in its personal capacity and shall not incur any personal liability under or by virtue of this Agreement, whether in tort, contract or otherwise. Recourse in respect of the obligations of Confederation under this Agreement shall be limited to the assets of Confederation. The agreements of SLOCUK set out in Sections 3.2 and 3.3 are made in favour of Confederation and KPMG in its personal capacity. KPMG may seek a discharge as liquidator of Confederation at any time hereafter without notice to SLOCUK.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized representative on the date set forth below

**CONFEDERATION LIFE INSURANCE
COMPANY, IN LIQUIDATION, BY ITS
LIQUIDATOR, KPMG INC.**

Per: _____

Name:

Title:

**KPMG INC., in its personal capacity (for
purposes of Sections 3.2 and 3.3) and in its
capacity as Liquidator of Confederation**

Per: _____

Name:

Title:

**SUN LIFE ASSURANCE COMPANY OF
CANADA (UK) LIMITED**

Per: _____

Name:

Title:

Schedule "B"

Court File No. RE 4315/94

**ONTARIO COURT OF JUSTICE
(GENERAL DIVISION)**

The Honourable)
Mr. Justice Houlden) Tuesday, the 16th day
) of August, 1994
)

**IN THE MATTER OF
CONFEDERATION LIFE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
*INSURANCE COMPANIES ACT, S.C. 1991, AS AMENDED***

**AND IN THE MATTER OF THE
*WINDING-UP ACT, R.S.C. 1985, C.W-11, AS AMENDED***

B E T W E E N:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE COMPANY


Respondent

O R D E R

THIS MOTION, made by Peat Marwick Thorne Inc., Agent to the Acting Superintendent of Financial Institutions, provisionally appointed Liquidator of the Respondent Confederation Life Insurance Company, was heard this day at Toronto.

ON READING the Affidavit of Robert O. Sanderson, filed, upon hearing. submissions of counsel for the moving party, and upon being advised of the consent of the Canadian Life and Health Insurance Compensation Corporation,

1. **THIS COURT ORDERS** that the sale of the United Kingdom operations of the Respondent Confederation Life Insurance Company, substantially in the form of the Share Purchase Agreement dated August 16, 1994 among Sun Life Assurance Company of Canada, Confederation Life Insurance Company by the Agent of its Provisional Liquidator Peat Marwick Thorne Inc., Peat Marwick Thorne Inc. as Agent for the Superintendent of Financial Institutions, and Peat Marwick Thorne Inc., be and is hereby approved, and the said Liquidator is hereby authorized to complete such Share Purchase Agreement in accordance with its terms.



JUDITH I.C.J. (C.D.)

INSCRIT / ENTERED AT TORONTO

IN FILM No: 958
DANS FILM No:

ON/LE: 2408 1994

AS DOCUMENT No: 221
À TITRE DE DOCUMENT No:
PER/PAGE:

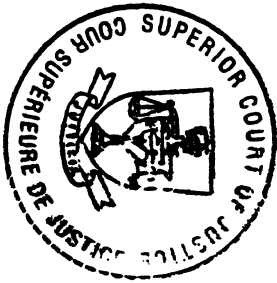


**SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST**

THE HONOURABLE MR.
JUSTICE ROBERT A. BLAIR

)
)

THURSDAY, THE 7th DAY
OF OCTOBER, 1999



**IN THE MATTER OF
CONFEDERATION LIFE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
*INSURANCE COMPANIES ACT, S.C. 1991, AS AMENDED***

**AND IN THE MATTER OF THE
*WINDING-UP ACT, R.S.C. 1985, C.W-11, AS AMENDED***

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE COMPANY

Respondent

ORDER

THIS MOTION made by KPMG Inc., the Liquidator (the "Liquidator") of Confederation Life Insurance Company ("Confed"), was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the Report of the Liquidator dated September 30, 1999 (the "Report"), filed, and upon hearing the submissions of counsel for the Liquidator, and Susan Rowland, the

proposed representative counsel, no other party appearing, although properly served as appears from the proof of service, filed,

1. **THIS COURT ORDERS** that the service made of the Notice of Motion and supporting materials herein is good and sufficient notice of this motion, that this motion is properly returnable today and that any further service of the Notice of Motion and supporting materials be and the same is hereby dispensed with.

2. **THIS COURT ORDERS AND DIRECTS** that the Liquidator send by ordinary mail on or before October 20, 1999, a proof of claim and instruction sheet in substantially the form attached hereto as Schedule "A" (the "Proof of Claim") to all persons, wherever located, with debt or other claims against Confed in existence on August 12, 1994, whether certain or contingent, liquidated or unliquidated (the "Ordinary Creditors"), provided that such claims are not claims under policies of insurance and are not subordinated by their terms to all other indebtedness of Confed, at their last known address as set out in the books and records of Confed.

3. **THIS COURT ORDERS AND DIRECTS** that the Liquidator publish a notice in substantially the form attached hereto as Schedule "B" on one occasion between the dates of October 13, 1999 and October 22, 1999 inclusive, in each of the newspapers and languages set out in the attached Schedule "C".

4. **THIS COURT ORDERS AND DIRECTS** that the Liquidator send by ordinary mail or by telecopier a Proof of Claim to any person making a request, at the address or telecopier number provided by the person, within four business days of the request being received.

5. **THIS COURT ORDERS AND DIRECTS** that, in accordance with Section 74 of the *Winding-up and Restructuring Act*, December 20, 1999 be fixed as the last day on or before which Ordinary Creditors and policyholders who held Confed policies on August 12, 1994, other than policyholders whose policies were issued by the United Kingdom, Cuban or United States branches of Confed, who assert that the claims under their policies have not been fully satisfied or recognized through the assumption of their policies by another insurer or payments made by, or in the process of being made by, the Liquidator must file their Proofs of Claim with the Liquidator.

6. **THIS COURT ORDERS** that Susan Rowland be appointed as representative counsel (the "Representative Counsel") to represent the interests of Confed's retired employees, their spouses and dependent children who were entitled to medical benefits, dental benefits and life insurance as of August 12, 1994 for the purposes of preparing and proving their claims in respect of such benefits.

7. **THIS COURT ORDERS** that the Representative Counsel be and is hereby authorized to retain actuarial advice.

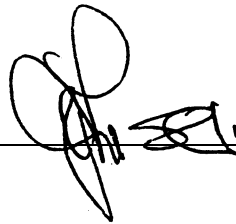
8. **THIS COURT ORDERS** that the remuneration, costs and expenses of the Representative Counsel be treated as part of the costs and expenses of the liquidation of Confed and that the Representative Counsel may be required, from time to time, to have her accounts assessed on a solicitor and client basis by the Court.

ENTERED AT/INSCRIT À TORONTO
ON/BOOK NO:
LE/DANS LE REGISTRE NO:

OCT 08 1999

G264281665

PER/PAR:



Schedule "A"

IN THE MATTER OF
CONFEDERATION LIFE INSURANCE COMPANY

AND IN THE MATTER OF THE
INSURANCE COMPANIES ACT, S.C. 1991, AS AMENDED

AND IN THE MATTER OF THE
WINDING-UP ACT, R.S.C. 1985, C. W-11, AS AMENDED

PROOF OF CLAIM OF:

(Name of Creditor – please print)

(Address of Creditor to which Notices
should be sent – please print)

I, (*name of creditor or representative of the creditor*),
of (*city and province*), do hereby certify:

1. That I am a creditor of Confederation Life Insurance Company ("Confed"), (or if a corporate entity is the creditor) that I am (*state position or title*) of (*name of creditor*).
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That Confed was, at the date of the winding-up, namely the 12th day of August, 1994, and still is, indebted to the creditor in the sum of \$..... (the "Claim").
4. Particulars of the Claim are set forth in the statement attached hereto and marked Schedule "A". (*Attach a sheet of paper, mark as Schedule "A" and initial*).
5. That in respect of the Claim (*Check and complete appropriate category.*)

() A. **UNSECURED CLAIM OF \$.....**

**OR ANY PART THEREOF AMONG THE PERSONS ENTITLED THERETO
WITHOUT REFERENCE TO YOUR CLAIM.**

**KPMG INC. ,
LIQUIDATOR OF CONFEDERATION LIFE INSURANCE COMPANY
4101 Yonge Street
Suite 500
Toronto, Ontario, Canada
M2P 1N6
Telephone No. (416) 228-2512
Fax No. (416) 323-2253**

Attention: I. George Gutfreund

Note 1 – To Confed Retirees:

A “Confed Retiree” includes Confed’s retired employees, their spouses and dependant children. “Retiree Benefits” are the medical, dental and life insurance benefits provided by Confed to Confed Retirees, resulting from its employment package. The Superior Court of Justice of Ontario has appointed Susan Rowland of the firm of Koskie Minsky as your representative counsel to assist you in proving your claim for Retiree Benefits, if you wish. She will contact you or you may reach her at 1-888-353-6661.

Note 2 – To Policyholders:

On April 26, 1999, the Liquidator declared that policyholders will receive 100% of the benefits to which they are entitled under the terms of their policies. The liabilities to policyholders of the Bermuda branch were assumed by Citicorp International Insurance Company Ltd. The liabilities to policyholders holding individual life policies were assumed by the Maritime Life Insurance Company. The liabilities to the policyholders and claimants under Confed’s group life and health policies have been assumed by the Manufacturers Life Insurance Company, other than certain claims that are currently in litigation, which remain the responsibility of the Liquidator. Policyholders who received periodic payment under their policies are now being paid at 100% of their benefits and have received retroactive adjustments to bring past payments to the 100% level. Accordingly, policyholders who are being paid as described above need not file a Proof of Claim. However, policyholders who assert that the claims under their policies have not been fully satisfied or recognized through the assumption of their policies by another insurer or payments made by, or in the process of being made by, the Liquidator should file a Proof of Claim giving full particulars of the claim, including the calculation upon which the claim is based.

If you hold a policy issued by the United Kingdom, United States or Cuban branches of Confed, you should NOT file a claim as your claim is being satisfied through another procedure.

INSTRUCTION LETTER FOR COMPLETING PROOF OF CLAIM

In order to have a valid claim in the winding up of Confederation Life Insurance Company (“Confed”), the enclosed Proof of Claim form must be properly completed and delivered to the Liquidator of Confed.

This instruction letter is provided to assist you in preparing the accompanying Proof of Claim form in a complete and accurate manner. Please specifically check each requirement.

General

- The claim must be signed personally by the individual completing it and dated.
- Creditor must state the full and complete legal name of company or firm.
- If the individual completing the Proof of Claim is not the creditor himself/herself, he/she must state his/her position or title.
- The signature of a witness is required.
- Give the complete address to which all notices or correspondence is to be forwarded.

Statement of Debt

- A detailed statement of account must be attached to the Proof of Claim and must show the date, the number and the amount of all outstanding invoices or charges; together with the date, the number and the amount of all credits or payments. A statement of account is not complete if it begins with an amount brought forward.
- The statement of account must be complete and must include supporting documents.
- The amount claimed is to be as at the date of the winding up of Confed, namely August 12, 1994.

Confed Retirees

- By order of the Court, Susan Rowland of the firm Koskie Minsky in Toronto has been appointed as representative counsel to assist Confed Retirees in proving their claims for Retiree Benefits. She will contact you or you may reach her at 1-888-353-6661.

Claim of Policyholders

- If you hold a policy issued by the United Kingdom, United States or Cuban branches of Confed, you should NOT file a claim.
- Otherwise, you should only file a claim if you believe that the claim under your policy has not been fully satisfied or recognized through the assumption of your policy by another insurer or payments made by, or in the process of being made by, the Liquidator.

- If you believe you have a claim, you must provide full details of the policy you are making a claim under together with the basis for the claim.
- State whether you are a named insured of the policy, a beneficiary under the policy, or what other basis you have for making the claim under the policy.
- State the name of any other parties who may have an interest in such policy.

Delivery of Proof of Claim to the Liquidator

- **The Proof of Claim must be properly completed and received by the Liquidator at the address set out below on or before December 20, 1999, failing which the Liquidator may distribute the assets of Confed or any part thereof among the persons entitled thereto without reference to your claim.**
- The Proof of Claim should be delivered to the Liquidator at the following address:

KPMG Inc.
Liquidator of Confederation Life Insurance Company
4101 Yonge Street, Suite 500
Toronto, Ontario, Canada
M2P 1N6
Tel. No.: (416) 228-2512
Fax No.: (416) 323-2253
Attention: I. George Gutfreund
- If there are any questions in completing this Proof of Claim, please write the Liquidator at the above address or telephone (416) 228-2512.

Schedule "B"

**IN THE MATTER OF THE WINDING-UP OF
CONFEDERATION LIFE INSURANCE COMPANY
("CONFED")**

On October [*], 1999 the Ontario Superior Court of Justice (the "Court") made an order establishing a procedure (the "Claims Procedure") whereby persons with claims against Confed may submit their claims to the Liquidator of Confed. Under the Claims Procedure, the Court-appointed Liquidator of Confed, KPMG Inc. (the "Liquidator") will mail to all claimants who register with the Liquidator in accordance with this Notice a package containing a Proof of Claim form and an Instruction Letter telling them how to complete and submit the Proof of Claim. Completed Proofs of Claim must be received in accordance with those instructions on or before December 20, 1999. **If you do not file a properly completed Proof of Claim on or before December 20, 1999 the Liquidator may distribute the assets of Confed or any part thereof among the persons entitled thereto without reference to your claim.**

If you are an employee of Confed or the spouse or dependent of such a person ("Confed Retirees") who was entitled to medical, dental and life insurance benefits as at August 12, 1994 provided by Confed to the Confed Retirees ("Retiree Benefits"), the Court has appointed Susan Rowland as representative counsel to assist you in proving your claim for Retiree Benefits, if you wish. She will contact you or you may contact her at 1-888-353-6661.

If you believe that you have a claim and you wish to receive a Proof of Claim and Instruction Letter, you must register with the Liquidator by (i) calling and leaving a message spelling your full name, mailing address and telephone number or (ii) sending a letter containing your name, address and telephone number and stating that you wish to receive a Proof of Claim, to:

KPMG Inc.
Liquidator of Confederation Life Insurance Company
4101 Yonge Street, Suite 500
Toronto, Ontario, Canada
M2P 1N6
Tel. No. (416) 228-2512
Fax No. (416) 323-2253
Attention: I. George Gutfreund

Your request for materials must be received by December 13, 1999.

If you held a Confed policy on August 12, 1994 and you believe that the claim under your policy has not been fully satisfied or recognized through the assumption of your policy by another insurer or payments made by, or in the process of being made by, the Liquidator, you must file a claim. If you held a policy issued by the U.S., the U.K. or Cuban branches of Confed you should not file a claim as your policy has been dealt with in other proceedings.

By Order of the Court.

Schedule “C”

Canadian Publications

Location		Publication	Language
British Columbia	Vancouver	Vancouver Sun	English
Alberta	Calgary	Calgary Herald	English
	Edmonton	Edmonton Journal	English
Saskatchewan	Regina	The Leader Post	English
Manitoba	Winnipeg	Free Press	English
Ontario	Ottawa	Le Droit	French
		The Citizen	English
	Toronto	Toronto Star	English
Quebec	Montreal	The Gazette	English
		La Presse	French
	Quebec	Le Soleil	French
New Brunswick	Fredericton	Daily Gleaner	English
Nova Scotia	Halifax	The Chronicle-Herald	English
Prince Edward Island	Charlottetown	The Guardian	English
Newfoundland	St. John’s	The Evening Telegram	English
National		The National Post	English
National		The Globe and Mail	English

United States Publications

STATE	NEWSPAPER
Alabama	The Montgomery Advertiser
Alaska	The Juneau Empire
Arizona	The Arizona Republic/The Phoenix Gazette
Arkansas	The Arkansas Democrat-Gazette
California	The Sacramento Bee
Colorado	The Denver Post
Connecticut	Hartford Courant
Delaware	Delaware State News
Florida	The Tallahassee Democrat
Georgia	The Marietta Daily Journal The Atlanta Journal/The Atlanta Constitution
Hawaii	The Honolulu Advertiser/The Honolulu Star-Bulletin
Idaho	The Idaho Statesman
Illinois	The State Journal-Register
Indiana	The Indianapolis Star
Iowa	The Des Moines Register
Kansas	The Topeka-Capital Journal
Kentucky	The State Journal
Louisiana	The Advocate
Maine	Kennebec Journal
Maryland	The Capital-Gazette
Massachusetts	The Boston Globe
Michigan	The Lansing State Journal
Minnesota	The St. Paul Pioneer Press
Mississippi	The Clarion-Ledger
Missouri	The Post Tribune
Montana	The Independent Record
Nebraska	The Lincoln Journal Star
Nevada	Nevada Appeal
New Hampshire	Concord Monitor
New Jersey	The Times

STATE	NEWSPAPER
New Mexico	The Santa Fe New Mexican
New York	The Albany Times Union The New York Times
North Carolina	The News and Observer
North Dakota	The Bismarck Tribune
Ohio	The Columbus Dispatch
Oklahoma	Daily/Sunday Oklahoman
Oregon	Statesman Journal
Pennsylvania	The Patriot/The Evening News
Rhode Island	The Providence Journal-Bulletin
South Carolina	The State
South Dakota	The Capital Journal
Tennessee	Nashville Banner/The Tennessean
Texas	Austin-American Statesman
Utah	The Salt Lake Tribune/Deseret News
Vermont	The Times Argus
Virginia	Richmond Times-Dispatch
Washington	The Olympian
Washington, D.C.	The Washington Post
West Virginia	Charleston Gazette/Charleston Daily Mail
Wisconsin	The Wisconsin State Journal/The Capital Times
Wyoming	Wyoming Tribune-Eagle
Puerto Rico	The San Juan Star

Other

LOCATION	NEWSPAPER
London, U.K.	The Financial Times of London
Luxembourg	The Luxembourger Wort
United States	Wall Street Journal

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**THE ATTORNEY GENERAL OF
CANADA**

Applicant

and

**CONFEDERATION LIFE INSURANCE
COMPANY**

Respondent

Commercial List Court File No: 97-BK-000543

**SUPERIOR COURT OF JUSTICE
– COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

**GOODMAN PHILLIPS & VINEBERG
Barristers & Solicitors
250 Yonge Street
Suite 2400, Box 24
Toronto, Ontario
M5B 2M6**

Gale Rubenstein \LSUC # 17088E
Graham Smith \LSUC #26377D

Tel: (416) 979-2211
Fax: (416) 979-1234

Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

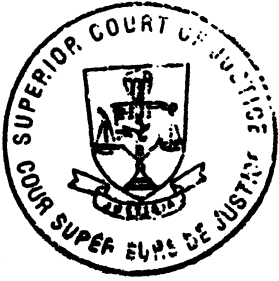
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**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.
JUSTICE ROBERT A. BLAIR

)
)

FRIDAY, THE 3rd DAY
OF DECEMBER, 1999



**IN THE MATTER OF
CONFEDERATION LIFE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
INSURANCE COMPANIES ACT, S.C. 1991, AS AMENDED**

**AND IN THE MATTER OF THE
WINDING-UP ACT, R.S.C. 1985, C.W-11, AS AMENDED**

B E T W E E N:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

CONFEDERATION LIFE INSURANCE COMPANY

Respondent

O R D E R

THIS MOTION made by KPMG Inc., the Liquidator (the "Liquidator") of Confederation Life Insurance Company ("Confed") was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING the Report of the Liquidator dated November 30, 1999 (the "Report"), and the Affidavit of Publication of Paul Costello, filed, and upon hearing the submissions of

counsel for the Liquidator, for The Chase Manhattan Bank, for the Canadian Life and Health Compensation Corporation and of Susan Rowland, as representative counsel,

1. **THIS COURT ORDERS** that the service made of the Notice of Motion and supporting materials herein is good and sufficient notice of this motion, that this motion is properly returnable today, and that any further service of the Notice of Motion and supporting materials be and the same is hereby dispensed with.

2. **THIS COURT ORDERS** that paragraph 3 of the Order of the Honourable Mr. Justice Blair herein dated the 7th day of October, 1999, a copy of which is attached hereto as Schedule "A" (the "October 7th Order") relating, *inter alia*, to a call for claims by the Liquidator from Ordinary Creditors and policyholders asserting Additional Policyholder Claims (both as defined in the Report), be and the same is hereby amended, *nunc pro tunc*, by extending the last day on or before which a notice, substantially in the form annexed as Schedule "B" to the October 7th Order, is to be published from October 22, 1999 to November 18, 1999.

3. **THIS COURT ORDERS** that paragraph 5 of the October 7th Order be and the same is hereby amended, *nunc pro tunc*, by extending the last day fixed on or before which Ordinary Creditors and policyholders asserting Additional Policyholder Claims must file their proofs of claim with the Liquidator, from December 20, 1999 to February 15, 2000.

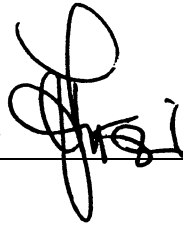
ENTERED AT/INSERIT À TORONTO
ON/BOOK NO:
LE/DANS LE REGISTRE NO:

DEC 03 1999

G264291747

PER/PAR:

JF



**THE ATTORNEY GENERAL OF
CANADA**

Applicant

and

**CONFEDERATION LIFE INSURANCE
COMPANY**

Respondent

Commercial Court File No: 97-BK-000543

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

GOODMAN PHILLIPS & VINEBERG
Barristers & Solicitors
250 Yonge Street
Suite 2400, Box 24
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Gale Rubenstein\LSUC # 17088E
Graham D. Smith\LSUC #26377D

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Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

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**ONTARIO
SUPERIOR COURT OF JUSTICE
– COMMERCIAL LIST**

Proceeding commenced at Toronto

MOTION RECORD

**GOODMANS LLP
Barristers & Solicitors
250 Yonge Street, Suite 2400
Toronto, Ontario M5B 2M6**

Gale Rubenstein (LSUC # 17088E)
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Fax: (416) 979-1234

Solicitors for KPMG Inc., the Liquidator of
Confederation Life Insurance Company

CONFEDERATION LIFE INSURANCE COMPANY, IN LIQUIDATION WEBSITE LEGAL DISCLAIMER

This website (the "Site") contains legal documents pertaining to the windup of Confederation Life Insurance Company. This Site is presented as a public service for informational purposes only by Confederation Life Insurance Company by its Liquidator, KPMG Inc. (the "Liquidator"). KPMG LLP is not the Liquidator and has no responsibility for the contents of this Site. WARNING: Transmissions to the Site are not protected and no confidentiality will be maintained with respect thereto. Transmissions to the Site are made at the sender's risk.

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Based on the fundamental universal condition of the electronic communication process, the Liquidator does not guarantee or warrant the Site will be uninterrupted, without delay, error-free, omission-free, or free of viruses. Therefore, the information is provided "as is" without warranties of any kind, express or implied, including accuracy, timeliness and completeness. In no event shall the Liquidator, its employees, agents, consultants, legal counsel, contractors, or affiliates be liable for any direct, indirect, incidental, special, exemplary, punitive, consequential or other damages whatsoever (including, but not limited to, liability for loss of use, data or profits), without regard to the form of any action, including but not limited to contract, negligence or other tortious actions, arising out of or in connection with the Site, any content on or accessed by use of the Site, or any copying, display or other use hereof.

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The Site is controlled by the Liquidator from its offices within the Province of Ontario, Canada. By accessing the Site, you and the Liquidator agree that all matters relating to access to, or use of the Site shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to the conflicts of laws principals thereof. You and the Liquidator also agree and hereby submit to the exclusive personal jurisdiction and venue of the courts of the Province of Ontario with respect to such matters.