

**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

Oklahoma Department of Securities,
ex rel. Irving L. Faught, Administrator,

Plaintiff,

vs.

Accelerated Benefits Corporation, a Florida
Corporation, *et al.*,

Defendants.

Acheron Portfolio Trust,

vs.

H. Thomas Moran II, Conservator of certain assets
of Accelerated Benefits Corporation, HTM
Conservator, L.L.C., and Asset Servicing Group,
L.L.C.

Case No. CJ-99-2500-66

**ASSET SERVICING GROUP L.L.C.'S SUPPLEMENTAL
ANSWERS AND REPOSES TO ACHERON
PORTFOLIO TRUST'S DISCOVERY REQUESTS**

Pursuant to 12 OKLA. STAT. §§ 3226, 3233 and 3234, Defendant Asset Servicing Group, L.L.C. ("Defendant" or "ASG") hereby submits the following supplemental responses and objections to Acheron Portfolio Trust's Discovery Requests to ASG ("Discovery Requests"). All responses contained herein are based only upon such information and documents presently available to ASG. Additional discovery, investigation, research and analysis may supply additional facts and documents and/or add meaning to known facts. Accordingly, the responses below are given without prejudice to ASG's right to later produce additional information and documents. In submitting the following supplemental responses, ASG incorporates by reference, as if fully set forth herein, its previous objections to Acheron's Discovery Requests.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

Interrogatory No. 7: Identify every third-party database you subscribe to or utilize, or have in the past subscribed to or utilized in providing policy management services to the ABC Portfolio, and provide the time period in which each was used.

Supplemental Response to Interrogatory No. 7: ASG objects to this Interrogatory for the reasons it calls for the production of information that is proprietary, constitutes trade secrets of ASG and is protected from discovery. Notwithstanding these objections, and without waiving the same, ASG will reconsider its objections provided the Agreed Protective Order is amended by the Court to specifically prohibit the disclosure of information produced in response to this Interrogatory to any competitor or potential competitor of ASG's and such disclosure is limited to Acheron's counsel and its expert witnesses, if any.

Interrogatory No. 14: Identify each Policy for which ASG has sought to continue or renew a disability waiver, and describe the steps ASG has taken to renew such waiver, and the date(s) on which ASG took such steps.

Response to Interrogatory No. 14: *See* Exhibit 1 to these Responses, which lists each Policy, from the date of the Servicing Agreement at issue to the present, for which there is or was a disability premium waiver ("DPW"). ASG previously provided Acheron with a list of active Policies with a DPW. Exhibit 1 to these Responses includes any Policies that have, since January 2006, had a DPW, including Policies that have matured or are no longer eligible for a DPW.

With respect to the steps ASG has taken to renew DPWs, ASG confirms all active DPWs annually. For each Policy, ASG tracks the renewal date and, prior to the renewal date, contacts the insurance carrier to confirm that the DPW is still active. ASG is able to confirm most DPWs

by calling the carrier. ASG will also submit forms to carriers requesting confirmation. Additionally, ASG will determine what (if any) information the carrier may need concerning the Insured's disability status. *See also* the documents produced by ASG in response to Request for Production No. 11.

Interrogatory No. 15: Identify each Policy for which ASG has sought to apply for a waiver of premium, and state the date upon which such waiver was first sought by ASG, and identify all documents evidencing or supporting any such request.

Supplemental Response to Interrogatory No. 15: ASG objects to this Interrogatory for the reasons it calls for information that is neither relevant nor likely to lead to the discovery of relevant information. The Servicing Agreement requires only that ASG continue or renew waivers for Policies for which the premiums were being paid as of the effective date of the Servicing Agreement as a result of a disability rider. Consequently, it is immaterial whether ASG sought to apply for a waiver of premium for any of the Policies.

Notwithstanding these objections and without waiving the same, *see* Supplemental Response to Interrogatory No. 14 and the documents produced by ASG in response to Request for Production No. 11.

Interrogatory No. 25: For each Policy you have identified as having matured since 2006, describe how you learned of the Insured's death. Your explanation should be specific to each deceased Insured.

Response to Interrogatory No. 25: ASG objects to this Interrogatory for the reason it is overly broad, burdensome and calls for information that is neither relevant nor likely to lead to the discovery of relevant information. Since January 1, 2006, ASG has identified a total of 230 Policy maturities. Of these 230 Policy maturities, Acheron initially alleged that the deaths of two (2)

Insureds were not timely identified. ASG has provided an explanation of how it learned of these Insureds' deaths. *See* Letter from Melvin R. McVay, Jr. to John Hermes, dated August 30, 2013, at § B.1; *see also*, Answer filed October 2, 2013, at ¶¶ 14 and 15. ASG also produced the Policy files for these Insureds. Acheron subsequently provided ASG with a list of 6 additional "Insureds whose death was not timely identified by ASG." ASG has produced the Policy files for each of these Insureds. To date, ASG has produced the Policy file for each of the 13 maturities that Acheron claims ASG did not timely discovery.

Acheron's request that ASG provide an explanation, specific to each maturity, as to how ASG learned of each of the 217 other Policy maturities is overly broad and calls for information that is neither relevant nor likely to lead to the discovery of relevant information. Although ASG currently maintains a report showing how it learned of each Policy maturity, this report contains sensitive information concerning ASG's tracking procedures. The details of how ASG tracks insureds and identifies maturities are proprietary to ASG. The disclosure of ASG's confidential processes would place ASG at a business disadvantage with ASG's competitors. Thus, even if the information sought by Acheron were discoverable, its disclosure would be harmful to ASG and its ability to compete in the life settlement/viatical servicing industry.

Additionally, prior to September 2009, ASG maintained the requested information for a Policy maturity in the file that Policy. Thus, to determine how it learned of maturities prior to September 2009, ASG would have to expend approximately 100-150 hours to review each of these 94 files and, based on this time-consuming review, compile the requested descriptions for these other Policy maturities. Acheron's request is overly burdensome, especially in light of the lack of relevance or possible relevance of the information requested.

Notwithstanding, ASG will reconsider its objections provided that (1) Acheron will limit its

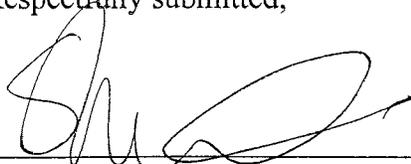
request to information that is readily available to ASG electronically, even if that information is limited in terms of time or is not available electronically for some Policy maturities; and (2) the Agreed Protective Order is amended by the Court to specifically prohibit the disclosure of information produced in response to this Interrogatory to any competitor or potential competitor of ASG's and limit disclosure of this information to Acheron's counsel and expert witnesses, if any.

SUPPLEMENTAL RESPONSES TO REQUESTS FOR PRODUCTION

Request for Production No. 11: Produce all letters, emails, or other correspondence between you and the insurance carrier of any Policy since 2008 that pertain to the disability status of any Insured.

Supplemental Response to Request for Production No. 11: ASG objects to this Request for the reason it is overly broad, unduly burdensome and calls for information that is neither relevant nor likely to lead to the discovery of relevant information. Notwithstanding, and based on Acheron's agreement to limit this Request to only those Policies that currently have or at any time since 2006 have had a DPW in effect ("DPW Policies"), the requested documents, if they have not already been produced, are being produced with this Supplemental Response. (ASG previously produced the requested documents for 42 of the DPW Policies, which contain the requested documents for those Policies.)

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that on the 16th day of April, 2015, a true and correct copy of the foregoing was served by certified mail, return receipt requested, to:

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