

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

AIKEN DIVISION

Transamerica Premier Life Insurance) Civil Action No. 1:16-01850-JMC
Company,)
)
 Plaintiff,)
)
 vs.) **CONSENT ORDER FOR**
) **INTERPLEADER**
 Mary S. Riley, Cathy A. Sherlock, and)
 Rowland Funeral Home, Inc.,)
)
 Defendants.)
)

BEFORE THE COURT is the request of Plaintiff Transamerica Premier Life Insurance Company (“Transamerica”), with the consent of Defendant Mary S. Riley (“Riley”) and Defendant Cathy A. Sherlock (“Sherlock”), to allow the disbursement of the proceeds of the subject life insurance policy and to discharge Transamerica from further liability relating to the policy pursuant to Rule 22 of the Federal Rules of Civil Procedure.

THE RECORD REFLECTS the following facts pertinent to the Order requested by Transamerica:

1. Transamerica is an insurance company organized and existing under the laws of the state of Iowa and maintains its principal place of business in Iowa.
2. Riley is a citizen of South Carolina, residing in the town of North Augusta located in Aiken County, South Carolina.
3. Sherlock is a citizen of the state of South Carolina, residing in the town of North August located in Aiken County, South Carolina.

4. Rowland Funeral Home, Inc. is a corporation organized under the laws of the state of South Carolina and having its principal place of business in North Augusta, South Carolina, located in Aiken County.

5. In 2011, Transamerica issued policy number xxxxx5644, a life insurance policy insuring the life of Roseann Sherlock (the “Policy”), with a face value of \$600,000.

6. The application for the Policy designated Roseann Sherlock as the owner and Mary S. Riley as the primary beneficiary.

7. Transamerica received a policy change form dated September 20, 2011 purportedly bearing the signature of Roseann Sherlock and naming Mary S. Riley as the owner of the Policy.

8. Transamerica received a policy change form dated February 10, 2014 purportedly bearing the signature of Roseann Sherlock naming Cathy A. Sherlock as the new owner and primary beneficiary.

9. Roseann Sherlock died on February 2, 2016, in Aiken County, South Carolina.

10. Transamerica received a claim form dated February 10, 2016 signed by Mary S. Riley.

11. Transamerica also received a claim form dated February 24, 2016 signed by Cathy A. Sherlock.

12. Transamerica also received an assignment of death benefit proceeds in the amount of \$18,964.95 with the assignee being Rowland Funeral Home, Inc.

13. The death benefit due under the Policy is \$600,000.00.

14. On June 7, 2016, Transamerica instituted this interpleader action because it was in doubt as to which Defendant is entitled to payment of the proceeds under the Policy due to the competing claims, and Transamerica is or may be exposed to multiple or inconsistent liability and obligations under the Policy as a result.

15. Riley was served with process on June 23, 2016 and an Affidavit of Service was filed with the Court on July 6, 2016.

16. Sherlock was served with process on June 23, 2016 and an Affidavit of Service was filed with the Court on July 6, 2016.

17. Riley and Sherlock have appeared and answered in the instant lawsuit and have agreed to the Court's exercise of *in personam* jurisdiction.

18. Rowland Funeral home was served with the Summons and Complaint on June 21, 2016, and its answer was due on July 12, 2016. Rowland Funeral Home did not answer or appear. The clerk entered default against Rowland Funeral Home on August 2, 2016 [Dkt No. 15].

19. Riley and Sherlock jointly request the payment of EIGHTEEN THOUSAND NINE HUNDRED SIXTY-FOUR AND 95/100S (\$18,964.95) DOLLARS of the disputed funds to Rowland Funeral Home for services rendered by Rowland Funeral Home and funds advanced to allow the purchase of a cemetery lot and other cemetery expenses. Transamerica has no objection to this request. An assignment form was submitted with the Complaint for Interpleader as Exhibit F and provides that the funeral home is to receive from the death benefit proceeds the sum of EIGHTEEN THOUSAND NINE HUNDRED SIXTY-FOUR AND 95/100S (\$18,964.95) DOLLARS.

20. Riley and Sherlock consent to an award of attorneys' fees for Transamerica in the amount of SEVENTEEN THOUSAND AND NO/100S (\$17,000.00) DOLLARS for the efforts of its counsel in commencing and litigating this interpleader action.

21. Riley and Sherlock have reached an agreement as to the division of the remaining death benefit proceeds. They seek to have the remaining death benefit proceeds divided equally between them and, therefore, request that the sum of TWO HUNDRED EIGHTY-TWO THOUSAND SEVENTEEN AND 53/100S (\$282,017.53) DOLLARS be distributed to Riley and

that TWO HUNDRED EIGHTY-TWO THOUSAND SEVENTEEN AND 52/100S (\$282,017.52) DOLLARS be distributed to Sherlock.

THE COURT HEREBY FINDS that it has jurisdiction over both the subject matter and the parties. The Court has subject matter over claims related to the Policy pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship between Transamerica and Defendants and because the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. The Court has personal jurisdiction over the Defendants because they are South Carolina residents who were personally served with process and because none of them have challenged the Court's exercise of personal jurisdiction.

THE COURT FURTHER FINDS that multiple parties claim an interest in the same insurance proceeds and that it would be appropriate to allow such proceeds to be disbursed as outlined above and to discharge Transamerica of all liability and obligations under the Policy. The Court further finds that all parties with a potential interest in the insurance proceeds have been named and properly served with a copy of the Complaint for Interpleader.

NOW, THEREFORE, the Court hereby orders the following:

1. Default judgment is hereby entered against Rowland Funeral Home providing for the relief sought in the Complaint for Interpleader.

2. Transamerica shall disburse to Rowland Funeral Home within fifteen (15) days of the entry of this Order the sum of EIGHTEEN THOUSAND NINE HUNDRED SIXTY-FOUR AND 95/100S (\$18,964.95) DOLLARS.

3. Transamerica shall distribute to Riley in accordance with the instructions of her counsel the sum of TWO HUNDRED EIGHTY-TWO THOUSAND SEVENTEEN AND 53/100S (\$282,017.53) DOLLARS. This distribution shall occur within fifteen (15) days of the later of (a)

the entry of this Order, or (b) the receipt by Transamerica of a properly executed W-9 form for each payee designated by counsel for Riley for this distribution.

4. Transamerica shall distribute to Sherlock in accordance with the instructions of her counsel the sum of TWO HUNDRED EIGHTY-TWO THOUSAND SEVENTEEN AND 52/100S (\$282,017.52) DOLLARS. This distribution shall occur within fifteen (15) days of the later of (a) the entry of this Order, or (b) the receipt by Transamerica of a properly executed W-9 form for each payee designated by counsel for Sherlock for this distribution.

5. Transamerica is permitted to retain the remaining SEVENTEEN THOUSAND AND NO/100S (\$17,000.00) DOLLARS of the death benefit proceeds representing an award to Transamerica for its attorneys' fees and costs.

6. Transamerica is hereby discharged from any further liability or obligation under Policy No. xxxxx5644 covering the life of Roseann Sherlock, including any and all riders thereto.

7. Each Defendant is enjoined and restrained from instituting any action against Transamerica for recovery of any proceeds related to Policy No. xxxxx5644 covering the life of Roseann Sherlock.

IT IS SO ORDERED.

s/J. Michelle Childs
J. Michelle Childs
United States District Judge

Dated: April 4, 2017

Columbia, South Carolina