

Matter of Peachtree Settlement Funding, LLC

2020 NY Slip Op 34466(U)

September 23, 2020

Supreme Court, Monroe County

Docket Number: E2020005361

Judge: James J. Piampiano

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settlement payments, to which the Payee was the designated recipient (the “Assigned Payments”), namely:

One Hundred Fourteen (114) monthly life contingent payments of \$1,033.88 each, beginning on August 1, 2027 and ending on January 1, 2037.

The aggregate amount of the Assigned Payments totals \$117,862.32. In exchange for the proposed transfer of the Assigned Payments to the Petitioner, Robin Feasel would receive the purchase price of \$17,500.00, as set forth in the New York Disclosure Statement and the New York Purchase Contract submitted with the Petition.

Now, the Court hereby determines, based upon the credible evidence received in the pending proceeding, that jurisdiction exists in this Court, pursuant to GOL § 5-1705 (b) (i). The Court further determines that the following entities are interested parties to this proceeding: (1) Robin Feasel; (2) Travelers Casualty and Surety Company; and (3) Prudential Insurance Company of America. All of the disclosure requirements set forth in GOL § 5-1703 (Required Disclosure to Payee) have been satisfied. Further, Mr. Feasel was advised by the Petitioner to seek independent professional advice regarding the proposed transfer.

This is the fifth application to transfer a portion of Mr. Feasel’s structured settlement payments. The Court notes that no opposition to the relief requested by the Petitioner, in the pending transfer application, was raised by any interested party.

The Court conducted a hearing on September 1, 2020, at which Mr. Feasel testified. Upon the credible evidence adduced at the hearing, the Court further determines, as follows:

Robin Feasel is a 54 year old, single man, who resides in Rochester, New York. Mr. Feasel does not have any dependents. He receives Disability payments in the amount of \$1,403 per month, and Food Stamps.

Mr. Feasel graduated from high school, and took college classes toward earning a degree in Information Technology. Mr. Feasel's work history included the ownership of a landscaping business, the repair of commercial restaurant equipment, and retail management positions. Although Mr. Feasel was not employed at the time of the hearing, he was starting a woodworking and repair business.

Mr. Feasel testified that, with the recent passing of his father, he was in the process of obtaining ownership of his father's home. The monthly mortgage and taxes for the home was \$757.93 per month. Additional living expenses included: gas and electric in the amount of approximately \$100.00 to 200.00 per month, vehicle insurance in the amount of approximately \$850.00 per year; vehicle fuel in the amount of approximately \$40.00 per month; television service in the amount of approximately \$141.00 per month; groceries in the amount of approximately \$175.00 per month; and cell phone service in the amount of approximately \$150.00 per month. Mr. Feasel owned his vehicle, free and clear of any debt. However, Mr. Feasel had accrued loan debt, as well as consumer credit debt, totaling between \$7,000.00 and \$9,600.00.

As set forth in the Petition and the supporting Affidavit, Mr. Feasel intended to apply the proposed transfer proceeds toward the establishment of his woodworking business, toward the payment of his loan and credit card debt, and toward the payment of prior funeral expenses for his mother.

Discussion

General Obligations Law § 5-1706 provides, among other things, that the Court may not approve a transfer of structured settlement payment rights unless it finds that such transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

that the transaction is fair and reasonable.

In the case of *Matter of Settlement Funding of New York, LLC [Platt]* (2 Misc.3d 872, 876 [Sup Ct, Lewis County 2003]), the court stated that the following factors should be considered in determining the best interest of the payee: (1) the payee's age, mental capacity, physical capacity, maturity level, independent income, and ability to support dependents; (2) the purpose of the intended use of the funds; (3) the potential need for future medical treatment; (4) the financial acumen of the payee; (5) whether the payee is in a hardship situation to the extent that he or she is in "dire straits;" (6) the ability of the payee to appreciate financial consequences based on independent legal and financial advice; and (7) the timing of the application (*id.* at 876; *see also American Farms, LLC v John Hancock Assignment Company*, 61 Misc.3d 1203(A) [Sup Ct, Kings County 2018]). Although General Obligations Law § 5-1706 was amended in 2004 to provide that a court need not make a finding that an applicant is suffering from a hardship before the court is able to approve the transfer of structured settlement payments, the requirement under General Obligations Law § 5-1706, that a reviewing court ascertain whether the transfer is in the best interest of the transferor, arguably necessitates an assessment of the transferor's current financial circumstances, needs, and probable future financial situation (*American Farms, LLC v John Hancock Assignment Company*, 61 Misc.3d 1203(A) [Sup Ct, Kings County 2018]). General Obligations Law § 5-1706, therefore, requires a case-by-case analysis (*Matter of 321 Henderson Receivables, L.P.*, 13 Misc.3d 526 [Sup Ct, Erie County 2006]).

Contrary to the allegations set forth in the Petition, the Court hereby determines that the proposed transfer fails to comply with all of the requirements and standards of GOL § 5-1701 *et seq.*, and the proposed transfer fails to comply with all of the requirements and standards of 26 U.S.C. §

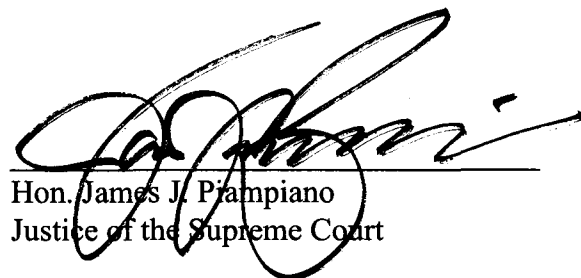
5891 *et seq.*, inasmuch as the proposed transfer is not in the best interest of Mr. Feasel. Considering all of the relevant factors herein, the Court finds that Mr. Feasel appears to be an industrious individual, as he has held various jobs throughout the years, and he now is seeking to establish his own business. Nevertheless, the financial acumen of Mr. Feasel is questionable. The Court notes that a prior application to transfer a portion of Mr. Feasel's rights to structured settlement payments had been granted. Yet Mr. Feasel proceeded to incur debt, which he now owes, and his new business is not yet income-producing. Mr. Feasel's current disability payments are less than his reported average monthly expenses, without consideration of any debt repayment. Further, Mr. Feasel did not testify as to any other source of income to cover the expenses attendant with his anticipated home ownership, over and above utility payments. While the Court is mindful that the pending transfer application pertains to life contingent payments, the Court concludes that the proposed transfer herein is not in the best interest of Mr. Feasel.

In light of its finding that the proposed transaction is not in Mr. Feasel's best interest, it is unnecessary for the Court to further evaluate the fairness and reasonableness of the proposed transfer.

It is, therefore, hereby

ORDERED, that the Petitioner's application is denied, and the Petition is dismissed.

Dated: September 23, 2020
Rochester, New York



Hon. James J. Piampliano
Justice of the Supreme Court