

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**CHARLES JACKSON GASCHE, JR.,** )  
**DENNIS J. HARRIS, GENE L.** )  
**PETERSON, WILLIAM A.** )  
**SCHOKNECHT and JOHN J. SKIBA,** )  
**individually and on behalf of a Class of all** )  
**others similarly situated,** )  
  
**Plaintiffs,** )  
  
**v.** )  
  
**ASWORTH CORPORATION,** )  
  
**Defendant.** )

**Case No. 04C 0776**

**Judge David H. Coar**

**ORDER APPROVING THE FORM AND MANNER OF CLASS NOTICE  
AND SETTING A HEARING FOR FINAL APPROVAL OF SETTLEMENT**

The Court having reviewed the Stipulation of Settlement and the record in this action, including the parties' joint motion for a hearing for final approval of the settlement,

IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The Court adopts all defined terms as set forth in the Stipulation of Settlement.
2. The Court has jurisdiction over the subject matter of the Action and the parties, including the members of the Settlement Class.
3. The Action is hereby preliminarily certified, for purposes of settlement only, as a class action under Federal Rule of Civil Procedure 23(b)(3) on behalf of the

following: All persons who were entitled, are now entitled or will be entitled to receive annuity payments under either Prudential Group Annuity Contract GA-8896 or GA-8857. The Settlement Class shall include the estate of a person now deceased, unless a survivor of such deceased person is currently receiving annuity payments under one or both of the Annuity Contracts, in which case the survivor and not the estate shall be a member of the Settlement Class. The Settlement Class shall not include an individual who may at some future date become entitled to receive annuity payments as the result of a death of a Class Member.

4. The Court appoints Plaintiffs Charles Jackson Gasche, Jr., Dennis J. Harris, Gene L. Peterson, William A. Schoknecht and John J. Skiba as Class Representatives and the firm of Cohen, Weiss and Simon LLP as Class Counsel. The Court preliminarily finds that the Class Representatives and Class Counsel have provided adequate representation to the Class.

5. The Court preliminarily finds that the prerequisites to a class action under Rule 23 of the Federal Rules of Civil Procedure have been satisfied, in that: (a) the members of the Settlement Class are so numerous that joinder of all members in the Action would be impracticable; (b) there are questions of law and fact common to the Settlement Class and those questions predominate over any individual questions; (c) the claims of the Class Representatives are typical of the claims of the Settlement Class; (d) the Class Representatives and Class Counsel have fairly and adequately represented and protected the interests of the members of the Settlement Class; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the Action, considering (i) the interests of the members of the Settlement Class in individually

controlling the prosecution of separate actions, (ii) the extent and nature of any litigation concerning the Action already commenced by members of the Settlement Class; (iii) the desirability or undesirability of continuing the Action in this particular forum; and (iv) the difficulties likely to be encountered in the management of the Action.

6. The Court approves the form and substance of the Notice of Pendency and Proposed Settlement of Class Action (“the Settlement Notice”) set forth as Exhibit A to the Stipulation of Settlement. The Court also finds that the proposed distribution of the Settlement Notice prescribed in the Stipulation of Settlement constitutes the best notice practicable under the circumstances within the meaning of Federal Rule of Civil Procedure 23(c)(2)(B). Class Counsel shall cause the Settlement Notice to be sent to the members of the Settlement Class on or before December 23, 2004.

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7. The Court will consider objections to the Stipulation of Settlement or to Class Counsel’s motion for attorneys’ fees only if such objections are in writing and mailed, postmarked no later than January 24, 2005, to the Clerk of the Court, United States District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604, with a copy mailed at the same time to Peter D. DeChiara, Esq., Cohen, Weiss and Simon LLP, 330 West 42nd Street, New York, NY 10036-6976, and Matthew W. Walch, Esq., Latham & Watkins LLP, 233 South Wacker Drive, Suite 5800 Sears Tower, Chicago, Illinois 60606. Attendance at the hearing is not necessary; however, persons wishing to be heard orally are required to indicate in their written objection their intention to appear at the hearing. Persons who do not file an objection waive their right to appeal from, or otherwise challenge, any court ruling on the Stipulation of Settlement or the motion for attorneys’ fees. Objectors may appear through counsel.

8. Anyone who wishes to be excluded from the Settlement Class may request exclusion by submitting a written request to be excluded from the Settlement Class. To be effective, the request for exclusion must be signed and dated by the eligible member of the Settlement Class, or his or her legal representative, and include his/her full name, address and telephone number, and must be mailed and postmarked on or before January 24, 2005 to Class Counsel. No person may exclude himself/herself from the Settlement Class after that date. If a request for exclusion does not include all of the foregoing information, it shall not be a valid request for exclusion.

9. Neither the Stipulation of Settlement nor this Order constitutes an admission of, or evidence of, the validity of any Claim in the Action, or of any wrongdoing or liability of Asworth, nor may either the Settlement or the Order be deemed to be, or used as, an admission of, or evidence of, any fault or omission of Asworth in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal.

10. Pending final determination of whether the Stipulation of Settlement should be approved, the prosecution and defense of the Action is hereby stayed; the Class Representatives, all members of the Settlement Class, and each of them, and anyone who acts or purports to act on their behalf, shall not institute, commence or prosecute any action which asserts Released Claims against any Released Party; and Asworth shall not in any manner dispose of the PRU Common Stock, Dividends and Interest identified in the Settlement.

11. The Fairness Hearing is hereby scheduled to be held before the Court on March 15, 2005 at 9:30 a.m. The purpose of the hearing will be to determine:

- a. whether the settlement should be approved as lawful, fair, reasonable, and adequate;
- b. whether a class should be certified for purposes of the settlement;
- c. whether the application by Class Counsel for an award of attorneys' fees should be approved; and
- d. whether judgment that dismisses each and every cause of action asserted in the Action against Asworth with prejudice to the Settlement Class should be rendered.

12. If: (a) the Stipulation of Settlement is terminated pursuant to the terms thereof; (b) any specified condition to the Stipulation of Settlement is not satisfied and the satisfaction of such condition is not waived in writing by counsel; (c) the Court fails to grant a Final Judgment and Order of Dismissal in substantially the form and content as that set forth as Exhibit D to the Stipulation of Settlement and/or counsel fail to consent to the entry of another form of judgment and order in lieu thereof; (d) the Court rejects the Stipulation of Settlement, including any amendment thereto approved by counsel; or (e) the Court approves the Stipulation of Settlement, including any amendment thereto approved by counsel, but such approval is reversed in whole or in part on appeal and such reversal becomes final by lapse of time or otherwise, then, in any such event, the Stipulation of Settlement, including any amendment(s) thereof, and this Preliminary Order for purposes of the Stipulation of Settlement shall be null and void, of no further force or effect, and without prejudice to any party, and may not be introduced as evidence or referred to in any actions or proceedings by any person or entity, and each party shall be restored to his or her respective position as it existed prior to the execution of the Stipulation of Settlement to the maximum extent practicable.

13. The Court reserves exclusive and continuing jurisdiction over the Action, the Class Representatives, the Settlement Class and the Released Parties for the purposes

of: (1) supervising the implementation, enforcement, construction, and interpretation of the Stipulation of Settlement and this Order; (2) hearing and determining any application by Class Counsel for an award of attorneys' fees; (3) supervising the distribution of the Settlement Fund; and (4) resolving any disputes or issues that may arise in connection with the Action or the Settlement of the Action.

Dated: November 19, 2004

  
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U.S. District Judge