

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

Docket No. 08-E-0053

**In the Matter of the Liquidation of
Noble Trust Company**

**AFFIDAVIT OF ROBERT A. FLEURY IN SUPPORT OF
LIQUIDATOR'S MOTION AND INCORPORATED SUPPORTING MEMORANDUM
FOR APPROVAL OF SETTLEMENT AGREEMENT AND RELEASE WITH
SECURITY LIFE OF DENVER INSURANCE COMPANY**

I, Robert A. Fleury, hereby depose and say:

1. I am the former Deputy Bank Commissioner for the State of New Hampshire and former liquidator of Noble Trust Company ("Noble Trust"). I have been retained as Special Deputy Liquidator by Glenn A. Perlow, Bank Commissioner for the State of New Hampshire, in his capacity as liquidator (the "Liquidator") of Noble Trust. I am involved in and have oversight of the liquidation of Noble Trust. I have familiarity with the books and records of Noble Trust and have participated in numerous meetings associated with the matters set forth herein.

2. I submit this affidavit in support of the Liquidator's Motion and Incorporated Supporting Memorandum for Approval of Settlement Agreement and Release with Security Life of Denver Insurance Company (the "Motion"). As set forth more fully in the Motion, the Liquidator has entered into a Settlement Agreement and Release dated as of January 21, 2014 (the "Settlement Agreement") with Security Life of Denver Insurance Company ("Security Life").

3. Prior to the commencement of the Liquidation Proceeding, Security Life issued life insurance policy number 1612111 (the "Policy" or the "Waters Policy") dated October 26,

2006 on the life of Karl M. Waters, Jr. (the "Insured"), who is reflected in Noble Trust's books and records as a Noble Trust client. The record owner of the Policy is the Karl Martin Waters, Jr. Irrevocable Life Insurance Trust (the "Trust") as to which Noble Trust was co-Trustee. According to Noble Trust's records, Noble Trust paid or caused to be paid to Security Life premiums in the amount of \$500,000 on account of the Policy. The premiums for the Policy were financed by means of two loans totaling \$500,000 from trusts established for Noble Trust investors as to which Noble Trust served as Trustee, Trust Protector and/or Trust Administrator. True copies of the Promissory Notes evidencing the premium loans are attached hereto as **Exhibits A and B**. The Policy was collaterally assigned by Noble Trust in its capacity as Trustee of the Trust to Noble Trust in its capacity as creditor of the Trust and the collateral assignment was duly acknowledged by Security Life on November 15, 2007. A true copy of the Collateral Assignment and the Acknowledgement thereof by Security Life is attached hereto as **Exhibit C**.

4. Security Life has informed the Liquidator that it paid \$560,718.50 in commissions in connection with its issuance of the Policy. The Liquidator has determined that Colin Lindsey received, indirectly, at least \$200,000 of the commissions paid by Security Life.

5. The Liquidator contends that the Policy is part of the liquidation estate being administered by the Liquidator pursuant to the Liquidation Order because, among other things, Noble Trust is co-Trustee of the Karl Martin Waters, Jr. Irrevocable Life Insurance Trust (the "Trust"), which is the record owner of the Policy. As Trustee, Noble Trust holds legal title to the Policy. Moreover, Noble Trust holds a collateral assignment of the Policy and all rights related to the Policy to secure the amount of the premium advanced by Noble Trust to the Trust. The Liquidator also asserts an interest in the Policy because the procurement and issuance of the

Policy and other life insurance policies procured by Noble Trust was a critical part of the fuel that permitted Lindsey to perpetuate the Noble Trust Ponzi scheme. Security Life and other issuers of life insurance policies paid substantial commissions directly or indirectly to Lindsey or entities controlled by him that Noble Trust then distributed to existing investors as fictitious profits. Noble Trust also used the commission income to help fund the premiums to procure other fraudulently procured life insurance policies and thereby perpetuate the Ponzi scheme.

6. Between the time when Noble Trust sustained the undisclosed loss of approximately \$15 million due to the soured investments in Sierra Factoring, LLC, and the time when the Banking Department took control of Noble Trust, Noble Trust continued to solicit and accept funds from clients totaling at least \$4.5 million under the same promise of 12% returns that had been made to existing clients. Instead of investing the new clients' money in legitimate investments, however, Noble Trust used some of these funds to pay fictitious profits to other clients and to redeem principal and pay interest to clients who terminated their relationship with Noble Trust. However, on information and belief, the flow of incoming investments was insufficient for Lindsey and Noble Trust to maintain the concealment of the Sierra losses.

7. Lindsey then devised a fraudulent and illegal scheme involving the procurement of a number of life insurance policies with face values generally between \$3 million and \$10 million. At Lindsey's direction, Noble Trust, acting as trustee or trust protector, caused applications to be submitted to various insurers, including Security Life. Many of the applications misrepresented the applicants' net worth or income, or averred that coverage was being sought as a means of individual estate planning. Many of the insurance policy applications misstated the source of the premium financing, the terms of the premium financing, or both. In reality, many of the individual insureds were persuaded to apply for insurance in part through

promises of profits from the sale of their policies on the lucrative secondary market after the contestability period expired. These insureds had little or no expectation that either they, or any other person with an insurable interest in their lives, would ever receive any death benefit from the policies.

8. In most cases, once the policies were procured and issued, the insureds were not required to pay *any* premiums to keep the policies in force through the end of the two year contestability period. (Following expiration of the contestability period, it is much more difficult for the insurance company to contest the validity of the policy.) Instead, the premiums were paid on their behalf by means of limited-recourse premium financing loans (the "Premium Finance Loans"). Neither the insured nor any other individual had liability for repayment of the Premium Finance Loans; recourse was limited to the insurance trust, the sole asset of which was the life insurance policy. The Premium Finance Loans were often funded by other Noble Trust clients and their trusts, investment management accounts or individual retirement accounts. Thus, the insureds under the policies were promised and received "something for nothing" – they paid no premiums, incurred no personal liability for the Premium Finance Loans, and were promised large windfalls for selling their policies after the contestability period expired.

9. When these policies were ultimately placed in force, Lindsey, Balcarres and others were paid commissions by the respective insurance carriers. In turn, Lindsey used some of the proceeds of these commissions and some of the newly solicited money to fund payments of premiums on insurance policies previously issued for the benefit of some of Noble Trust's other clients. Lindsey used other proceeds to attempt to cover up the Sierra losses by making payments to Noble clients whose funds had been invested in Sierra or equally fraudulent assets that were later substituted for the Sierra investment, to generate the pretense that the investments

were still performing according to their terms. Upon information and belief, Lindsey also intended to sell some of these policies (or the beneficial interests therein) to third parties, and use the sale proceeds to cover up the Sierra losses.

10. The Waters Policy fits the model described above. Mr. Waters paid nothing to procure the Policy. The premiums were funded by loans from the accounts of other Noble Trust investors. The loans are without recourse to Mr. Waters. Of the Commissions paid by Security Life in connection with the Policy, the records of Noble Trust indicate that at least \$200,000 was paid, indirectly, to Colin Lindsey.

11. Thus, Noble Trust was operated as a Ponzi Scheme that utilized fresh investment funds from its clients and the Commissions to pay fictitious profits to its existing investors, to return principal to investors and to fund limited recourse Premium Finance Loans and the Waters Policy was an integral part of that scheme.

12. Under the Settlement Agreement, the Policy shall be deemed to be void *ab initio* as of January 21, 2014, the Effective Date of the Settlement Agreement, and, as a consequence, no individual or entity shall have any rights with respect to the Policy.

13. The Settlement Agreement provides that Security Life shall pay the Liquidator a litigation settlement payment. The Settlement Agreement requires that the amount of the settlement payment be kept confidential. The amount of the settlement payment, as a percentage of the premium that was paid on account of the Policy, is above average when compared to other settlements that the Liquidator has entered into with the issuers of life insurance policies to clients of Noble Trust.

14. Security Life and the Liquidator shall release each other from all claims in connection with, arising out of, or in any way related to the subject matter of the Policy.

Security Life reserves the right to institute any action or pursue any claims it might have against the Insured, Global Financial Investors, Griffin Financial Group, Inc., Ted N. Griffin or Kerry Piandes.

15. The Settlement Agreement further provides that the releases set forth in the Settlement Agreement shall be binding on any and all parties asserting an interest in the Policy to the fullest extent of the Court's jurisdiction. No person or entity that is or ever was the insured under the Policy, the owner or beneficiary of the Policy, the holder of a beneficial interest in a trust that is the owner or beneficiary in, the premium financier of, or an investor in, the Policy, who is or ever was an investor in Noble Trust or Aegean Scotia (collectively "Investors"), or who is or ever was a creditor of Noble Trust or Aegean Scotia (collectively "Creditors") shall commence, file, or prosecute a suit, arbitration, or other legal proceeding in any court or tribunal or before any arbitral body or panel, or assert any claim or cause of action in any such proceeding or forum, against Security Life or any of its predecessors, successors, assigns, or affiliates, or against their respective directors, officers, or employees in their capacities as such, that is in any manner based on, or seeks any remedy or relief relating to: (1) Security Life having entered into and complied with the Settlement Agreement (2) any such insured, owner, beneficiary, investor or creditor having either (A) dealt or contracted with the Liquidator, Noble Trust, and/or Aegean Scotia, and/or each of their respective predecessors, successors, heirs, administrators, assigns, partners, officers, directors, employees, agents, representatives, trustees, attorneys, affiliates and all affiliated companies (collectively hereinafter the "Noble Parties") or (B) invested or agreed to invest in the Policy, in a secondary market transaction related to the Policy, or in rights to or a fractional interest in the Policy or (C) been named or designated, or agreed or intended to have been named or designated, as a beneficiary of the Policy, regardless

of whether any such designation ever was, or was ever agreed or intended to be, irrevocable. Any and all claims and causes of action held by or accruing to any Investors and/or Creditors against Security Life within the scope of this paragraph, however denominated, regardless of the allegations, facts, law, theories, or principles on which they may be based, including but not limited to claims for damages, contribution, or indemnity, against Security Life, by any Investor and/or Creditor and by any person who acquired an interest in the Policy from or through an Investor or Creditor, including but not limited to persons that are parties to this proceeding and all others who receive notice of this Motion, the Approval Order (defined below) or of this paragraph, whether such claims now exist or have accrued or may in the future exist or accrue, shall be extinguished, discharged, satisfied, and otherwise unenforceable, all to the fullest extent of the Court's jurisdiction.

16. Notwithstanding anything in the preceding paragraph, however, nothing in the Settlement Agreement shall prevent any Investor or Creditor from continuing to assert a timely filed claim against the liquidation estate of Noble Trust and Aegean Scotia.

17. The surrender of the Policy shall be free and clear of all liens, claims and interests in the Policy of any kind or nature whatsoever held by any individual or entity. All such liens, claims and interests against the Policy shall be subject to allowance or disallowance as part of the claims adjudication process in the Liquidation Proceeding, including under any Plan of Liquidation that this Court may approve.

18. By its terms, the Settlement Agreement does not become effective unless and until the entry of a final order (the "Approval Order") by the Court in the Liquidation Proceeding approving the Settlement Agreement. The Approval Order shall become final on the date that it

shall have become non-appealable or, in the event of an appeal(s), on the date that it has been affirmed after all appeals therefrom have been exhausted.

19. In the absence of the Settlement Agreement, the Liquidator would seek to have the Policy declared void and to compel Security Life to return to the liquidation estate of Noble Trust the premium paid on account of the Policy. Security Life would seek a ruling that the Policy is not properly included within the liquidation estate and that the Liquidator has no valid interest in the Policy. Security Life would further argue that the Policy should be declared void, but that it is not required to return any of the premiums to the Liquidator due to the equitable offset of its claims arising from the substantial commissions Security Life paid in connection with the Policy and that courts have permitted insurers to void policies procured through fraud or that lack a valid insurable interest without requiring the insurer to refund premiums. Security Life would also assert the right to impose various charges, expenses and other costs provided for under the Policy that would reduce the amount of premiums that it would be required to return in any event, even without respect to its claim of setoff. The Liquidator would dispute the merits of these legal theories.

20. The Liquidator has agreed, in a letter agreement with Security Life, that if the Settlement Agreement is not approved and the parties cannot achieve a substitute settlement to their mutual satisfaction, the Liquidator will not object to a Motion brought by Security Life in the Superior Court for the sole purpose of seeking relief from the Order Appointing Liquidator and the Order Clarifying Order Appointing Liquidator in order to file a complaint in the New Hampshire Superior Court seeking a declaration as to the validity of the Policy. The letter agreement does not affect or limit the right of the Liquidator to seek return of the premiums paid on account of the Policy or to seek any other relief in respect to the Policy.

21. The Liquidator and Security Life believe the Settlement Agreement is fair, reasonable and adequate, and is the result of arms-length negotiations between the parties and their counsel. The Settlement Agreement will result in the payment of a material sum to the estate by Security Life. Therefore, the Settlement Agreement maximizes the value of the liquidation of Noble Trust by creating a fund that will be available to claimants of the estate, subject to further order of the Court, relieving the estate of further costs and from the potential risk of litigation with Security Life.

22. The Liquidator therefore believes that entering into the Settlement Agreement is an appropriate and prudent exercise of the Liquidator's judgment, and that the settlement resolves the pending dispute between the Liquidator and Security Life on terms that are advantageous to the liquidation of Noble Trust and Noble Trust creditors.

Signed under the pains and penalties of perjury this 30th day of January, 2014.



Robert A. Fleury

STATE OF NEW HAMPSHIRE
COUNTY OF Hillsborough

Signed before me on January 30th, 2014 by Robert A. Fleury.



Notary Public/~~Justice of the Peace~~
My Commission Expires: 7.29.15



EXHIBIT A

PROMISSORY NOTE

U.S. \$300,000.00

As of October 26, 2006

FOR VALUE RECEIVED, The Karl Waters Irrevocable Trust, having an address at 900 Elm Street, Suite 701, Manchester, NH 03101 ("Borrower"), hereby promises to pay to the order of The Thackston Charitable Remainder Unitrust, having an address at 900 Elm Street, Suite 701, Manchester, NH 03101, ("Lender") the principal sum of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) or so much thereof as may be advanced from time to time, and interest from the date hereof on the balance of principal from time to time outstanding, in United States currency, at the rates and at the times hereinafter described.

1. **Interest.** The principal amount hereof outstanding from time to time shall bear interest at TWELVE PERCENT (12.0%) simple interest until paid in full at the maturity date. Interest shall accrue and be added to the principal balance of the Loan and no monthly payments of principal and interest shall be due until the earlier to occur of (i) the Maturity Date and (ii) acceleration of the Loan as a result of an Event of Default.

2. **Maturity.** Subject to the acceleration rights of Lender referred to in Section 3 of this Note, the entire outstanding principal of this Note, together with all accrued and unpaid interest and other amounts due hereunder or under any other Loan Document, if not earlier paid or due and payable in accordance with the terms of this Note, shall be due and payable on the earlier of (i) the date which is the fifth (5th) anniversary of the date of this Note and (ii) upon collection of the death benefit of the underlying insurance policy which secures this loan (the "Maturity Date").

3. **Acceleration.** If an Event of Default under the Loan Agreement or any of the other Loan Documents shall occur and be continuing, Lender may accelerate the indebtedness evidenced hereby in accordance with the provisions of the Loan Agreement or any other Loan Document and may exercise the other rights and remedies provided in the Loan Agreement and the other Loan Documents as well as those it may have at law or in equity. In no event shall Lender be obligated to accept any cure after the occurrence of an Event of Default, and an Event of Default shall be deemed to be continuing unless and until Lender shall elect, in its sole discretion, to accept the cure thereof.

4. **Payments.** Any payment made pursuant to the terms of this Note, the Loan Agreement or any other Loan Document shall be made on a American Business Day prior to 1:00 p.m. Central Standard Time on the date such payment is due at the office of Lender. The Borrower may prepay the Loan or any part thereof at anytime. No amount repaid or prepaid may be redrawn under this Note.

5. **Collateral.** The collateral for this loan shall be ING policy # 161211 issued upon the life of K. Martin Waters Jr. An ING policy collateral assignment form will be signed and provided to the Lender who may also file a UCC against the policy.

The Lender, and its assignees, will be given access to the online codes so that they may check the status of the policy at any time during the course of this loan.

6. General Provisions.

- (a) In the event (i) the principal balance and all interest accrued thereon is not paid when due whether by acceleration or upon the Maturity Date or (ii) an Event of Default exists, then the principal balance and all accrued interest thereon shall bear interest from and after such date at the Default Rate.
- (b) Borrower agrees that the obligation evidenced by this Note is an exempt transaction under the Truth-in-Lending Act, 15 U.S.C. §1601, et seq.
- (c) The parties hereto intend and believe that each provision in this Note comports with all applicable local, state and federal Law and judicial decisions and all Laws applicable to Lender. However, if any provision or provisions, or if any portion of any provision or provisions, in this Note is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or any Law applicable to Lender, or public policy, and if such court should declare such portion, provision or provisions of this Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained herein, and that the rights, obligations and interest of Borrower and the holder or holders hereof under the remainder of this Note shall continue in full force and effect. All agreements herein are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance hereof, or otherwise, shall the amount paid or agreed to be paid to the holders hereof pursuant to this Note, the Loan Agreement or the other Loan Documents exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, the fulfillment of any provision hereof, at the time performance of such provision shall be due, shall involved transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity and if from any circumstance the holder hereof shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest.

- (d) This Note and all provisions hereof shall be binding upon Borrower and all persons claiming under or through Borrower, and shall inure to the benefit of Lender, together with its successors and assigns, including each owner and holder from time to time of this Note.
- (e) Time is of the essence as to each of Borrower's obligations set forth herein.
- (f) Borrower agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; and Borrower consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Lender with respect to the payment or other provisions of this Note, and to any substitution, exchange or release of the collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any makers, endorsers, guarantors, or sureties, all whether primarily or secondarily liable, without notice to Borrower and without affecting its liability hereunder.
- (g) Borrower hereby waives and renounces for itself, its successors and assigns, all rights to the benefits of any statute of limitations and any moratorium, reinstatement, marshalling, forbearance, valuation, stay, extension, redemption, appraisal, or exemption and homestead laws now provided, or which may hereafter be provided, by Law against the enforcement and collection of the obligations evidenced by this Note.
- (h) If this Note is placed in the hands of attorneys for collection or is collected through any legal proceedings, Borrower promises and agrees to pay, in addition to the principal, interest and other sums due and payable hereon, all costs of collecting or attempting to collect this Note, including all reasonable attorneys' fees and disbursements.
- (i) All parties now or hereafter liable with respect to this Note, whether Borrower, principal, surety, guarantor, endorsee or otherwise hereby severally waive presentment for payment, demand, notice of nonpayment or dishonor, protest and notice of protest. No failure to accelerate the indebtedness evidenced hereby, or indulgences granted from time to time shall be construed (i) as a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of such right of acceleration or of the right of Lender thereafter to insist upon strict compliance with the terms of this Note, or (ii) to prevent the exercise of such right of acceleration or any other right granted hereunder or by the laws of the State of New Hampshire. Borrower hereby expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

- (j) THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW HAMPSHIRE (EXCLUDING APPLICATION OF ANY PRINCIPLES OF CONFLICT OF LAWS WHICH WOULD DIRECT THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION).
- (k) BORROWER AND LENDER EACH WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS NOTE AND THE OTHER LOAN DOCUMENTS OR RELATING THERETO OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THIS NOTE AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
- (l) It is expressly understood that the borrower is The Karl Martin Waters Jr Irrevocable Trust and that no party serving as trustee of this trust is any way liable for any indebtedness created here. The debt is the sole obligation of the trust and there is no recourse to any trustee, corporate or individual.

Borrower has executed and delivered this Note as of the day and year first set forth above.

BORROWER:

The Karl Martin Waters Jr Irrevocable Trust

By: Lisa Ordway Tree
Name: LISA ORDWAY
Title: CHIEF OPERATIONS OFFICER

EXHIBIT B

PROMISSORY NOTE

U.S. \$200,000.00

As of October 27, 2006

FOR VALUE RECEIVED, The Karl Waters Irrevocable Trust, having an address at 900 Elm Street, Suite 701, Manchester, NH 03101 ("Borrower"), hereby promises to pay to the order of The Yoder Charitable Remainder Unitrust, having an address at 900 Elm Street, Suite 701, Manchester, NH 03101, ("Lender") the principal sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) or so much thereof as may be advanced from time to time, and interest from the date hereof on the balance of principal from time to time outstanding, in United States currency, at the rates and at the times hereinafter described.

1. **Interest.** The principal amount hereof outstanding from time to time shall bear interest at TWELVE PERCENT (12.0%) simple interest until paid in full at the maturity date. Interest shall accrue and be added to the principal balance of the Loan and no monthly payments of principal and interest shall be due until the earlier to occur of (i) the Maturity Date and (ii) acceleration of the Loan as a result of an Event of Default.

2. **Maturity.** Subject to the acceleration rights of Lender referred to in Section 3 of this Note, the entire outstanding principal of this Note, together with all accrued and unpaid interest and other amounts due hereunder or under any other Loan Document, if not earlier paid or due and payable in accordance with the terms of this Note, shall be due and payable on the earlier of (i) the date which is the fifth (5th) anniversary of the date of this Note and (ii) upon collection of the death benefit of the underlying insurance policy which secures this loan (the "Maturity Date").

3. **Acceleration.** If an Event of Default under the Loan Agreement or any of the other Loan Documents shall occur and be continuing, Lender may accelerate the indebtedness evidenced hereby in accordance with the provisions of the Loan Agreement or any other Loan Document and may exercise the other rights and remedies provided in the Loan Agreement and the other Loan Documents as well as those it may have at law or in equity. In no event shall Lender be obligated to accept any cure after the occurrence of an Event of Default, and an Event of Default shall be deemed to be continuing unless and until Lender shall elect, in its sole discretion, to accept the cure thereof.

4. **Payments.** Any payment made pursuant to the terms of this Note, the Loan Agreement or any other Loan Document shall be made on a American Business Day prior to 1:00 p.m. Central Standard Time on the date such payment is due at the office of Lender. The Borrower may prepay the Loan or any part thereof at anytime. No amount repaid or prepaid may be redrawn under this Note.

5. **Collateral.** The collateral for this loan shall be ING policy # 1612111 issued upon the life of K. Martin Waters Jr. An ING policy collateral assignment form will be signed and provided to the Lender who may also file a UCC against the policy.

The Lender, and its assignees, will be given access to the online codes so that they may check the status of the policy at any time during the course of this loan.

6. General Provisions.

- (a) In the event (i) the principal balance and all interest accrued thereon is not paid when due whether by acceleration or upon the Maturity Date or (ii) an Event of Default exists, then the principal balance and all accrued interest thereon shall bear interest from and after such date at the Default Rate.
- (b) Borrower agrees that the obligation evidenced by this Note is an exempt transaction under the Truth-in-Lending Act, 15 U.S.C. §1601, et seq.
- (c) The parties hereto intend and believe that each provision in this Note comports with all applicable local, state and federal Law and judicial decisions and all Laws applicable to Lender. However, if any provision or provisions, or if any portion of any provision or provisions, in this Note is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or any Law applicable to Lender, or public policy, and if such court should declare such portion, provision or provisions of this Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained herein, and that the rights, obligations and interest of Borrower and the holder or holders hereof under the remainder of this Note shall continue in full force and effect. All agreements herein are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance hereof, or otherwise, shall the amount paid or agreed to be paid to the holders hereof pursuant to this Note, the Loan Agreement or the other Loan Documents exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, the fulfillment of any provision hereof, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity and if from any circumstance the holder hereof shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest.

- (d) This Note and all provisions hereof shall be binding upon Borrower and all persons claiming under or through Borrower, and shall inure to the benefit of Lender, together with its successors and assigns, including each owner and holder from time to time of this Note.
- (e) Time is of the essence as to each of Borrower's obligations set forth herein.
- (f) Borrower agrees that its liability shall not be in any manner affected by any indulgence, extension of time, renewal, waiver, or modification granted or consented to by Lender; and Borrower consents to any indulgences and all extensions of time, renewals, waivers, or modifications that may be granted by Lender with respect to the payment or other provisions of this Note, and to any substitution, exchange or release of the collateral, or any part thereof, with or without substitution, and agrees to the addition or release of any makers, endorsers, guarantors, or sureties, all whether primarily or secondarily liable, without notice to Borrower and without affecting its liability hereunder.
- (g) Borrower hereby waives and renounces for itself, its successors and assigns, all rights to the benefits of any statute of limitations and any moratorium, reinstatement, marshalling, forbearance, valuation, stay, extension, redemption, appraisal, or exemption and homestead laws now provided, or which may hereafter be provided, by Law against the enforcement and collection of the obligations evidenced by this Note.
- (h) If this Note is placed in the hands of attorneys for collection or is collected through any legal proceedings, Borrower promises and agrees to pay, in addition to the principal, interest and other sums due and payable hereon, all costs of collecting or attempting to collect this Note, including all reasonable attorneys' fees and disbursements.
- (i) All parties now or hereafter liable with respect to this Note, whether Borrower, principal, surety, guarantor, endorsee or otherwise hereby severally waive presentment for payment, demand, notice of nonpayment or dishonor, protest and notice of protest. No failure to accelerate the indebtedness evidenced hereby, or indulgences granted from time to time shall be construed (i) as a novation of this Note or as a reinstatement of the indebtedness evidenced hereby or as a waiver of such right of acceleration or of the right of Lender thereafter to insist upon strict compliance with the terms of this Note, or (ii) to prevent the exercise of such right of acceleration or any other right granted hereunder or by the laws of the State of New Hampshire. Borrower hereby expressly waives the benefit of any statute or rule of law or equity now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the foregoing.

- (j) THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW HAMPSHIRE (EXCLUDING APPLICATION OF ANY PRINCIPLES OF CONFLICT OF LAWS WHICH WOULD DIRECT THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION).
- (k) BORROWER AND LENDER EACH WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS NOTE AND THE OTHER LOAN DOCUMENTS OR RELATING THERETO OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THIS NOTE AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
- (l) It is expressly understood that the borrower is The Karl Martin Waters Jr Irrevocable Trust and that no party serving as trustee of this trust is any way liable for any indebtedness created here. The debt is the sole obligation of the trust and there is no recourse to any trustee, corporate or individual.

Borrower has executed and delivered this Note as of the day and year first set forth above.

BORROWER:

The Karl Martin Waters Jr Irrevocable Trust

By: Lisa Ordway Trec
Name: LISA ORDWAY
Title: CHIEF OPERATIONS OFFICER

EXHIBIT C



Security Life of Denver Insurance Company
ING Service Center
P.O. Box 5065 Minot, ND 58702

November 15, 2007

K M Waters Jr ILIT
Noble Tst Co & Lisa Ordway Ttees
900 Elm St # 701
Manchester NH 03101

RE: Owner: K M Waters Jr ILIT

Policy #: 911612111

Insured(s): Karl Martin Waters

Dear K M Waters Jr ILIT:

As requested, we have added an assignment to this policy. We've also enclosed a copy of the endorsed form for your records and forwarded a copy to the assignee.

We appreciate the trust you've placed in the ING family of companies to help you meet your financial objectives. If you have any questions, please contact your agent, registered representative or the ING Service Center during our business hours of Monday – Friday, 7:00 a.m. to 7:00 p.m. CST.

Sincerely,

Kerry M Withus
Client Change Coordinator

Enclosure: Endorsed Form

Questions? Call: 877-253-5050
Fax: 877-275-3329

Insurance products are issued by Security Life of Denver Insurance Company, a member of the ING family of companies.

Life

ASSIGNMENT OF LIFE INSURANCE POLICY AS COLLATERAL



Administrative Office for all Companies:
ING Service Center
2000 21st Ave. NW
Minot, ND 58703

- ReliaStar Life Insurance Company, Minneapolis, MN
- Security Life of Denver Insurance Company, Denver, CO
- ING USA Annuity and Life Insurance Company, Des Moines, IA
- Midwestern United Life Insurance Company, Fort Wayne, IN

NOTICE - No assignment shall be binding upon Insurer unless and until it is filed with the Insurer at its Administrative Office. Insurer shall not be held responsible for the validity of any assignment.

For value received the undersigned Assignors hereby assign, transfer, and set over to Noble Trust Company, LLC (Assignee), whose address is 900 Elm St. Ste 101 Manchester NH 03101 and to the executors, administrators, successors, and assigns of Assignee. Policy Number 1012111 (Insurer) upon the life of KARL MARTIN WATERS JR and all claims, options, privileges, rights, titles, and interest therein, subject to all the terms and conditions of the policy and to any outstanding liens, if any, which the Insurer may have against the policy. Assignors jointly and severally agree, and Assignee by the acceptance of this assignment agrees:

1. With no limitation of time, Assignors shall have the right to:
 - (a) collect the net proceeds of the policy from Insurer when it becomes a claim by death or maturity
 - (b) surrender the policy and receive the surrender value
 - (c) obtain loans or advances on the policy from Insurer
 - (d) collect all distributions or shares of surplus, dividends, deposits, and additions to the policy now or hereafter made or apportioned, and to exercise all options contained in the policy with respect thereto, provided that unless and until Assignee specifically notifies Insurer in writing to the contrary, the distributions or shares of surplus, dividends, deposits, and additions shall continue on the plan in force at the time of this assignment
 - (e) exercise nonforfeiture provisions
2. The following rights, so long as the policy is not surrendered, are reserved and excluded from this assignment:
 - (a) the right to collect from Insurer any disability benefits payable in cash that do not reduce the amount of insurance
 - (b) the right to designate and change the beneficiary
 - (c) the right to elect an optional mode of settlement
3. This assignment is made and the policy is held as collateral security for any and all liabilities of the Assignors, or any of them, to the Assignee, either now existing or that may hereafter arise between any of the Assignors and Assignee (all of which liabilities are herein called "Liabilities").
4. Assignee agrees:
 - (a) that any balance of sums received from Insurer remaining after payment of the then existing Liabilities, matured or unmatured, shall be paid by Assignee to the persons entitled thereto under the terms of the policy had this assignment not been executed
 - (b) not to exercise either the right to surrender the policy or (except for the purpose of paying premiums) the right to obtain policy loans from Insurer, until there has been a default in payment of any of the Liabilities or a failure to pay any premium when due, nor until 20 days after Assignee shall have mailed by first-class mail, to Assignors at the addresses last known to Assignee, notice of intention to exercise such right
- (c) upon Assignor's request, to forward without reasonable delay to Insurer the policy for endorsement of any designation or change of beneficiary or any election of an optional mode of settlement.
5. Insurer is authorized to recognize Assignee's claims to rights hereunder without investigating the reason for any action taken by Assignee, or the validity or amount of the Liabilities or the existence of any default, or the giving of any notice required under section 4(b) or otherwise, or the application to be made by Assignee of any amounts paid to Assignee. The sole signature of Assignee shall be sufficient for the exercise of any rights under the policy assigned hereby and the sole receipt of the Assignee for any sums received shall be a full discharge and release of Insurer to the extent thereof. Checks for any of the sums payable under the policy and assigned herein, may be drawn to the exclusive order of Assignee if, when, and in such amounts as may be requested by Assignee.
6. Assignee shall be under no obligation to pay any premium, or principal or interest of any loans or advances on the policy whether or not obtained by Assignee, or any other charges on the policy, but any such amounts paid by Assignee from Assignee's own funds shall become part of the Liabilities, shall be due immediately, and shall draw interest at a rate fixed by Assignee from time to time, not exceeding 6% per annum.
7. The exercise of any right, option, privilege, or power given herein to Assignee shall be at the option of the Assignee, but [except as restricted by section 4 (b)] the Assignee may exercise any such right, option, privilege, or power without notice to, or assent by, or affecting the liability of, or releasing any interest hereby assigned by Assignors, or any of them.
8. Assignee may take or release other security, may release any party primarily or secondarily liable for any of the Liabilities, may grant extensions, renewals, or indulgences with respect to the Liabilities, or may apply to the Liabilities in such order as Assignee shall determine, the proceeds of the policy hereby assigned or any amount received on account of the policy by the exercise of any right permitted under this assignment, without resorting or regard to other security.
9. In the event of conflict between this Assignment and the note or other evidence of the Liabilities, with respect to the policy or rights of collateral security in the policy, the provisions of this assignment shall prevail.

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10. Assignors warrant and represent that no proceedings in bankruptcy are pending against any of them and that none of their property is subject to any assignment for the benefit of creditors.

*11. This paragraph 11 applies to the right to: (a) transfer policy values among the available investment divisions; (b) change contribution allocations; and (c) make changes to instructions, initiate, or cease participation in the Dollar Cost Averaging and Automatic Rebalancing programs. If Assignee is selected, the

Assignee and Assignor must complete and return a Third Party Telephone Transfer Authorization Eship# 131454) to insurer.

Assignor may direct policy investment decisions without Assignee's consent.

Assignee may direct policy investment decisions without Assignors' consent.

* Please complete number eleven for Variable policies.

Dated November 2, 2007

If signing for an entity, the undersigned represents that s/he has authority to bind the entity.

Assignor (Print Name) 2000 K. Martin Waters Irrev. Trust
Noble Trust Co LLC Signature of Assignor Lisa Ordway LLC

Address 900 Elm St. Ste 701 Manchester NH 03101

Assignor (Print Name) _____ Signature of Assignor _____

Address _____

Assignee (Print Name) Noble Trust Company Signature of Assignee (and if entity print title Trustee
LISA ORDWAY of authorized person) Chief Operations Officer

Address 900 Elm St. Ste 701 Manchester NH 03101

Signature of Irrevocable Beneficiary 2000 K. Martin Waters Irrevoc Trust
Lisa Ordway LLC Date 11-2-07

Signature of Witness Amanda Dresser

For Administrative Use Only.

By _____ Date _____

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