



**STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE**

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**REPORT ON EXAMINATION  
of the  
TENNESSEE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION  
Nashville, Tennessee**

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**As of  
December 31, 2018**

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Nashville, Tennessee  
March 30, 2020

Honorable Hodgen M. Mainda  
Commissioner  
Tennessee Department of Commerce and Insurance  
500 James Robertson Parkway  
Nashville, Tennessee 37243

Dear Commissioner:

In accordance with your instructions and pursuant to Tennessee Code Annotated ("Tenn. Code Ann.") § 56-12-214, a full-scope financial examination as of December 31, 2018, has been made of the condition and affairs of:

**TENNESSEE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION**

150 3<sup>rd</sup> Avenue South, Suite 1600  
Nashville, Tennessee 37201

hereinafter and generally referred to as the "Association" and a report thereon is submitted as follows:

**INTRODUCTION**

This examination was arranged by the Tennessee Department of Commerce and Insurance (TDCI or "Department"). The examination was conducted by duly authorized representatives of the TDCI.

**SCOPE OF EXAMINATION**

The last examination of the Company was made as of December 31, 2013. This examination covers the period from January 1, 2014, through December 31, 2018, and includes any material transactions and/or events occurring subsequent to the examination date which were noted during the course of the examination.

The examination was conducted in accordance with rules and procedures as prescribed by the statutes of the State of Tennessee, and in accordance with practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC) *Financial Condition Examiners Handbook* ("Handbook"), as deemed appropriate. The examination sought to evaluate the overall financial statement presentation, including

principles used and significant estimates made by management. The examination also included an assessment of prospective risks faced by the Association based on information obtained during the course of the examination.

The examination reviewed the Association's business policies and practices, management, and reviewed and evaluated assets, liabilities, receipts, and disbursements. In addition, our examination included tests to provide reasonable assurance that the Association was in compliance with applicable laws, rules, and regulations. In planning and conducting our examination, we considered the concepts of materiality and risk, and our examination efforts were directed accordingly.

The independent auditor's workpapers for the 2018 audit were reviewed and copies were incorporated in the examination, as deemed appropriate.

## **COMPLIANCE WITH PREVIOUS EXAMINATION FINDINGS**

There were no comments or recommendations in the prior examination report.

## **ASSOCIATION HISTORY**

The Association is a nonprofit unincorporated legal entity organized pursuant to the Tennessee Life and Health Insurance Guaranty Association Act (the "Act"), Tenn. Code Ann. § 56-12-201 *et seq.*, effective July 1, 1989. Under provisions of the Act, the Commissioner of Insurance appointed a Board of Directors ("Board") composed of nine (9) members who submitted a Plan of Operation effective July 1, 1989. The current Plan of Operation is discussed in the "Territory and Plan of Operation" section later in this report.

The Association provides a mechanism to pay eligible claims and other contractual obligations on existing policies of insolvent life and health insurance companies.

Members of the Association include all insurers licensed to write life, annuity, or accident and health insurance in Tennessee.

## **MANAGEMENT AND ADMINISTRATION MANAGEMENT**

### **Directors**

The operation and administration of the Association is the joint responsibility of the Board consisting of nine (9) member insurers ("Directors"), in accordance with Tenn. Code Ann.

§ 56-12-206(a). The Directors are elected by the member insurers of the Association to fairly represent all member insurers.

The following persons were duly elected to serve as Directors, as of December 31, 2018:

| <u>Name</u>              | <u>Principal Business Affiliation</u>    |
|--------------------------|--|
| David J. Kumatz          | American General Life Insurance Company  |
| Edward K. Lancaster      | Tennessee Farmers Life Insurance Company |
| William Dickson Williams | Plateau Insurance Company                |
| J. Barclay Phillips      | BlueCross BlueShield of Tennessee        |
| Warren Wells             | Unum Insurance Group                     |
| Tim Vessel               | CIGNA Healthcare                         |
| Sheila Kenny             | Prudential Financial, Inc.               |
| Steve Simkins            | State Farm Life Insurance Company        |
| Laura Leigh Latta        | Protective Life Insurance Company        |

#### Officers

The following persons served as the Association's officers as of December 31, 2018:

| <u>Name</u>              | <u>Title</u>            |
|--------------------------|-------------------------|
| David J. Kumatz          | Chairman                |
| Edward K. Lancaster      | Vice-Chairman           |
| William Dickson Williams | Secretary and Treasurer |

#### Audit Committee

The Board appointed an audit committee to help provide oversight to the affairs of the Association. The following persons served on the Audit Committee as of December 31, 2018:

| <u>Name</u>     | <u>Company</u>                           |
|-----------------|--|
| David J. Kumatz | American General Life Insurance Company  |
| Wayne Merrill   | Tennessee Farmers Life Insurance Company |
| Mike Graham     | Plateau Insurance Company                |

#### Administration

The Board contracted with Dan Elrod, a partner in the law firm of Butler Snow, LLP to serve as the Association's administrator during the period under examination. The administrator is responsible for the day to day operations of the Association. See below for more information concerning the duties and responsibilities of the administrator.

### **Administrative and Management Services Agreement**

The Association has an Administrative and Management Services Agreement with Dan Elrod and services provided include:

- Legal advice
- Establish and maintain required accounts
- Establish and maintain all books and records relating to the Association's operations
- Distribute required assessments and accounts for remittances
- Handle policyholder claims, correspondence, telephone inquiries, and other routine matters associated with day to day operations
- Coordinate with the appropriate persons in the Tennessee Department of Commerce and Insurance regarding guaranty fund activities
- Coordinate with the appropriate persons in the National Organization of Life and Health Guaranty Associations (NOLHGA) regarding fund activities
- Attend and participate in meetings of NOLHGA
- Record and maintain minutes of the Association
- Advise the Board regarding reinsurance and other contractual matters
- Supervise services performed by other vendors, including data processing and assessment preparation

### **CORPORATE RECORDS**

The minutes of the meetings of the Association's Board were reviewed for the period under examination. The minutes appeared to reflect adequately the acts of the Board.

The Association operates under an approved Plan of Operation pursuant to Tenn. Code Ann. §§ 56-12-201 *et seq.* There were no amendments to the Plan of Operation during the period under examination. However, the Plan of Operation was amended subsequent to the period under examination, as noted in the "Subsequent Events" section of this report.

### **PLAN OF OPERATION**

The Association was organized pursuant to, and operates in accordance with, the Act, under a Plan of Operation adopted pursuant to the Act and approved by the Commissioner. The Association is composed of all insurance companies authorized to write life, annuity, or accident and health insurance business in the state of Tennessee.

The Act provides limited discretionary authority for the Association to provide coverage if a member company becomes impaired. The Association provides coverage to Tennessee residents who are insured by or are beneficiaries of insurance policies issued by member companies.

In the event of an insolvency, a special deputy receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. The special deputy receiver usually appoints a third-party administrator to provide the services necessary to carry out the duties and responsibilities of the receiver. The task of servicing the insolvent insurance company's policies and providing coverage to Tennessee's resident policyholders becomes the responsibility of the Association.

Funding for the Association is provided by assessments of member companies consisting of "Class A" and "Class B" assessments. Class A assessments are made biennially for administrative costs, legal costs, and other costs of operation. Class B assessments are made as needed in order to carry out the Association's duties with regard to impaired and insolvent insurers. The Association's capacity to assess member companies for all assessments is limited annually to two percent (2%) of each member's average annual premium for the three (3) years prior to the date of insolvency. The Association also receives liquidation distributions from the estates of insolvent insurance companies.

## **ACTIVE INSOLVENCIES**

As of December 31, 2018, the Association was party to ten (10) insolvencies where the insolvency proceeding had not been closed. In four (4) of these insolvencies, the Association had discharged all of its obligations to policyholders and had no further obligations. In the remaining six (6) insolvencies, the Association has the possibility of additional claims, but no assessments to members were anticipated for any of these insolvencies. Those six (6) insolvencies were:

### **Insolvent Company Names**

Executive Life Insurance Company  
Life and Health Insurance Company of America  
Lincoln Memorial Life Insurance Company  
National States Insurance Company  
Penn Treaty  
Booker T. Washington Insurance Company

## GROWTH OF THE ASSOCIATION

The following exhibit depicts certain aspects of the growth and financial history of the Association for the period subject to this examination, according to audited financial statements filed with the TDCI:

| <u>Year</u> | <u>Fund Balance</u> | <u>Receipts</u> | <u>Disbursements</u> | <u>Class A Assessment Collected</u> | <u>Class B Assessment Collected</u> |
|-------------|---------------------|-----------------|----------------------|-------------------------------------|-------------------------------------|
| 2018        | \$44,751,951        | \$763,307       | \$755,869            | \$0                                 | \$0                                 |
| 2017        | \$44,668,959        | \$46,955,500    | \$49,108,334         | \$392,705                           | \$46,065,962                        |
| 2016        | \$47,031,793        | \$802,373       | \$510,714            | \$0                                 | \$0                                 |
| 2015        | \$46,789,121        | \$2,419,649     | \$998,609            | \$400,865                           | \$0                                 |
| 2014        | \$45,391,815        | \$1,582,022     | \$1,177,223          | \$0                                 | \$0                                 |

## ACCOUNTS AND RECORDS

Independent audits were performed each year during the examination period with each resulting in an unqualified opinion. The Association's 2018 audited financial statement was reviewed and the receipts and disbursements were reconciled to the corresponding documentation.

Tenn. Code Ann. § 56-12-205 requires the association to maintain two (2) accounts: a life and annuity account and a health account. Examiners verified that the Association is maintaining the appropriate accounts as required by this statute.

The Association's books and records are located at the office of the Administrator in Nashville, Tennessee.

## SUBSEQUENT EVENTS

During the examination, a review of subsequent events was performed. Effective July 1, 2019, the Act was amended in order to change the way long-term care insolvency assessment shares are distributed between the Association's accounts. On July 22, 2019, the Association submitted a new Plan of Operation to the Department in order to incorporate these changes to the Act into its Plan of Operation.

## FINANCIAL STATEMENTS

There follows a statement of cash receipts and disbursements and a statement of changes in fund balance as reported by the Association in its 2018 Annual Statement.

### RECEIPTS

|   |                  |
|---|------------------|
| Assessments:                                |                  |
| Class A for general administrative expenses | \$0              |
| Class B for specific insurer insolvencies   | <u>0</u>         |
| Total assessments                           | <u>0</u>         |
| Estate Settlements:                         |                  |
| Life  | 69,799           |
| Annuity                                     | 0                |
| Health                                      | <u>139,491</u>   |
| Total estate settlements                    | <u>209,290</u>   |
| Premium distributions received              | 11,893           |
| Investment Income                           | <u>542,124</u>   |
| Total Receipts                              | <u>\$763,307</u> |

### DISBURSEMENTS

|  |                  |
|--|------------------|
| Claims paid:   |                  |
| Life   | \$161,320        |
| Annuity  | 10,965           |
| Health   | <u>21,315</u>    |
| Total claims paid  | <u>193,600</u>   |
| Administrative fees paid for specific insurer insolvencies | 323,139          |
| Refund of Class B assessment                               | 41,635           |
| General administrative expenses:                           |                  |
| Dues   | 71,332           |
| Outside services   | 106,523          |
| Other  | <u>19,640</u>    |
| Total general administrative expenses                      | <u>197,495</u>   |
| Total Disbursements  | <u>\$755,869</u> |

**STATEMENT OF CHANGES IN FUND BALANCE**

|  |                     |
|--|---------------------|
| Fund balance at beginning of year                        | \$44,668,959        |
| Change in net unrealized gains and losses on investments | 75,554              |
| Excess (Deficit) of Receipts over Disbursements          | <u>7,438</u>        |
| Fund balance at end of year                              | <u>\$44,751,951</u> |

**CHANGES IN FUND BALANCE**

|   | <u>2018</u>         | <u>2017</u>         | <u>2016</u>         | <u>2015</u>         | <u>2014</u>         |
|---|---------------------|---------------------|---------------------|---------------------|---------------------|
| Fund balance at beginning of year                           | \$44,668,959        | \$47,031,793        | \$46,789,121        | \$45,391,815        | \$44,564,559        |
| Change in net unrealized gains<br>and losses in investments | 75,554              | (210,000)           | (48,987)            | (23,734)            | 422,457             |
| Excess (Deficit) of Receipts over<br>Disbursements          | <u>7,438</u>        | <u>(2,152,834)</u>  | <u>291,659</u>      | <u>1,421,040</u>    | <u>404,799</u>      |
| Fund balance at end of year                                 | <u>\$44,751,951</u> | <u>\$44,668,959</u> | <u>\$47,031,793</u> | <u>\$46,789,121</u> | <u>\$45,391,815</u> |

## ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS

Total Fund Balance

\$44,751,951

Total fund balance, as established by this examination, is the same as what was reported by the Association in its 2018 Annual Statement. There were no changes made to any items as a result of our examination performed as of December 31, 2018.

## COMMENTS AND RECOMMENDATIONS

### Comments

There were no comments noted during the completion of this examination.

### Recommendations

There were no recommendations noted during the completion of this examination.

## CONCLUSION

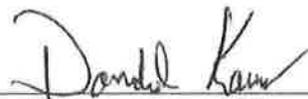
Rules and procedures as prescribed by the statutes of the State of Tennessee, and guidance from the NAIC Handbook, as deemed appropriate, have been followed in connection with the verification and valuation of assets and the verification of receipts and disbursements of the Tennessee Life and Health Insurance Guaranty Association.

In such manner, it was found that, as of December 31, 2018, the Association had a fund balance of \$44,751,951 and no liabilities. Tenn. Code Ann. § 56-12-205 requires the association to maintain two (2) accounts: a life and annuity account and a health account. The Association maintained these accounts in accordance with the Act. There is no required minimum fund balance for the Association.

The courteous cooperation of the of the Association's Administrator extended during the course of the examination is hereby acknowledged.

In addition to the undersigned, Daniel Clements, CPA, Insurance Examiner, Trang D. Truong, CPA, CIA, Insurance Examiner, and Leah Shepard, Insurance Examiner, from the State of Tennessee, participated in the work of this examination.

Respectfully submitted,

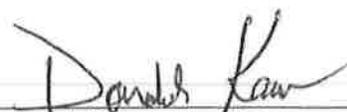


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Donald Karnes, CFE  
Examiner-in-Charge  
State of Tennessee

## AFFIDAVIT

The undersigned deposes and says that he has duly executed the attached examination report of the Tennessee Life and Health Insurance Guaranty Association located in Nashville, Tennessee, dated March 30, 2020, and made as of December 31, 2018, on behalf of the Tennessee Department of Commerce and Insurance. Deponent further says he is familiar with such instrument and the contents thereof, and the facts therein set forth are true to the best of his knowledge, information, and belief.



Donald Karnes, CFE  
Examiner-in-Charge  
State of Tennessee

State Tennessee

County Davidson

Subscribed to and sworn before me

this 8th day of June, 2020

Mindy C. Walker  
(NOTARY)

My Commission Expires: 7.6.2020



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# EXHIBIT B

**TENNESSEE LIFE AND HEALTH INSURANCE  
GUARANTY ASSOCIATION**  
150 3RD AVENUE SOUTH, SUITE 1600  
NASHVILLE, TENNESSEE 37201  
(615) 242-8758

June 18, 2020

E. Joy Little  
Director of Financial Examinations/Chief Examiner  
Tennessee Department of Commerce and Insurance  
500 James Robertson Parkway  
Nashville, TN 37243-1135

RE: Report of Examination – Tennessee Life & Health Insurance Guaranty Association

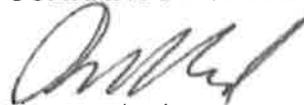
Dear Ms. Little:

We hereby acknowledge receipt of the final Report of Examination for Tennessee Life & Health Insurance Guaranty Association, made as of December 31, 2018.

By signing below, we indicate acceptance of the report, as transmitted, and without rebuttal.

Very truly yours,

TENNESSEE LIFE AND HEALTH INSURANCE  
GUARANTY ASSOCIATION



Dan H. Elrod  
Administrator