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Reinsurance and the Death Master File

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In a traditional life insurance and reinsurance relationship, a life insurance company issues a policy to a policyholder and reinsures the policy (usually via a block of business consisting of the same or similar policies) with its reinsurer either by coinsurance or on a yearly renewable term basis (or otherwise). When the insured person dies, a death certificate is presented to the policy issuing company and the policy benefits are paid to the beneficiary. That triggers an indemnity claim under the reinsurance contract and the reinsurer is obligated to pay its share of the policy benefits to the ceding company. Simple.

But what happens if the insured person dies, but no one files a death certificate and makes a claim against the policy? Who gets the policy benefits? Does the insurer get to avoid paying any benefits out on the policy or does the state have an interest in this abandoned property? This has been a huge issue over the past several years, with regulators entering into settlements with life insurance companies about searching the Social Security Administration's Death Master File or using some other method to determine death. Of course, all these abandoned life insurance benefits escheat to the state when no one claims the benefits, which is why state regulators were so keen to press this issue.

In a recent case, a New York federal court had to address these issues in a petition to confirm a reinsurance arbitration award.

In *Park Avenue Life Ins. Co. v. Allianz Life Ins. Co. of N.A.*, No. 19-cv-1089 (JMF) (S.D.N.Y. Sep. 25, 2019), the dispute was over a life reinsurer's obligations to pay for costs and claims arising out of an agreement with regulators to pay death benefits that would be escheated to the government after a Death Master File search indicated that the insured person died. By majority, the arbitration panel mostly found for the reinsurer (the award, which is now public on PACER, found that the reinsurer was not responsible under the coinsurance agreement for the costs and expenses associated with the Death Master File searches or regulatory dispute). In a paragraph addressing the reinsurer's continuing obligations, the majority made the following pronouncement:

[The reinsurer] shall continue to be obligated to indemnify [the cedent] for all death benefits paid under the terms of the [policies] covered by the Coinsurance Agreement. Notice of any deaths can arise pursuant to claims made by Policy owners or beneficiaries, or by way of periodic searches of the Death Master File or any other death data base search tool by [either party].

The reinsurer argued that the award required reimbursement of only those death benefit payments that arise from claims made by beneficiaries. The cedent argued that the award continued to require the reinsurer to reimburse payments that arise from claims made either by designated beneficiaries or by escheatment. Both asked the court to confirm the award based on each side's different interpretation.

The court found that the award was susceptible of two meanings and was unable to say that one or the other of the two interpretations presented was definitively correct. The court remanded the matter back to the arbitration panel to clarify certain questions addressing escheatment claims, but suggested that the panel should "broadly aim to underscore the meaning and effect of the award so that the court will know exactly what it is being asked to enforce."

Notably, and consistent with the recent trend in many courts, the court denied the parties' request to keep the arbitration award and related materials under seal.

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