

Department of Labor v. John J. Koresko
United States District Court for the Eastern District of Pennsylvania
No. 09-988
Plan Sponsor Distribution Election Request and Declaration Form
THIS FORM MUST BE COMPLETED AND RETURNED TO THE ADDRESS
LISTED BELOW BY JUNE 26, 2017

A. PLAN IDENTIFICATION AND CONTACT INFORMATION

Name of Plan _____

Authorized Individual (print) _____

Position/Title of Authorized Individual _____

Street Address _____

Contact Phone Number _____

Contact Email Address _____

B. DISTRIBUTION OPTIONS

In connection with the distribution of Available Assets from the Liquidating Trust, Plan Sponsors must make an election to receive their proportionate share of the distribution in either cash or associated policies. The election options, which depend upon the individual Plan circumstances are described below. Neither the Court nor its agents are able to provide any advice regarding your Plan's election.

1. Cash Distribution Election - If the Plan elects to receive any distribution in only cash, its associated policy(ies) will be liquidated at their cash surrender value. For those Plan Sponsors who have no associated policy, this will be the only option available. This cash election is the least complex option available.

2. Policies Distribution Election - If the Plan elects to receive its associated policies,¹ the distribution process is more complex and the specific method by which the policy(ies) will be distributed will depend upon the individual circumstances associated with the Plan.

- a. **All Policies Distribution Election** – If the Plan elects to receive all of its associated policies, two basic conditions arise:
- **The Plan’s Estimated Cash Distribution (E-6) Equals or Exceeds the Policy(ies) Cash Value** – In this scenario the Plan can elect to receive their associated policy(ies) and receive the balance of the distribution in cash.
 - **The Plan’s Estimated Cash Distribution (E-6) is Less than the Policy Cash Value** – In this scenario the Plan will need to pay an additional amount to receive all of its associated policy(ies). The amount of the cash shortfall is described in Section F of the Plan Sponsor Statement.
- b. **Selected Policy Distribution Election** – If the Plan elects to receive some, but not all policies that are associated with its Plan, the Plan will need to declare such intention and indicate below the specific policies that it wishes to receive. Upon receipt of this request, Marcum will provide a calculation of the cost of such election in terms of the Unified Model.

C. **INSTRUCTIONS FOR ELECTING DISTRIBUTION OPTION**

You must first refer to Line F-1 of the **Plan Sponsor Statement** which lists one of five “Scenarios” that is applicable to your Plan. Check the applicable box below and complete only that section of the form that applies.

- Scenario 1 – Check Here _____
- Scenario 2 – Check Here _____
- Scenario 3 – Check Here _____
- Scenario 4 – Check Here _____
- Scenario 5 – Check Here _____

Each Plan Sponsor must return: 1) the first two pages of this form; 2) the page that reflects your Plan’s Scenario; and 3) if you want to receive only specific policies, the form “Selected Policy(ies) Distribution – Cost Quote Requested”

¹ The Insurance Policy Detail included with the Plan Sponsor Statement lists both active and inactive policies. Plan Sponsors are cautioned that if considering the Selected Policy Distribution Election, only those policies that are marked “Active” or “Viaticated” are relevant (in both cases, those policies that are active are designated as such by the use of an asterisk).

D. FORM RETURN ADDRESS

This form should be returned by email to: KoreskoPlan@MarcumLLP.com

Or mailed to:

**Koresko Plan – Distribution Election
c/o Marcum LLP
1600 Market Street, 32nd Floor
Philadelphia PA 19103**

THE COURT REQUIRES A RESPONSE FROM ALL PLAN SPONSORS BY JUNE 26, 2017

Line F-1, SCENARIO 1: No Policy held by WTC

Name of Plan _____

Plan Identification Number (Refer to Plan Sponsor Statement) _____

Line F-1, SCENARIO 1: No Policy held by WTC:

“Your Plan does not have an Active Insurance Policy to purchase.”

If you fall into this category, there is no policy associated with your distribution and only the cash option is available to your Plan. The estimated amount that you will receive is listed on Line E-6. You must sign below to acknowledge receipt of the Plan Sponsor Statement and initial to indicate your Plan’s election.

Scenario 1- Election Option	
Indicate Election by Initialing in the space below	<u>Signature of Authorized Individual</u>
	Only Option Available Our Plan elects to receive any distribution related to this matter in cash.

Line F-1, SCENARIO 2: Sufficient Amount of Cash Distribution Available to Purchase Policy(ies)

Name of Plan _____

Plan Identification Number (Refer to Plan Sponsor Statement) _____

Line F-1, SCENARIO 2: Sufficient Amount of Cash Distribution Available to Purchase Policy(ies)

“Your Plan has an Estimated Amount of Cash Distribution (E6) that is greater than the Insurance Policy Value (C3). If you elect to use your Cash Distribution amount to purchase your Policy(ies), you will have a remaining Cash Distribution of \$__ X__.”

If your Plan falls into this category, the amount of your Cash Distribution is sufficient to purchase all of your Plan’s associated policy(ies). Alternatively, you may receive your entire distribution in cash. You must sign below to acknowledge receipt of the Plan Sponsor Statement and initial to indicate your Plan’s election.

Scenario 2- Election Options	
Indicate Election by Initialing in the space below	Signature of Authorized Individual
	<p>Option 1 - Cash Distribution Option Our Plan elects to receive any distribution related to this matter in cash. We understand that all associated policies will be liquidated.</p>
	<p>Option 2 – All Policy(ies) Distribution Option Our Plan elects to receive all of our associated policies and any excess cash that may be due to the Plan</p>
	<p>Option 3 – Selected Policy Distribution Option Our Plan elects to receive only those policies listed on the attachment (refer to Insurance Policy Detail Statement and attachment for format) and seeks an estimate of the cost of such election. Upon being provided such information, we agree that we will notify Marcum of our decision to purchase or not purchase the policies within 10 working days of being provided such information. We agree to surrender our interest in any policies not purchased and understand that all unpurchased policies will be liquidated.</p>

Line F-1, SCENARIO 3: Insufficient Amount of Cash Distribution Available to Purchase Policy(ies)

Name of Plan _____

Plan Identification Number (Refer to Plan Sponsor Statement) _____

Line F-1, SCENARIO 3: Insufficient Amount of Cash Distribution Available to Purchase Policy(ies)

“Your Plan has an Estimated Amount of Cash Distribution (E6) that is less than your Insurance Policy Value (C3). If you elect to use your Cash Distribution to purchase your Policy(ies), you will be required to pay an additional \$___ X___ to the Liquidating Trust.

If your Plan falls into this category, the amount of your Cash Distribution is insufficient to purchase all of your Plan’s associated policy(ies). You may receive your entire distribution in cash. If you have more than one policy, you may indicate your preference to receive only those specific policy(ies) and request an estimate of the cost of such election. You must sign below to acknowledge receipt of the Plan Sponsor Statement and initial to indicate your Plan’s election.

Scenario 3- Election Options	
Indicate Election by Initialing in the space below	Signature of Authorized Individual
	<p>Option 1 - Cash Distribution Option Our Plan elects to receive any distribution related to this matter in cash.</p>
	<p>Option 2 – All Policy(ies) Distribution Option We elect to purchase all the policies associated with our Plan and understand that we will be required to pay approximately the amount listed in Line F-1 on October 11, 2017.² We will be provided an exact payment figure at that time.</p>
	<p>Option 3 – Selected Policy Distribution Option Our Plan elects to receive only those policies listed on the attachment (refer to Insurance Policy Detail Statement for information and attachment for format) and seeks an estimate of the cost of such election. Upon being provided such information, we agree that we will notify Marcum of our decision to purchase or not purchase the policies within 10 working days of being provided such information. We agree to surrender our interest in any policies not purchased and understand that all unpurchased policies will be liquidated.</p>

² By its Order of April 17, 2017 (ECF 1494), the Court adopted a timeline for the resolution of the Liquidating Trust. By this Order, November 13, 2017 has been established as the date that all policies held by the Liquidating Trust will be liquidated.

**Line F-1, SCENARIO 4: Requirement to Reimburse Negative PIB
and Pay Additional Funds to Purchase Policy(ies).**

Name of Plan _____

Plan Identification Number (Refer to Plan Sponsor Statement) _____

Line F-1, SCENARIO 4: Requirement to Reimburse Negative PIB and Pay Additional Funds to Purchase Policy(ies).

“Your Plan has a Negative Adjusted PIB (B6). In order for your Plan to receive an allocation of the Equitable Distribution and have the option to purchase your policy(ies), you will be required to pay \$__X__ to restore the Negative PIB. In addition, after you have restored the Negative PIB, you will need to pay an additional amount to purchase your policy(ies), which is currently estimated at \$__X__. The additional amount required is based upon the amount of the ASD (approximately 20%) and the amount of the Reserve (12.5%) multiplied by your current policy value (C3).”

If your Plan falls into this category and you wish to receive the policy(ies) you must repay both the amount associated with the Negative PIB and an additional amount to compensate the Liquidating Trust for the ASD applicable to your policy(ies). You must sign below to acknowledge receipt of the Plan Sponsor Statement and initial to indicate your Plan’s election.

Scenario 4- Election Options	
Indicate Election by Initialing in the space below	Signature of Authorized Individual
N/A	<p>Option 1 - Cash Distribution Option If your plan falls into this category, there is no cash distribution option.</p>
	<p>Option 2 – All Policy(ies) Distribution Option We elect to purchase all the policies associated with our Plan and understand that we will be required to restore the negative PIB and will pay approximately the amount listed in Line F-1 of the Plan Sponsor Statement on October 11, 2017.³ We will be provided an exact payment figure at that time.</p>
	<p>Option 3 – Selected Policy Distribution Option Our Plan elects to receive only those policies listed on the attachment (refer to Insurance Policy Detail Statement for information and attachment for format) and seeks an estimate of the cost of such election. Upon being provided such information, we agree that we will notify Marcum of our decision to purchase or not purchase the policies within 10 working days of being provided such information. We agree to surrender our interest in any policies not purchased and understand that all unpurchased policies will be liquidated.</p>

³ By its Order of April 17, 2017 (ECF 1494), the Court adopted a timeline for the resolution of the Liquidating Trust. By this Order, November 13, 2017 has been established as the date that all policies held by the Liquidating Trust will be liquidated.

Line F-1, SCENARIO 5: No Cost to Obtain Policy (ies)

Name of Plan _____

Plan Identification Number (Refer to Plan Sponsor Statement) _____

Line F-1, SCENARIO 5: No Cost to Obtain Policy (ies)

“Your Plan has no Estimated Amount of Cash Distribution (E6) and your Insurance Policy Cash Value (C3) is \$0. You can elect to receive your policy(s) at no cost.”

If your Plan falls into this category, you have an active insurance policy that has little or no cash value. You must sign below to acknowledge receipt of the Plan Sponsor Statement and initial to indicate your Plan’s election.

Scenario 5- Election Options	
Indicate Election by Initialing in the space below	<u>Signature of Authorized Individual</u>
	Option 1 – We want our Policy Our Plan elects to receive any policy(ies) associated with our Plan at no cost. We understand that we will not receive any cash.
	Option 2 - We Do Not Want our Policy Our Plan elects not to receive any policy(ies) associated with our Plan at no cost. We understand that we will not receive any cash.

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 Attachment to Plan Sponsor Distribution Election Request and Declaration Form

Selected Policy(ies) Distribution - Cost Quote Requested

Please attach this page if you are interested in purchasing selected insurance policy(ies). Enter only those policies indicated as an "active policy" with an asterisk on the Insurance Policy Detail page. If you need to list more than 10 policies, please attach a separate sheet. If you are electing to receive or purchase all policies associated with your Plan, this form is not required.

Plan Name _____

Plan ID _____

Our Plan is interested in purchasing the following insurance policies listed on the Insurance Policy Detail (attached to our Plan Sponsor Statement) and request a calculation of the cost of such election:

	Policy Number	Type	Status	Name of Insured	Insurance Policy Value	Death Benefit
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						