

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 94-08273 CA 22

IN RE: THE ENGLE TRUST FUND

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**REPORT OF TRUSTEE**

Pursuant to this Court's *DIRECTIONS TO TRUSTEE* dated January 29, 2009, your Trustee, Miles A. McGrane, III, files his Report as to the status of the claims asserted by the United States Government, Department of Justice, for Medicare and Veteran's Administration reimbursements, and states:

1. We have reached an Agreement in principle with the Department of Justice ("DOJ") in full settlement of all claims for reimbursement of Medicare and Veterans Administration ("VA") benefits received by beneficiaries of the Engle Trust Fund. The Agreement provides for a total payment by the Engle Trust Fund of \$18 Million, and is subject to approval by Your Honor and United States Attorney General Eric Holder. We are presently preparing the proposed Settlement Agreement that will be presented to the Court and Attorney General Holder for review and approval. The proposed Settlement Agreement will be accompanied by my motion for approval of the proposed Agreement, describing in detail the reasons why I now believe an expeditious compromise of the DOJ claims without protracted and expensive litigation is in the best interests of the Engle Trust Fund and all beneficiaries.

2. If the Agreement is approved, the Court will need to also determine whether the \$18 Million payment should be paid "off the top" from the Engle Trust Fund (Fund") so that each of

the approximately 45,000 approved smokers' would bear a proportionate pro rata share of approximately \$400 each (\$18 Million divided by approximately 45,000 ). All beneficiaries will equally benefit from the likely non-taxable status of the payments. Alternatively, there can be further administrative proceedings utilizing the approximately 45,000 social security numbers of approved smokers to determine those smokers who received Medicare and/or VA government benefits. A process would need to be implemented to allocate the payment to the DOJ and the additional costs of using this option. I am researching this latter option and will provide further information to the Court as to the projected additional costs, any anticipated delays in administering the Fund, and the potential procedures that would be utilized with this second approach.

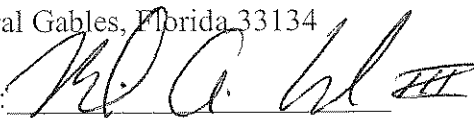
3. The Trustee further recommends that upon approval of the Agreement by the Court and Attorney General Holder, these administrative proceedings can be essentially concluded and a second Engle Trust Fund check in the minimum amount of \$4,000 per approved smoker can be distributed.

4. Accordingly, your Trustee will file his motion for the approval of the proposed Agreement, as set forth above, as soon as a formal written Agreement is reached with the DOJ.

Respectfully submitted this 18<sup>th</sup> day of February, 2009.

MILES A. McGRANE, III, TRUSTEE  
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BY:

  
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