

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART 56

-----X  
In the Matter of

Index No.: 452041/16

the Liquidation of

**AFFIRMATION**

AMERICAN MEDICAL AND LIFE INSURANCE  
COMPANY.  
-----X

Victor J. D'Angelo, an attorney at law, duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I am an attorney with the New York Liquidation Bureau (“NYLB”), which serves as the staff of Adrienne A. Harris, Superintendent of the Department of Financial Services of the State of New York (“Superintendent”), in her capacity as liquidator (“Liquidator”) of American Medical and Life Insurance Company (“AMLIC”). I submit this affirmation upon information and belief, based on my review of the AMLIC files maintained by the NYLB and the conversations I have had with employees of the Liquidator, in support of the Liquidator’s application for an order approving the Liquidator’s report on the status of and request to close the AMLIC liquidation proceeding (“Closing Report”) and the financial transactions therein detailed.

2. A copy of the proposed order is annexed hereto as Exhibit 1.

3. The Closing Report is annexed hereto as Exhibit 2.

4. The Liquidator proposes to give notice of the return date of the accompanying Order to Show Cause by posting the Order to Show Cause and its supporting papers on the NYLB Internet web page at <https://www.nylb.org/home.htm>, under Legal and Estate Notices, within five (5) days following the Liquidator’s receipt of a signed copy of the Order to Show Cause.

5. No previous application for the relief sought herein has been made to this or any other court or judge thereof.

WHEREFORE, it is respectfully requested that the Court grant an order substantially in the form of the proposed order annexed hereto as Exhibit 1: (i) approving the Closing Report and the financial transactions detailed therein, annexed hereto as Exhibit 2; (ii) authorizing the continued payment of actual and necessary administrative expenses incurred by the Liquidator in the administration of the AMLIC liquidation proceeding, including such expenses pertaining to the closing of the liquidation proceeding; (iii) authorizing the Liquidator to distribute AMLIC's assets, consistent with the priorities set forth in Insurance Law § 7435, to those former policyholders and creditors of AMLIC with allowed claims; (iv) terminating and closing the liquidation proceeding; (v) authorizing the Liquidator to receive and disburse, without further application to this Court, any receipts that are received after the termination of the liquidation proceeding; (vi) authorizing the Liquidator, after termination of the liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the AMLIC estate; (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the liquidation proceeding; and (viii) for such other and further relief that this Court deems just and proper.

Dated: New York, New York  
November 7, 2023

*Victor J. D'Angelo*  
\_\_\_\_\_  
Victor J. D'Angelo

## **Exhibit 1 – Proposed Order**

At IAS Part 56 of the Supreme Court of the State of New York, County of New York, at the Courthouse located at 71 Thomas Street, New York, New York, on the \_\_\_ day of \_\_\_\_\_, 2023.

P R E S E N T:

HON. JOHN J. KELLEY, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

Index No.: 452041/16

the Liquidation of

**ORDER**

AMERICAN MEDICAL AND LIFE INSURANCE  
COMPANY.  
-----X

Upon the motion of the Superintendent of the Department of Financial Services of the State of New York, as liquidator (“Liquidator”) of American Medical and Life Insurance Company (“AMLIC”), for an order, *inter alia*: (i) approving the Liquidator’s report on the status of and request to close the AMLIC liquidation proceeding (“Closing Report”), and the financial transactions detailed therein, annexed as Exhibit 2 to the affirmation of Victor J. D’Angelo; (ii) authorizing the continued payment of actual and necessary administrative expenses incurred by the Liquidator in the administration of the AMLIC liquidation proceeding, including such expenses pertaining to the closing of the liquidation proceeding; (iii) authorizing the Liquidator to distribute AMLIC’s assets, consistent with the priorities set forth in Insurance Law § 7435, to those former policyholders and creditors of AMLIC with allowed claims; (iv) terminating and closing the liquidation proceeding; (v) authorizing the Liquidator to receive and disburse, without further application to this Court, any receipts that are received after the termination of the liquidation proceeding; (vi) authorizing the Liquidator, after termination of the liquidation proceeding and

without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the AMLIC estate; (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the liquidation proceeding; and (viii) for such other and further relief that this Court deems just and proper;

NOW, on the motion of the Liquidator, and no opposition having been filed with the Court, it is:

**ORDERED**, that the application is granted; and it is further

**ORDERED**, that the Closing Report and the financial transactions detailed therein are approved; and it is further

**ORDERED**, that continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the AMLIC liquidation proceeding, is authorized; and it is further

**ORDERED**, that the Liquidator is authorized to distribute AMLIC's assets, consistent with the priorities set forth in Insurance Law § 7435, to those former policyholders and creditors of AMLIC with allowed claims; and it is further

**ORDERED**, that the liquidation proceeding is terminated and closed; and it is further

**ORDERED**, that the Liquidator's receipt and disbursement, without further application to this Court, of any receipts that are received after the termination of the liquidation proceeding, is authorized; and it is further

**ORDERED**, that the Liquidator, after termination of the liquidation proceeding and without further order of this Court, is authorized to destroy or otherwise dispose of any and all of

the books, files, records (paper or electronic) and other property of the AMLIC estate; and it is further

**ORDERED**, that the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, are released and discharged from any and all liability arising from their acts or omissions in connection with the liquidation proceeding.

E N T E R

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J.S.C.

**Exhibit 2 – Closing Report**

**FINAL REPORT ON THE STATUS OF AND REQUEST TO CLOSE  
THE LIQUIDATION PROCEEDING OF  
AMERICAN MEDICAL AND LIFE INSURANCE COMPANY**

**INTRODUCTION**

Adrienne A. Harris, Superintendent of the Department of Financial Services of the State of New York (“Superintendent”), as liquidator (“Liquidator”) of American Medical and Life Insurance Company (“AMLIC”), reports that she has completed her duties regarding the liquidation of AMLIC.<sup>1</sup>

The Liquidator submits this final report to apprise the Court of the status of the liquidation proceeding (“Closing Report”) and to respectfully request that the Court enter an order substantially in the form of the proposed order annexed as Exhibit 1 to the accompanying affirmation of Victor J. D'Angelo, *inter alia*, approving the Closing Report and the financial transactions detailed herein and terminating and closing the AMLIC liquidation proceeding.

**BACKGROUND**

**A. AMLIC and Its Consent to Liquidation**

AMLIC was incorporated in the State of New York on or about December 17, 1964 and obtained a license to write accident and health insurance on February 14, 1966. AMLIC obtained a license to write life insurance on January 3, 1989. As of December 31, 2013, AMLIC was licensed to carry out the business of insurance in 40 states and the District of Columbia. AMLIC had licenses expire, suspended, or revoked in 23 states and, as a result, AMLIC, as of December 31, 2015, was licensed to carry out the business of insurance in 17 states, including New York, as well as in the District of Columbia.

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<sup>1</sup> The Liquidator has appointed David Axinn as Special Deputy Superintendent and Agent of the Liquidator and other agents to carry out through her staff at the New York Liquidation Bureau (“NYLB”) the responsibilities of the Liquidator.



In New York, AMLIC was licensed to transact the business of insurance in accordance with paragraphs (1) (Life Insurance), (2) (Annuities), and (3) (Accident and Health Insurance) of Insurance Law § 1113(a).

By a written resolution dated September 2, 2014, AMLIC's board of directors unanimously consented to the entry of an order of liquidation pursuant to Article 74 of the Insurance Law.

On December 21, 2016, the Supreme Court of the State of New York, County of New York (the "Court"), entered an order placing AMLIC into liquidation and appointing the Superintendent as Liquidator ("Liquidation Order"). NYSCEF 10.

**B. Bar Date**

The Liquidation Order set September 28, 2017 as the bar date ("Bar Date"), or deadline by which all claims against AMLIC or its insureds, other than the Liquidator's claims or the claims of the Life Insurance Guaranty Corporation of New York for administrative expenses, were required to be submitted to the Liquidator.

**C. Classes of Creditors**

The priority of distribution of assets from a liquidating life insurer is set forth in Insurance Law § 7435, which provides that all members of a senior class be paid in full before the members of the next class may receive any payment, and establishes the following classes:

Class One – Administrative Claims

Claims with respect to the actual and necessary costs and expenses of administration, incurred by the Liquidator or by The Life Insurance Guaranty Corporation or The Life Insurance Company Guaranty Corporation of New York;

Class Two – Employee Claims

Debts due to employees for services not to exceed \$1,200 and rendered within one year before commencement of liquidation;

Class Three – Provider Claims

Claims for payment for goods furnished or services rendered to the insolvent insurer in the ordinary course of business within 90 days prior to the date the insurer was determined to be insolvent;

Class Four – Policyholder Claims

Claims under insurance policies, annuity contracts and funding agreements, and all claims of The Life Insurance Company Guaranty Corporation of New York or any other guaranty corporation or association, other than claims under class one above and claims for interest;

Class Five – Federal and Government Claims

Claims of the federal or any state or local government, including those for a penalty or forfeiture only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby (the remainder of such claims are under class eight below);

Class Six – General Creditor Claims

Claims of general creditors and any other claims other than claims under classes seven and eight below;

Class Seven – Capital Obligations

Surplus, capital or contribution notes, or similar obligations; and

Class Eight – Shareholder and Miscellaneous Policyholder Claims

Claims of shareholders, other than claims under Class Four above, and claims of shareholders or other owners.

**D. Adjudication Procedure**

By order entered December 11, 2018, this Court established an adjudication procedure to resolve claims against the AMLIC estate. NYSCEF 25. Pursuant to the adjudication procedure, claimants who objected to the Liquidator's classification determinations or recommendations of allowance or disallowance of their claims were entitled to have their objections heard by a court-appointed referee<sup>2</sup> who would hear and report on the dispute. Upon the referee's determination, either the claimant or the Liquidator could move the Court to confirm or deny the referee's report.

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<sup>2</sup> By order entered December 11, 2018, this Court appointed the Honorable Bradly Marks, to serve as referee to hear and report on the validity of unresolved objections. NYSCEF 25.

All timely filed claims that were within a priority that would receive a distribution were reviewed by the Liquidator. All claims adjudicated by the Liquidator were submitted to the Court as recommended allowances for approval pursuant to Insurance Law §§ 7428, 7433. The Court reviewed these proposed claims payments and approved them by issuing Court orders for each of the settlements.

**E. Federal Waiver**

To enable the Liquidator to distribute the assets of the AMLIC estate for allowed claims and close the estate without the threat of being held personally liable under the Federal Priority Statute for unknown or unasserted claims of the federal government, the Liquidator sought a release from the United States of any potential claims in the AMLIC liquidation proceeding and any liability under the Federal Priority Statute, 31 U.S.C. § 3713.

On October 12, 2023, the Liquidator and the United States entered into a release agreement whereby the United States released the Liquidator from liability for all claims under 31 U.S.C. § 3713(b) in connection with the AMLIC liquidation proceeding. See Exhibit A.

**CURRENT STATUS OF CLAIMS PRESENTED**

**A. Claims Submitted**

Because the deadlines for the submission of all claims was September 28, 2017, no additional claims or evidence in support of such claims against AMLIC or its insureds may be presented to the Liquidator. There were 67 claims in the liquidation proceeding. Of the total 67 claims received against the estate, 23 were voided or withdrawn, leaving 44 claims to be adjudicated. The Liquidator received one federal government claim from the Internal Revenue Service.

The Liquidator reviewed and issued NODs for the claims, which informed claimants how to object to the Liquidator's determination, if they wished, in accordance with the adjudication procedure. The Liquidator received two (2) objections to its NODs, which the Liquidator resolved with the claimants. For all other claims, the time period for objections lapsed, and the Liquidator's recommended allowances and disallowances were deemed accepted.

The 67 claims consist of the following, which were aggregated by claimant to the extent possible to reduce administrative expenses:

- Class Two – There were two Class Two employee claims allowed by the Court for a total allowance of \$2,400.00.
- Class Three – There were no Class Three claims.
- Class Four – There were 26 Class Four policyholder claims. 13 were allowed by the Court for a total allowance of \$86,387.48; one was disallowed and 12 claims were withdrawn.
- Class Five – There were 25 Class Five claims. 16 were allowed by the Court for a total allowance of \$341,629.53;<sup>3</sup> one claim was disallowed, seven were voided and one was withdrawn.
- Class Six – There were 13 Class Six claims. 10 were allowed by the Court for a total allowance of \$1,519,134.53; two were voided and one was withdrawn.
- Class Seven – There were no Class Seven claims.

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<sup>3</sup> Among the Class Five claims is a federal claim for \$41,487.37. Although federal claims are entitled to priority over other non-policy level claims under 31 U.S.C. § 3713, in this case the federal claim will be paid in full as a Class Five claim so the priority classification of the federal claim is not an issue.

- Class Eight – There is one open Class Eight claim in the amount of \$5,000,000.00 that was not adjudicated because it was not within a priority that would receive a distribution.

### **FINANCIAL REPORT**

AMLIC's Statement of Assets and Liabilities as of September 30, 2023 and AMLIC's Statement of Receipts and Disbursements for the Period December 28, 2016 to September 30, 2023, are attached hereto as Exhibit B.

#### **A. As of September 30, 2023**

As of September 30, 2023, AMLIC's records reflect total assets in the amount of \$1,566,099, and total liabilities in the amount of \$6,988,040.

##### **1. Disbursements**

As of September 30, 2023, the Liquidator had incurred \$1,168,774 in administrative expenses, consisting of: \$530,841 for salaries of the Liquidator's staff and related payroll taxes, \$237,051 for employee relations and welfare, \$78,571 for rent and related expenses, \$206,169 for professional fees (e.g., accountants to prepare financial statements and other consultants for litigation support), \$71,903 for general and administrative expenses (e.g., insurance, office equipment and supplies, printing, postage and telephone services), and \$44,240 in miscellaneous expenses.

##### **2. Assets**

As of September 30, 2023, AMLIC's records reflect total assets in the amount of \$1,545,473, consisting of \$413,804 in cash and cash equivalents, \$1,131,669 in bonds at fair market value, \$7,544 in accrued investment income and \$13,082 in other assets.

### **3. Liabilities**

As of September 30, 2023, AMLIC's records reflect total liabilities of \$6,988,040, consisting of \$38,489 in Class One Administrative Expenses<sup>4</sup>, \$2,400 in Class Two Employee Claims, \$86,387 in Class Four Policy and Annuity Contract Related Claims, \$341,629 in Class Five Federal, State and Local Government Claims, \$1,519,135 in Class Six General Creditor Claims and \$5,000,000 Class Eight Shareholder Claims.

### **RELIEF SOUGHT**

The Liquidator submits this Closing Report to report that the affairs of the AMLIC liquidation proceeding have been completed and that it is in the best interests of the estate to close the liquidation proceeding at this time under the terms and conditions outlined herein. Accordingly, the Liquidator respectfully requests that the Court issue an order:

1. Approving the Closing Report and the financial transactions detailed herein;
2. Authorizing the continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the liquidation proceeding;
3. Authorizing the Liquidator to distribute AMLIC's assets, consistent with the priorities set forth in Insurance Law § 7435, to those former policyholders and creditors of AMLIC with allowed claims;
4. Terminating and closing the liquidation proceeding;
5. Authorizing the Liquidator to receive and disburse, without further application to this Court, any receipts that are received after the termination of the liquidation proceeding;
6. Authorizing the Liquidator, after termination of the liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the AMLIC estate; and

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<sup>4</sup> This amount reflects the projected future cost for closing expenses.

7. Releasing and discharging the Liquidator, her predecessors and successors in office, the NYLB, and their agents, attorneys, and employees, from any and all liability arising from their acts or omissions in connection with the liquidation proceeding.

Dated: New York, New York  
November 7, 2023



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David Axinn  
Special Deputy Superintendent and  
Agent of Adrienne A. Harris,  
Superintendent of the Department of  
Financial Services of the State of New York,  
as Liquidator of American Medical and Life  
Insurance Company

# EXHIBIT A



**RELEASE AGREEMENT**

This Release Agreement is entered into by the United States and David Axinn, in his capacity as Special Deputy Superintendent and Agent of Adrienne A. Harris, Superintendent of Financial Services of the State of New York (“Superintendent”) as liquidator of American Medical and Life Insurance Company (“American Medical”) and applies only to the liquidation of American Medical.

**I. PARTIES**

The parties to this Release Agreement are the United States and the Superintendent (collectively, the “Parties”).

**II. RECITALS**

1. The United States enters into this Release Agreement in reliance upon the information contained in the Superintendent’s affidavit dated April 11, 2022, attached as Exhibit A to this Release Agreement (“Affidavit”).

**III. AGREEMENT**

1. The United States hereby releases and discharges the Superintendent, the liquidator, and their affiliates, predecessors, successors and assigns, respective officers, directors, employees, attorneys, and agents, and the American Medical estate (together, the “Liquidating Parties”) from liability for claims under 31 U.S.C. § 3713(b) in connection with the American Medical liquidation, except for those claims set forth in the immediately following paragraph (III.2.).

2. Notwithstanding any other provision of this Release Agreement, the United States does not release the Liquidating Parties from the following claims:

(a) any claim arising under any criminal law, criminal or civil forfeiture, or any liability under 31 U.S.C. § 3713(b) arising from any such claim;

(b) any criminal, civil, or administrative claim, right, or defense arising under Title 26, U.S. Code (Internal Revenue Code), or any liability under 31 U.S.C. § 3713(b) arising from any such claim;

(c) any claim or action arising under 31 U.S.C. § 3729, *et seq.* (False Claims Act), 31 U.S.C. § 3801, *et seq.* (Program Frauds Civil Remedies Act), 42 U.S.C. § 1320a-7a (Civil Monetary Penalties statute), 29 U.S.C. Ch. 18 (Employee Retirement Income Security Program), or 42 U.S.C. § 1395y(b) (Medicare as Secondary Payer), or any liability under 31 U.S.C. § 3713(b) arising from any such claim;

(d) any claim arising under any other statute or common law principle governing pension benefit, fraudulent conveyance, or any other form of fraud, or any liability under 31 U.S.C. § 3713(b) arising from any such claim; or

(e) any obligation created by this Release Agreement.

3. Except for the express terms of this Release Agreement, this Release Agreement does not create, enhance, diminish, defeat, or otherwise affect any claims the United States may have against the Liquidating Parties.

4. Under the terms of this Release Agreement, the United States or its duly authorized representative shall have the right, prior to the destruction of American Medical's records in accordance with the orders of the Court during normal business hours, on a date and at a location agreed upon by the Parties, to inspect, and if it wishes, to copy at its own expense, such documents, books, and records of the Liquidating Parties, as shall be reasonably necessary to determine the existence and amount of claims the United States may have against the

Liquidating Parties arising from American Medical's liquidation, or to determine the Liquidating Parties' compliance with the terms of this Release Agreement. No documents, books, or records of the Liquidating Parties relating to the liquidation of American Medical may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of such destruction. If approval is not requested from the Court, the Superintendent must obtain prior written authorization from the United States before destruction of any documents, books, or records of the Liquidating Parties relating to the liquidation of American Medical. For purposes of this paragraph, it is not a violation of this Release Agreement if the Superintendent destroys any paper documents that were converted to electronic documents.

5. Except for the express undertakings of the Liquidating Parties and the United States in this Release Agreement, nothing in this Release Agreement shall be construed:

(a) to establish or perfect any claims, substantive rights, or procedural rights of the United States;

(b) to limit, restrict, diminish, or defeat any claims, substantive rights, or procedural rights of the United States;

(c) to establish or perfect any objections or defenses, substantive rights, or procedural rights of the Liquidating Parties; or

(d) to limit, restrict, diminish, or defeat any defenses, substantive rights, or procedural rights of the Liquidating Parties.

6. The Parties agree that this Release Agreement shall not be effective unless and until it is approved by the Court, if approval is required, and the time for appeals of any such approval has expired.

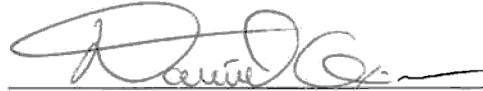
7. This Release Agreement may be executed by the Parties in any number of counterparts, including counterparts transmitted by way of facsimile or email, and each of which shall be deemed to be an original and all of which, collectively, shall be deemed to be one and the same instrument. The Parties agree that an electronic signature alone may substitute for and have the same legal effect as a manual signature.

SHARON WILLIAMS

Digitally signed by SHARON WILLIAMS  
Date: 2023.09.28 15:03:38 -04'00'

By: Sharon C. Williams  
Trial Attorney  
Civil Division  
Department of Justice  
Attorney for the United States

Dated: October 12, 2023



By: David Axinn  
Special Deputy Superintendent and agent of the Superintendent  
American Medical and Life Insurance Company  
as Receiver of

# **EXHIBIT B**

# American Medical and Life Insurance Company

## Assets As of September 30, 2023

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**Unrestricted Assets:**

Cash and Cash Equivalents	\$ 413,804
Bonds, at fair market value	1,131,669
<b>Total Cash, Cash Equivalents, and Investments</b>	<b>1,545,473</b>
Accrued Investment Income	7,544
Other Assets	13,082
<b>Total Assets</b>	<b>\$ 1,566,099</b>

# American Medical and Life Insurance Company

## Liabilities As of September 30, 2023

Secured Claims	\$	-
Class I - Administrative Claims		38,489
Class II – Employee Claims		2,400
Class III – Vendor Claims 90 Days Prior to the Liquidation Date		-
Class IV – Policy and Annuity Contract Related Claims		86,387
Class V – Federal, State and Local Government Claims		341,629
Class VI - General Creditor Claims		1,519,135
Class VII – Surplus, Capital or Contribution Notes Claims		-
Class VIII – Shareholder Claims		5,000,000
<b>Total Liabilities</b>		<u>6,988,040</u>
(Deficit) Surplus		(5,421,941)
<b>Total Liabilities and (Deficit) Surplus</b>	\$	<u>1,566,099</u>

# American Medical and Life Insurance Company

## Receipts and Disbursements For The Period December 28, 2016 to September 30, 2023

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**Receipts:**

Release from Statutory Deposits	2,140,562
Other Receipts	479,047
Investment Income	78,512

**Total Receipts**

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2,698,121**Operating Expenses:**

Salaries	530,841
Employee Relations & Welfare	237,051
Rent and Related Expenses	78,571
Professional Fees	206,169
General and Administrative Expenses	71,903
Miscellaneous	44,240

**Total Operating Expenses**

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1,168,774**Receipts over Disbursements**

1,529,347

**Cash and Cash Equivalents; Beginning of Period**

19,264

**Unrealized Gain on Investments**

(3,138)

**Cash and Cash Equivalents; End of Period**

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\$ 1,545,473