REPORT

OF

EDUARDO S. ESPINOSA,
RECEIVER

FOR

RETIREMENT VALUE, LLC
A TEXAS LIMITED LIABILITY COMPANY

as of
December 31, 2011

Issued in connection with
that certain matter pending before the
126th District Court of Travis County, Texas,
Cause Number D-1-GV-10-000454

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This report updates the investors, the Court and the public as to the status of the Receivership as of the end of December 2011 as well as proposes a new Plan of Distribution and explains the rationale behind the Receiver's new Plan.

I. Executive Summary

The Receiver has proposed a Plan of Distribution that calls for the estate to make a $20 million investment in the Vida Life Fund, LP. Under the proposed Plan, the Receiver will be able to make a distribution of approximately $14 million. He projects that the investment in the Fund will pay between $65.5 million and $72.5 million if held for ten years and between $76.7 million and $85.8 million if held for twenty years. The Plan reduces the time necessary to refund the investors money by approximately ten years against holding the portfolio to maturity. Not only is the investment in the Fund likely to result in quicker payment but it is also less risky than holding the policies.

The receivership litigation is ongoing. The Receiver has sued a large number of licensees and received summary judgment against Wendy Rogers holding that the RSLIP is a security. In addition, the Receiver has reached a tentative agreement with the HCF Receiver to combine the estates of the two entities in a way that protects the interests of the Retirement Value investors.

II. Plan of Distribution

There are over 900 investor-victims with claims against Retirement Value in excess of $77 million. Additionally, there are known trade-creditor claims not exceeding $100,000.[1] The Retirement Value assets available to satisfy these claims are: (i) about $26 million, in cash; (ii) 48 life policies with a market value of $8,656,081; and (iii) any recoveries from claims against

[1] In addition, there are several unliquidated and disputed claims asserted against the estate, such as an employment discrimination claim and the tentatively settled claim by David Gray for payment under an agreement to redeem his interest in Retirement Value.

Rogers and the other participants in the Retirement Value scheme.[2] As discussed in our previous reports, there is not sufficient cash on hand to repay the investors in full.

In his report of April 30, 2011 (the "April 2011 Report"), the Receiver proposed to hold the policies until maturity in order to increase the cash available for distribution to the investors. As discussed in the April 2011 Report, the portfolio was expected to generate approximately $77.9 million after payment of premiums and taxes upon the final maturity of all policies in the portfolio.[3] The downside is that it will take many years to realize these returns. At that time, we reported that it would take about 20 years for all policies to reach maturity. As we have continued to review the portfolio, we have determined that it may take up to 30 years to realize these funds. While holding the portfolio to maturity is still preferable to liquidating it, holding is not an ideal solution.

To that end, we have continued to evaluate other options to monetize the portfolio. After evaluating a number of options, the Receiver is recommending that the estate invest the policies and some cash in the Vida Longevity Fund, LP. By investing in the Fund, the Receiver can increase the payout to the investors upon adoption of a plan from $7.7 million to about $14 million and reduce the time required to obtain the same returns from 20-30 years to 10-20 years.

The Receiver is, therefore, proposing a new Plan of Distribution, a copy of which is submitted with this Report. This Plan differs in a number of respects from the plan submitted by the Receiver in May 2011. In summary, the new Plan provides:

- The estate will transfer the policies plus approximately $12 million to the Vida Longevity Fund in exchange for an interest in the fund. The estate's total

[2] If the HCF estate is combined with the Retirement Value estate, these numbers will change somewhat. HCF has 70 investor-victims with claims against HCF of approximately $5.25 million. The assets available at HCF to pay these claims are (i) about $70,000 in cash and (ii) five policies of life insurance worth approximately $1 million.

[3] As also discussed in the April 2011 Report, there is a range of probable outcomes, which vary considerably. On a pre-tax basis, the portfolio is expected to generate about $84.7 million at final maturity.

investment will be $20 million. The Fund will pay a percentage, equal to the estate's partnership interest, of its income to the estate. After two years, the estate will be eligible to redeem its ownership; however, the current plan is to hold the investment in the Fund for at least ten years in order to maximize the return to the investors.

- There will be an initial distribution of about $14 million[4] payable upon adoption of the Plan. Further distributions will be made as funds become available.

- The investors will be paid on a pro rata basis up to the amount of their claims, as funds become available for distribution. No investor has an interest in or entitlement to the proceeds of any particular policy. If sufficient funds are available, the estate will pay interest at the rate provided for the payment of rescission under the Texas Securities Act, which is 6% per annum, from May 5, 2010.

- The investors will have priority over the general creditors (e.g., trade creditors).

- Investor claims will be valued on a "net investment" basis – dollars invested less dollars received from Retirement Value. This will have a limited effect on the majority of investors but reduces the claims of investors who also happen to be licensees by the amount of the commissions received.

- The Receiver will publish a schedule of claims. Only those claimants (i) whose claims are scheduled as disputed; (ii) whose claims are not scheduled or (iii) who dispute the amount or classification of their claim will need to take further action by filing a proof of claim. Proofs of claim must be filed by a bar date to be set by the Court. The overwhelming majority of claimants will not need to do anything to preserve their claim.

This report, merely provides a summary of the Plan as well as our analysis of the various options available to the Receiver leading to his recommendations. The attached plan for distribution provides more detail as to the specifics of the distribution of assets.

A. Investment in the Vida Longevity Fund

The Receiver proposes to transfer the policies and cash to the Vida Longevity Fund, LP (the "Fund") in exchange for an interest in the Fund. The Fund is a mutual fund based in Austin, Texas, which invests in life settlement assets. Among the assets it invests in are life settlement

[4] The exact amount to be distributed will not be known until April 2012 and will depend upon the value of the policies held by the Receiver and the total amount of cash available.

policies, synthetic and derivative instruments related to life settlements, annuities and notes. The Fund currently owns a portfolio of life settlement policies, a note linked to another portfolio of policies and other life settlement investments. Its current net asset value is approximately $60 million.

The Plan contemplates that the Receiver will contribute $20 million in cash and policies to the Fund in exchange for a 24.59% limited partnership interest in the Fund. The exact allocation between cash and policies will be determined at closing in April 2012 but, based on the current valuation of the policies using the Fund's methodology, we anticipate that it will be $8 million for the policies and $12 million in cash.[5]

Before making any recommendation as to a transaction involving the estate's assets, the Receiver must be comfortable that the transaction makes sense and that the other parties to the transaction are reputable and competent business people. To that end, the Receiver has extensively reviewed the Fund, its operations and its principals as well as the economic benefits and risks of the proposed transaction. Among other things, the Receiver has

- Met with the Fund and its principals on a number of occasions and spoken extensively with the Fund's principals and legal counsel as to all aspects of the transaction;

- Reviewed, with the assistance of lawyers at K&L Gates who specialize in the legal and regulatory issues involving mutual funds, the Fund's private placement memorandum, subscription agreement and limited partnership agreement;

- Analyzed, with the assistance of various specialists, the legal implications of the Plan from the perspective of state law, federal securities law and federal tax law;

- Reviewed the Fund's historical performance as well as the most recent actuarial valuations of its assets;

[5] This valuation does not include the HCF policies. As of the time of this report, we have not had the opportunity to have these policies valued by our actuaries. Based on the information available at this time, we expect that the HCF policies will be relatively more valuable than the Retirement Value policies due to their shorter LE's. When the valuation is complete, we will publish a supplemental report showing the economics for the combined estates.

- Retained ASG, the Receiver's portfolio servicer, to review the Fund's portfolio management and origination policies as well as to audit the files maintained by the Fund on its life settlement policies;

- Retained L&E,[6] the Receiver's actuaries, to review the valuation of the Fund's assets, to model the performance of the combined portfolio of life settlement policies and to review the pro forma provided by the Fund;

- Reviewed, with the assistance of lawyers at K&L Gates specializing in regulatory compliance by investment advisors, reports of the Fund's compliance consultants;

- Retained a private investigator to conduct a background check on the Fund and its principals;

- Analyzed, with the assistance of L&E, the performance of the proposed investment and various other alternatives; and

- Evaluated other options for increasing the Receiver's ability to make restitution to the investors.

This analysis has led the Receiver to recommend a Plan that features the proposed transaction with the Fund.

There are several advantages to the Vida Longevity Fund. First, it will allow the Receiver to distribute cash more quickly than holding the policies to maturity but still maintain a potentially greater return than liquidation. Second, the Fund provides a greater diversity of assets, which reduces the risk to the investors. Third, the Fund's managers have agreed to compensate the Fund for the purchase price of any policy on which the insurance company does not pay the death benefit, which reduces a risk inherent in holding the policies.

There are also some disadvantages. First, the assets contributed to the Fund will be outside of the Court's supervision. Second, the Fund has and will continue to actively manage its portfolio buying and selling policies as opportunities arise, which makes the returns more

[6] Another office of L&E provides actuarial services to the Fund. At the request of the Receiver and of the Fund, L&E agreed to maintain a "Chinese Wall" between these two offices with respect to this transaction so that the two offices communicated only to the extent that they would communicate if they were separate actuarial firms. A "Chinese Wall" of this type is typical for consulting firms, such as L&E.

dependent upon the skill of the managers. Third, the Fund's expenses are higher than that of the Receiver.

We will discuss the pros and cons of the Fund as well as the results of our due diligence investigation of the Fund and its principals in some detail below. We will also discuss the other options considered by the Receiver. In summary, however, we believe that the Fund provides the best mix of risk and return of all of the options available to the Receiver.

1. <u>The Fund provides quicker returns and reduced risks when compared to holding the policies to maturity</u>

The primary advantages to the Fund are that it provides for a quicker return of funds to the investors and for a reduction in the risks inherent in life settlement investments. As discussed, the Receiver will invest $20 million in cash and assets in the Fund in exchange for an interest in the Fund. This will free up about $14 million to be distributed immediately to the investors. In addition, under the proposed agreement with the Fund, the Receiver may elect to receive the estate's proportionate share of the Fund's net cash flow – income from maturities and other assets less costs and expenses – in cash.[7] We forecast that maintaining an investment in the Fund for ten years would generate between $65.5 million and $72.5 million. If the investment were to be maintained for twenty years, the Fund would generate between $76.7 million and $85.8 million.[8]

In order to determine the projected cash flows from the Fund, the Receiver asked that L&E model the projected cash flow from a combined portfolio of the policies owned by the Fund

[7] As a general matter, the Fund's other limited partners may elect to receive the net cash flow from maturities of policies in cash. None of the Fund's current partners have selected this option. As part of our negotiations with it, the Fund agreed to include income from all sources, not just maturities, for distribution to the Receiver.

[8] Because the settlement with the HCF Receiver was only reached recently, our models do not include the HCF policies. The general effect of including the HCF policies would be to reduce the cash contributed to the Fund increasing the cash available for distribution upon approval of the Plan. There will, however, be more investors entitled to receive the distribution.

and those owned by Retirement Value. He also asked Vida to prepare a pro forma showing the projected cash flows from a $20 million investment in the Fund assuming that the Receiver elected to receive distributions of cash. After reviewing the pro forma and L&E's projections, the Receiver created his own model incorporating L&E's projections into the pro forma provided by Vida.

In all of the projections prepared by Vida, L&E and the Receiver, it was assumed that the Fund's pool of assets remained static. In other words, we assumed that the Receiver would be the last investor in the Fund and that the only assets held by the Fund would be those already held by the Fund, contributed by the Receiver or acquired with the funds contributed by the Receiver. This assumption does not reflect reality as the Fund will have additional investors and intends to acquire new policies with funds obtained from new investors and funds obtained from policy maturities.

This assumption was necessary to provide a workable and accurate model of the Fund's cash flow. Because the Receiver will elect to receive income from the Fund as cash rather than reinvest it in the Fund as the other limited partners currently do, the estate's relative ownership proportion will decline as its capital account remains at $20 million but the other limited partners' capital accounts grow. This means that the estate will have an ever declining share in an ever growing pool. While this would be extremely difficult to model, it can be approximated by assuming (as we did) a static pool and a static share held by the estate. Thus, we believe that the model provides a fair forecast of the cash flows from the Fund.

We also assumed that the price received by the estate upon redemption would be equal to the amount in its capital account -- $20 million. While we believe that this is a fair approximation, it is not certain. There are two factors that bear. First, the redemption price is based on the Fund's current net asset value ("NAV") not the amount stated in the capital account. Thus, the redemption value of the estate's $20 million investment will be increased or decreased based on changes to the Fund's NAV. The Fund's NAV has grown at an annualized rate of about 12% over its history. However, Fund has only about an 18-month operating history and much of that growth is due to income received from its assets, which we will take out in cash. Of course, if the market price of life settlement assets worsens, that would reduce the NAV.

Second, the capital account may fall below $20 million due to differences in how the capital accounts and the funds available for distribution are calculated. The capital accounts are increased or decreased based on net income for tax purposes. The funds available for distribution are based on the net free cash – cash received in excess of fees and reserve obligations. The net free cash and net income will vary depending upon the source of the income. Some sources will create income but no cash. Others will create more income than cash.

For example, in the case of a policy maturity, the net income would be the difference between the proceeds of the policy and the Fund's basis in the policy (acquisition cost plus premiums) and Vida's 5% carry on maturities. Thus, upon maturity a policy with a face value of $1 million and a basis of $400,000 would generate $550,000 in net income to be allocated among the capital account. If the Fund needs only $300,000 from the maturity to maintain its capital reserves, then there would be $650,000 of cash free for distribution. Assuming the Receiver holds a 24.59% stake in the Fund, his capital account would grow by $135,245. However, he would receive a distribution of $159,835. The Receiver's capital account would be reduced by the difference between his share of the net income and his share of the distributable cash or $24,590.

Based on our modeling, we expect that the differences between net income and distributable cash will be relatively minor during the first ten years. However, the Receiver will have to monitor these differences to insure that the estate's investment in the Fund is not cannibalized by distributions of income, which would reduce the amount recovered overall.

As we have discussed in our previous reports, there are a number of risks involved in investing in life settlements. All of these risks are present in the Fund as well as in the investments in the RSLIP currently held by the investors and in the other options considered by the Receiver. These risks are, however, mitigated in the Fund so that it is a less risky investment than the RSLIP or simply holding the policies to maturity.

The Fund mitigates the risks inherent in life settlements in various ways. First, the Fund should return money more quickly than holding to maturity. We anticipate an initial distribution of $14 million under the current Plan compared to a $7.7 million initial distribution if we held to maturity. The Fund is expected to provide payout within 10-20 years compared to 20-30 years if we simply hold. This means that less money is at risk over time.

Second, the Fund provides a greater diversity of policies and assets. Diversity reduces the longevity risk – the risk that the insured significantly outlives his or her LE. With more policies, there is a greater likelihood that the portfolio will perform as expected. Life expectancies are statistical calculations. With statistics, the more events you have, the more likely the average result is to be closer to the expected result. Thus, a portfolio with 48 policies will have results that are further from expectations than a portfolio with 200 policies. In addition, diversity reduces the impact of negative event, e.g., an insurer successfully contesting a policy.

Third, the Fund has access to capital that the Receiver does not have. The Fund is continuing to grow and to attract new investors. It is also backed by principals with access to substantial capital. This access to capital reduces the risk that policies will lapse due to inadequate funds.

Fourth, Vida has agreed to purchase from the Fund any policy that is successfully contested by an insurer. Over the last several years, there has been on-going litigation between purchasers of life settlements and insurance companies over the validity of policies. In general, insurers have argued that life insurance policies purchased with the intent of selling them to an investor violate state laws requiring that the owner of a policy have an insurable interest in the insured's life at the time the policy is issued.[9] Insurers have succeeded in some of these cases and not in others. If a policy is successfully contested by an insurer, the owner of the policy would receive, at most, the return of the premiums paid. In the event that this occurs, Vida would purchase the policy from the Fund paying the last appraised value of the policy prior to notice of the contest. While the Fund would not recover the full face value (in the case of a contested claim), it would recover a significant part of its investment in the policy.

There are some risks to the Fund that are not present if we held to maturity. The Fund will be actively managed. It intends to continue to grow, to acquire new policies and to sell policies on occasion. This means that the success of the Fund depends upon the ability of its managers to locate quality policies and to price them appropriately. Moreover, $20 million in assets will move beyond the control of the Court.

[9] In general, "insurable interest" is an interest based upon a reasonable expectation of financial advantage through the continued life, health and bodily safety of another person, and, consequently, loss by reason of their death or disability; or a substantial interest engendered by love and affection if closely related by blood or by law.

The expenses associated with the Fund are (i) an annualized management fee of 1.5% of assets plus a fee of 5% on maturities. While fees are understandably a concern, these fees are well within industry standards. Further, we have negotiated a 25% reduction (from 2% to 1.5%) of the management fee. Vida does not charge the Fund a series of other fees that are ordinarily incurred by Funds.

2. <u>The Fund is backed by significant capital sources and managed by well-respected professionals whose interests are aligned with the Fund's investors</u>

The management of the Fund is very important to the ultimate success of the Plan and to the mitigation of the risks inherent in the Plan and life settlement investments generally. Once the Plan is adopted, $20 million of the estate's assets will be transferred from the control of the Receiver, who acts as an officer of the Court, to a private party. The Receiver, and through him the Court, will no longer have meaningful oversight over those assets. Instead, the Receiver will be a limited partner in the Fund, with the same limitations as limited partners generally. The reputation and credibility of the Fund's principals are, therefore, a significant consideration.

The competence of the Fund's principals is also important. The Fund is an open-ended fund which means that it is continually seeking new investments and new life settlement assets. Its strategy is generally to originate its own life settlement policies through Magna Life Settlements, a captive life settlement producer, and to hold those policies to maturity. However, the Fund has acquired and expects to continue to acquire policies on the open market as well as to purchase distressed portfolios of policies. The Fund has also sold policies when it has made sense to do so.

More so than the "hold to maturity" strategy initially also considered by the Receiver and the subject of the first proposed plan of distribution, the Fund's success depends heavily on the skill of its managers. The better able the Fund is to identify and purchase policies at favorable prices, the more successful the Fund will be. Conversely, if the Fund purchases poor quality policies at prices that are too high, the Fund may lose money.[10] The Fund must also manage the policies its holds – track the health of the insureds, optimize premiums, maintain adequate reserves and process claims. The "hold to maturity" strategy also requires that the Receiver and his professionals manage the policies.

In this case, our investigation has shown that Fund's management is both competent and credible. The Fund is managed by Vida Capital ("Vida"). Vida is a vertically integrated asset management company and SEC registered investment advisor providing longevity contingent investment solutions to investors. Vida was formed and funded in 2009 by Jeff Serra and Austin Ventures. Vida specializes in the structuring, servicing, financing and management of life settlement funds, asset-backed securities, and customized portfolios.

In order for us to assess its capabilities, Vida provided the Receiver and his professionals with access to data regarding its assets, its files, its personnel and to reports from its consultants. Our actuaries have reviewed data regarding Vida's policies and have modeled the performance of the proposed combined portfolio. The actuaries also confirmed the valuation methodology used by Vida to value its policies. ASG reviewed Vida' operations manuals and sampled the files maintained on Vida's policies. Based on this review, ASG has concluded that Vida's operations are sound, in accordance with industry standards and as represented in Vida's PPM. We have reviewed the report of Vida's compliance consultants concluding that the report raised no significant concerns. In addition, our private investigator uncovered nothing in the background of Vida or its principals that would raise a red flag.

[10] We believe that the Fund's ability to buy and sell policies will benefit the investors. Retirement Value's policies are of lesser quality than those currently owned by the Fund and are unduly concentrated in just a few lives. The ability to sell some of the policies currently owned by the estate and replace them with better quality policies will improve the overall quality of the portfolio.

Vida is also well-capitalized and has sufficient backing to fulfill its obligations. Its principals are experienced investors with substantial wherewithal. Austin Ventures is a large private equity firm with approximately $4 billion of assets under management. Austin Ventures is generally well regarded and our background investigation raised no red flags. Jeff Serra is an accomplished businessman with substantial expertise in founding and developing successful companies in a variety of industries. While his primary expertise has been in the energy business, Serra also has substantial experience in technology and financial services. In addition to Vida, Serra started and owns the majority equity in Life Assets Trust SA, a Luxembourg based life settlement fund which owns a $709 million portfolio of life settlements. He also founded a company engaged in tax lien lending. Our investigation of Serra and the other individuals who act as principals of Vida raised no red flags.

A substantial plus from the perspective of a prospective investor in the Fund is the efforts by the principals of the Fund to align their financial interests with those of the investors. In many funds, the principals have no investment in the fund and look solely to management and other fees for their compensation. Typically, these fees are based on short-term measures of performance such as income or asset growth, which create incentives to manage to the performance metric as opposed to the long-term good of the fund.

Vida has not done this. Instead, it has invested its own money in the Fund and taken other steps to align its interests with those of the Fund’s investors. Vida and Serra have purchased more than $3 million in limited partnership interests in the Fund. Serra also contributed a $23 million note to the Fund which is secured by cash flows from the Life Assets Trust portfolio. In addition to Serra, the other senior managers of Vida have also personally invested in the Fund. Together the backers of the Fund (Austin Ventures, Jeff Serra and their colleagues) own approximately 60% of the limited partnership interests. They hold their interest in the Fund on the same terms as the other limited partners. The Fund has agreed to provide the Receiver's limited partnership interest on the same terms as its principals.[11] The willingness of the principals of the Fund to "eat their own cooking" by investing heavily in the Fund on the same terms as other investors is important. It demonstrates that they have aligned their interests with those of the investors succeeding or failing as the investors do.

The principals have aligned their interests with Fund's limited partners in other ways as well. First, the fees changed by the general partner, a Vida company, while substantial are typical of the fees charged by managers of funds. However, the manner in which the fees are calculated are more favorable to the limited partners than are typical. Unlike most funds in this area, the general partner does not charge a separate fee for originating policies.[12] This eliminates an incentive for the managers to sacrifice quality in order to generate large origination fees up front. The general partner also does not collect a performance fee based on annual performance or other short term metrics. Instead, a performance fee of 5% is paid to the general partner upon maturity of policies after collection of the proceeds. Second, the general partner has agreed to purchase from the Fund any policy which is contested by the insurance company on grounds of fraud or lack of insurable interest. This mitigates a risk faced by the estate.

3. <u>The Vida transaction is superior to the other options available to the Receiver</u>

In order to pay Retirement Value's debts, the portfolio of insurance policies that it owns must be converted into money. There are three basic options for doing this: (1) the polices can

[11] There is one exception. To meet the requirements of the Investment Company Act of 1940 (the "'40 Act"), the Receiver has agreed to limit his voting rights to less than 10% of the total voting rights held by the limited partners. This is not a significant limitation. As in most limited partnerships, the limited partners in the Fund have little or no control over the operation of the Fund.

[12] Magna Life Settlements, a registered life settlement provider owned by Vida, receives a fee of $1,500 for every policy it sells to the Fund. Magna Life will not receive a fee on the transaction between the estate and the Fund.

be liquidated and the proceeds distributed to creditors; (2) the policies can be held until maturity and any funds left over after payment of premiums can be distributed to the creditors; or (3) the assets of the estate can be sold to a third party in exchange for shares in the third party. The Receiver has evaluated a wide variety of potential transactions – all of which are variations on one or more of the three basic options. These options have included selling the policies, entering into an insuring agreement with a counterparty to partially guarantee cash flow from the portfolio, borrowing money, and exchanging the assets of the estate for shares in a different company. While most of the options we have considered never advanced beyond initial discussions, a few were sufficiently substantive to merit additional consideration and analysis by the Receiver.

a. *Liquidation*

An option is simply to liquidate the portfolio and to pay the proceeds of the sale of the policies plus any remaining cash to the creditors. Liquidation has the virtue of being quick and relatively inexpensive. The downside of liquidation is that it will return relatively little value for the portfolio. The fair market value for the policies as of the date of this Report is between \$7.1 million and \$10.4 million. Using the middle value of \$8.7 million plus the cash and other assets on hand, sale of the estate's assets would yield approximately \$34.7 million dollars in distributable cash. With over \$77 million in claims, that means that the estate would only be able to return approximately 44.6% of each investor's initial investment to them. In effect, liquidating the portfolio locks in the loss associated with the difference between the purchase price paid by Retirement Value for the portfolio and its actuarial value.

b. *Hold to Maturity*

Another option is to hold the policies to maturity distributing the net proceeds after payment of premiums and other expenses to the investors. This option was discussed extensively in the April 2011 Report. The "hold to maturity" option will take longer to pay out as it requires waiting for the policies to mature. However, it will recover significantly more than liquidation. After analyzing the portfolio, L&E has determined that if the Receiver administers the estates' assets as single portfolio, then the portfolio is expected to yield $77.9 in post-tax cash for the investors at maturity, an amount sufficient to repay 100% of the amount invested. Statistically speaking, there is: (i) a 68% probability that the cash available for the investors will be between $70 million and $85 million after taxes (returning between 91% and 110% of the investors' initial investment); and (ii) a 95% probability that the cash available for the investors will be between $62.5 million and $92.5 million after taxes (returning between 81% and 120% of the investors' initial investment). We also anticipated an initial distribution of $7.7 million.

Since the last Report, the Receiver and L&E have further modeled the portfolio in order to more accurately determine when cash would be available for distribution. Based on this additional work, we have determined that it will likely take between 20 and 30 years for the portfolio to fully mature.

As the investment in the Fund is likely to return funds for distribution significantly quicker, we believe that it is the most favorable option available.

Source	Strategy	Duration (years)	Immediate Distributions	Intermediate Distributions	Terminal Value	Total Distributed	Internal Rate of Return
L&E valuation	Liquidate	0	33,584,581	1,000,000	-	34,584,581	0.00%
L&E stochastic	Hold	10	7,700,000	13,113,129	17,231,046	38,044,175	1.77%
	Hold	20	7,700,000	38,477,757	17,231,046	63,408,803	7.14%
	Hold	30	7,700,000	59,530,880	17,231,046	84,461,926	8.10%
Vida pro forma	Fund	10	14,000,000	38,476,290	20,000,000	72,476,290	14.97%
	Fund	20	14,000,000	51,770,591	20,000,000	85,770,591	14.00%
Receiver pro forma	Fund	10	14,000,000	31,456,765	20,000,000	65,456,765	12.68%
	Fund	20	14,000,000	42,683,763	20,000,000	76,683,763	11.61%

*Distributions are before taxes

c. *Beste Group*

Another potential option that has been considered is a plan that a group led by Mike Beste may propose. We have not received a formal proposal from the Beste group. As such, we have not been able to engage in substantial analysis of the economic and legal issues surrounding that proposal. Our discussion of that proposal in this Report is based upon our discussions with Beste's counsel and extrapolation from data in our possession.

As we understand it based on conversations with Beste and his counsel, Beste proposes to create a new entity, probably a limited liability company, ("Newco") into which the estate would contribute all of its assets in exchange for ownership of 100% of the equity in the new company. It is not clear whether the ownership interests would be transferred to the investors or be held by the Receiver. There are issues under the federal securities laws that would need to be resolved under either scenario.

Newco would borrow approximately $40 million from as-yet unidentified lenders to be used to purchase additional life settlement policies. The loans would bear interest at a rate between 7% and 9% and would be secured by all of Newco's assets. All of the income from the policies would be paid to the lenders until the loans are completely paid off. We assume that the payments to the lenders would be structured so that payments would be payable only from funds available in excess of required reserves.

We have two fundamental issues with the Beste proposal. First, this proposal is economically less desirable as the debt required will substantially delay payment to the investors. Second, the involvement of Beste in Retirement Value creates concerns as to his involvement in a go-forward plan.

The economics of Beste's proposal are not favorable. Because it is a static pool and the only source of additional cash is policy maturities, Newco will have to maintain substantial premium reserves, similar to those required if the Receiver were to hold the current portfolio to maturity. Newco will also have $40 million in debt bearing interest between 7% and 9%. These loans will have to be paid off in full before any money is made available for distribution to the investors. This means that the first $40 million plus interest of cash in excess of reserves will be paid to the lenders delaying any recovery by the investors by seven or more years.

Beste's participation in the proposal creates concerns. A company affiliated with Beste would originate the policies and manage the portfolio. We understand that Newco would have a board of managers or some other governing body that would have some oversight the work performed by these companies. The details and efficacy of such oversight would depend greatly upon the composition of the board and the contracts between Newco and the Beste entities – both of which are unknown at this time.

The quality of the policies, pricing and the many other variables necessary to evaluate the value that the additional policies would bring to the current portfolio are not known. Ultimately, the value that the additional policies bring would be heavily dependent upon Beste's skill at picking policies, his ability to negotiate favorable prices for the policies and his management of the portfolio including his ability to optimize premiums.

Beste's involvement creates significant issues which make this proposal unattractive. As with the Fund, the proposal by Beste would transfer all of the assets of the estate to Newco, an entity that is outside of the Court's supervision. The Receiver would no longer have meaningful control over the assts leaving the investors wholly within the control of Beste and his management team. Any recovery by the investors from the Beste proposal is directly linked to the competency and the honesty of the Newco's management, which would be controlled by Beste.

We have not had the opportunity to evaluate the competency of Beste or his team. However, our initial impressions are not positive. Beste and his advisors have been talking about making a proposal for over a year but none has materialized. Over the past several months, Beste's representatives have repeatedly represented to the Receiver (and at least once to the bankruptcy court) (i) that they had the necessary financing in hand; (ii) that they could close in just a few weeks and (iii) that a definitive proposal would be provided "next week." To date, we have yet to receive a written proposal. Beste's inability to provide a proposal as promised and in a timely manner raises significant questions about his ability to complete a transaction. It raises even more questions as to his having an operational role in a going-forward entity.

In addition, there is substantial evidence that Beste was heavily involved in the formation and operation of Retirement Value and its fraudulent scheme. Because of this evidence, the Receiver has asserted claims against Beste and, his company, Vertical Capital Holdings, which are currently pending before the Court. The Receiver cannot in good conscience recommend a plan that involves turning over the estate's assets to someone accused of conspiring in the very fraud that led to the receivership.

Beste's role at Retirement Value can best be described as that of an advisor to and confidante of Gray and Rogers. Gray described Beste's role variously as an "ally in the project,"[13] a "hands on day-to-day encourager"[14] and as a "sounding board … an advisor."[15]

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[13] Gray Dep. at 50.

[14] *Id.* at 55.

[15] *Id*. at 107. Gray noted that "if he saw we were doing something that he just thought was really stupid based on his knowledge of the industry, he [Beste] would say so." *Id.*

Rogers echoed this, describing Beste as an "industry expert" with whom they consulted.[16] Although he had no formal position at Retirement Value, Beste was heavily involved in the development and operation of Retirement Value. Gray testified that Beste, together with Ron James, "played an intimate, direct, hands-on part in everything that Retirement Value did, every element of our growth."[17] When asked whether she would characterize Beste as a decision-maker for Retirement Value, Rogers responded, "we definitely allowed him input into decisions."[18] The documents recovered by the Receiver from Retirement Value's files corroborate the testimony of Gray and Rogers and demonstrate the substantial role that Beste played in the fraud.[19]

There is also evidence that Beste received proceeds of the fraud indirectly through Ron James out of the payments Retirement Value made to James. Describing Beste's compensation, Gray testified that Beste was "compensated by Ron James directly out of the money that Ron James earned."[20] Rogers concurred testifying that Beste had an indirect financial stake in Retirement Value through an arrangement with Ron James.[21]

For the reasons described above, the Receiver believes that the proposal that Beste has discussed with us but never formally presented would not be in the best interests of the estate.

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[16] Rogers Dep., Vol. 2, at 456-57.

[17] Gray Dep. at 129 (discussing why Beste was copied on an e-mail discussing the potential that Milkie Ferguson would sign up as a licensee of Retirement Value).

[18] Rogers Dep., Vol. 1, at 74.

[19] If the Beste Group files an alternative plan of distribution, we may provide more details as to Beste's involvement at that time.

[20] Gray Dep. at 55; *also* E-mail from R. Gray to W. Rogers et al (3/5/2009) – RVR011215 at 2 (discussing gross income number in light of Beste's consulting fee, which was still to be determined)

[21] Rogers Dep., Vol. 1, at 74.

B. Distribution of Assets

Retirement Value faces a number of claims by investors and others. Most of these claims are known and accepted; others are disputed or unliquidated and still others not known to the Receiver. The claims against Retirement Value fall into three general classes. First, there are administrative claims which reflect the costs of operating the estate for the benefit of the investors. Second, there are investor claims which are claims by the victims of Retirement Value's fraud. And, third are general claims which are all other claims against Retirement Value.[22]

1. Priority of Claims

The Plan provides that the claims against Retirement Value will be paid in the following order: administrative claims, followed by investor claims, and finally general claims. In the highly unlikely event that any money is left after paying all of the claims, the Plan provides that the remaining money will go to the members of Retirement Value. Here, all of the assets of Retirement Value are traceable to the investors as a group. Retirement Value had no business operations other than its fraudulent scheme. Nor did it ever earn any income. Its assets consist solely of cash from investors and insurance policies acquired with that cash. Accordingly, the investors should be paid before the general creditors.

2. Investor Claims to be Valued on a Net Investment Basis

The Plan provides that each investor claim will be limited to the investor's "net investment," the amount that the investor invested (or attempted to invest) less any amounts that the investor received. Calculating investor claims at their net investment provides the most equitable method of distributing the estate. It provides for a fair allocation of the assets among

[22] Following the sale of the office building at 707 N. Walnut, Retirement Value no longer has any secured creditors.

the investors and takes into account any sums of money that may have previously been paid to investors by Retirement Value.

The Plan treats the investments in the RSLIP and the HCF program as if they were rescinded and restitution was to be paid to each investor.[23] As discussed above, Retirement Value and HCF are insolvent. They cannot pay the investors the interest or base line expected gain that it promised it would. Moreover, the basis on which the base line expected gain was calculated – the life expectancy calculations of Midwest Medical – lacks any credibility. While it would technically be possible to value each investor claim at the amount to which Retirement Value or HCF agreed to pay, that would not result in the payment of additional funds to the investors as a group. Instead, it would merely reallocate funds among the investors based on fraudulent contracts using criteria known to be misleading. Limiting the proposed payout to the amount of the investors' investment (less any payments received) is consistent with the Texas Securities Act and is the standard method for paying claims in securities receiverships.

The primary impact of the net investment method on the Retirement Value investors will be to reduce the claims of those investors who also happen to have been licensees. As a general matter, Retirement Value did not return money to investors as income. While it may have made some partial refunds, Retirement Value does not appear to have done so regularly. What Retirement Value did do regularly was to pay substantial sums of money to licensees. Reducing the investor claims of licensees appears to be the fairest way of handling such claims.[24]

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[23] In the event that sufficient funds are available, the Plan calls for the payment of interest in accordance with the Texas Securities Act.

[24] This reduction of claims is not in lieu of recovery of amounts paid to licensees. To the extent that the amount paid to a licensee exceeds the amount of his or her investor claim, the Receiver will continue to pursue the licensee to recover those amounts.

A number of the HCF investors received periodic payments of interest from HCF. Their claims will be reduced by the amount of those payments.

While there is, of course, substantial law that suggests that claims by sales agents such as the licensees should be disallowed, we do not believe that it is fair to disallow their claims for investments in their entirety. Many of the licensees put up real money to invest in the RSLIP. It is fairer simply to limit their recovery by reducing it by the amount received as commissions from Retirement Value.

3. Investor Claims will be Paid Pro Rata

In his Plan, the Receiver will de-couple the investors' claims from the individual policies to which their loans were matched and pay them a pro-rata share of the assets of the estate up to the amount of their claims. As it currently stands, the investors are slotted into many different investment pools. Each pool is matched to a specific insurance policy, some of which were never acquired. The existing structure is inequitable, unworkable and inefficient. Equity demands that the interests of the investors be changed from an interest in receiving a payment based on the maturity of specific insurance policies to a pro rata interest in the overall portfolio. By consolidating, the Receiver can maximize the value of the estate for the benefit of all investors. The structure that Retirement Value and HCF represented they were creating creates inherent inequities among the investors. If adhered to, certain investors would receive distributions from estate assets to the detriment of the remaining investors.

While we have recommended that the funds received by the Receiver be distributed on a pro rata basis, it is technically possible (albeit unfeasible) to distribute funds under the Plan on a policy by policy basis. How the funds will be distributed – either on a pro rata basis or on a policy by policy basis – does not impact the total return to the investors as a group under the proposed Plan. It does, however, have a significant impact on the distribution of funds among the investors. Under a pro rata method, all investors will recover equally based on the amount invested. Under a policy by policy method, some investors will recover more; and others will recover much less.

4. Determination of Claims

Before a distribution can be made, the Court must determine who is and is not entitled to be paid. The Plan provides a process for making this determination. Administrative claims will be paid in accordance with the Agreed TI and the various orders concerning the payment of fees to the Receiver and his counsel. All other claims will be resolved by a proof of claim process set forth in the Plan.

After adoption of the Plan, the Receiver will file with the Court a schedule of known, non-administrative claims against Retirement Value. On the schedule, the Receiver will set forth the name of the each claimant, the amount claimed, the class to which the claim belongs, any amount offset against the claim and whether the claim is disputed, contingent and/or unliquidated. The Receiver will provide a copy of this schedule to all investors and other creditors.[25]

Any claim on the schedule that is not identified as disputed, contingent or unliquidated will be approved for payment. In that case, the claimant need not do anything further to prove up his or her claim. The overwhelming majority of investors will have an approved claim for the amount of their investment and will not need to file a proof of claim. Only those investors who have received money back or who are licensees who have received commission income will have a claim for less than the amount they invested.

[25] A preliminary draft of the schedule of claims will be posted on the Receiver's website prior to the adoption of the Plan. We encourage you to review your claim as listed on the schedule and to contact the Receiver if your claim is not accurately shown.

For all other claims (e.g., claims that are not listed or listed as disputed, contingent or unliquidated), the claimant will need to file a proof of claim with the Receiver. In addition, claimants who dispute the amount or the classification of an approved claim may also file a proof of claim. The Plan provides for a bar date by which proofs of claim must be filed or be barred.

Upon the filing of a proof of claim, the claim will become a contested claim and will be resolved by the Court in accordance with the Rules of Civil Procedure. The Plan does, however, provide strict limits on discovery so as to expedite the claims process. The limits can be changed on an individual claim basis by the Court as needed.

Claims which are already the subject of litigation prior to the adoption of the Plan will be resolved by the court in which that suit is pending. The classification and priority of such claims will remain before this Court and the claimant must still file a proof of claim.

III. Status of the Litigation

The receivership estate is currently party to four lawsuits. The first is the State's suit against Retirement Value, LLC, Richard Gray, Wendy Rogers and Hill Country Funding, LLC. The second is the Receiver's suit against David and Elizabeth Gray, who were formerly partial owners of Retirement Value. The third is a suit brought by Tracy Moss, a former employee of Retirement Value, alleging that Retirement Value unlawfully terminated her employment. The fourth is the involuntary bankruptcy brought by several investors against Retirement Value.

A. State of Texas vs. Retirement Value, LLC et al.

The State's case against Retirement Value and Wendy Rogers is the basis for the appointment of the Receiver. As such, almost all events of concern to the investors will take place in this case. Since our last report, there have been several notable developments in this case.

First, the Receiver, through his contingency fee counsel, has filed suit against a number of licensees and other persons whom we believe have contributed in a significant way to the perpetration of Retirement Value's fraudulent scheme. The persons who have been sued include (i) Ron James, Don James and James Settlement Services, LLC, who sold the policies to Retirement Value and who have been identified by Dick Gray and Wendy Rogers as having played a significant role in the fraud; (ii) Mike Beste and Vertical Capital Holdings, LLC, who acted as consultants to Retirement Value and who have also been identified by Gray and Rogers as significant actors in the fraud; (iii) Mike McDermott, a master licensee of Retirement Value; (iv) Milkie Ferguson and various stockbrokers registered as its representatives, who were highly compensated licensees; (v) Doc Gallagher and various persons employed by Gallagher, who also acted as licensees and (vi) Reid Thornburn, another master licensee These claims are currently pending in the main case; however, the Receiver has asked the court to sever or move these claims into a separate suit in order to improve efficiency and to reduce costs. The Receiver has also been attempting to recover money from lesser compensated licensees without the necessity of filing suit. The Receiver anticipates adding those licensees who did not respond positively to these efforts to the suit.

In addition, Janet Mortensen was appointed as Special Receiver for Retirement Value. Her charge is to investigate and, if necessary, to prosecute claims against Wells Fargo.[26] The Special Receiver has filed claims against various Wells Fargo companies as well as a Wells Fargo employee. Investors wishing additional information regarding the claims against Wells Fargo should contact the Special Receiver directly.

[26] The appointment of Ms. Mortensen was required because the Receiver's law firm, K&L Gates, represents Wells Fargo in unrelated matters.

Second, the settlements with Dick Gray and Kiesling Porter Kiesling & Free, PC have become final and the proceeds of the settlements paid to the Receiver. As part of the approval of the settlement with Dick Gray, the Receiver entered into an agreement with Don Taylor, the receiver for Hill Country Funding, (the "HCF Receiver") to share the proceeds of the settlement with the HCF Receiver. The Receiver received real property worth about $600,000 and HCF Receiver received a certificate of deposit worth about $50,000.

Third, the Court granted motions for partial summary judgment by the State and the Receiver against Wendy Rogers holding that the RSLIP investment sold by Retirement Value was a security. As a result of this ruling, the Court will consider the remainder of the Receiver's motion against Rogers arguing that she violated her fiduciary duties to Retirement Value by causing it to engage in the unregistered sale of securities.[27] The Court will also consider the State's second motion for summary judgment arguing that Rogers committed securities fraud. The court will hear these motions in February 2012.

The Court's ruling is currently binding only on Rogers, who was the only party to the motion. However, the ruling is strongly indicative of how the Court will rule when presented with the same issue in connection with the Receiver's claims against the other parties that the Receiver has sued. Rogers has filed a notice of appeal in order to commence an appeal of this decision. The Receiver believes that the Court's decision is not appealable at this time and will move the court of appeals to dismiss the appeal.

Fourth, the Receiver and the HCF Receiver have reached a tentative agreement to combine the estates for certain purposes. We have agreed that the assets of the estate will be

[27] In addition to this claim, the Receiver has also alleged that Rogers violated her fiduciary duties by causing Retirement Value to engage in fraud, that she received illegal distributions from Retirement Value and that she received funds transferred to her in violation of the Fraudulent Transfer Act.

combined into a single pool. However, the proceeds of the pool will be divided between the estates as follows:

- Proceeds from the Fund will be split 94.7/5.3 RV to HCF;
- Proceeds from litigation against defendants facing claims from both receivers will be split 94.7/5.3 RV to HCF;[28]
- Proceeds from litigation against defendants facing claims only by Receiver will belong solely to the RV estate; and
- Proceeds from litigation against defendants facing claims only by HCF Receiver will belong solely to the HCF estate.

The agreement is conditioned upon the elimination of the irrevocable beneficiaries on the HCF policies.

We believe that this agreement eliminates any potential dilution to the Retirement Value investors caused by the inclusion of the HCF investors. The agreement will need to be approved by the Court. No hearing has been set for the approval of this agreement. The Plan, however, assumes that this agreement will be approved and all conditions satisfied.

B. Receiver vs. David and Elizabeth Gray

The Receiver has entered into a tentative settlement agreement with David and Elizabeth Gray to resolve his claims against them. This settlement will be subject to the sharing agreement with the HCF Receiver. When that settlement is documented, the Receiver will seek court approval.

C. Tracy Moss v. Retirement Value, LLC and Richard Gray

Tracy Moss is a former employee of Retirement Value. She worked for the company for about six months in 2009 in a marketing role and was fired in November 2009. In her suit, which was filed in New Jersey, Moss contends that she was fired because she complained that

[28] Fees for the contingency fee counsel will be split 90/10 on the joint claims.

she had been harassed. The Receiver intends to defend the suit on behalf of Retirement Value. In addition, the Receiver believes that any claim by Moss should be subordinated to (i.e., paid after) the claims of the investors.

D. In re Retirement Value, LLC

The judge hearing the involuntary bankruptcy filed by several investors against Retirement Value granted the Receiver's motion to abstain and stayed further proceedings in the bankruptcy. She did not, however, dismiss the case. The bankruptcy judge has scheduled a status conference for January 12, 2012. Based on the order entered by the bankruptcy judge staying the case, we do not anticipate that the judge will reactivate the bankruptcy.

IV. Conclusion

Based on our continued analysis of the options available, the Receiver has determined that the best and most prudent course of action is to use a portion of the estate's assets to acquire an interest in the Vida Longevity Fund as proposed in the attached Plan. The total recovered for the investors is roughly the same as in the previous plan but funds will be available for distribution significantly quicker, including a substantially larger initial distribution. In addition, the risks in inherent in the RSLIP and in the previous plan will be substantially mitigated in the new Plan.

Respectfully submitted,

Eduardo S. Espinosa,
Receiver for Retirement Value, LLC