CAUSE NO. D-1-GV-10-000454

STATE OF TEXAS,	§	**IN THE DISTRICT COURT OF**
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
RETIREMENT VALUE, LLC, RICHARD H. "DICK" GRAY, HILL COUNTRY FUNDING, LLC, a Texas Limited Liability Company, HILL COUNTRY FUNDING, a Nevada Limited Liability Company, and WENDY ROGERS,	§	**TRAVIS COUNTY, TEXAS**
	§	
Defendants,	§	
	§	
AND	§	
	§	
JAMES SETTLEMENT SERVICES, LLC, ET AL.,	§	
	§	
Third Party Defendants.	§	**126th JUDICIAL DISTRICT**

RECEIVER'S SUPPLEMENT TO HIS
MOTION TO APPROVE PLAN OF DISTRIBUTION

Eduardo S. Espinosa, in his capacity as the court-appointed Receiver for Retirement Value, LLC, moves the Court to approve his recommended plan of distribution. In support thereof, he files this Supplement to his Motion to Approve Plan of Distribution filed with the Court on July 29, 2011 (the "Motion to Approve").[1]

EXECUTIVE SUMMARY

The Receiver is recommending a new Plan of Distribution, a copy of which was submitted with his December 2011 Report. This Plan differs in some respects from the plan submitted by the Receiver in May 2011. In summary, the new Plan provides that:

[1] In an attempt to limit the size of this filing, the Receiver will summarize material from his original Motion to Approve rather than restating it verbatim in this Supplement.

- 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 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[2] 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.

The Receiver believes that this plan is in the best interest of the investors. It provides the best balance between risk and return. In addition, it provides for the fairest method of distributing the estate's limited assets to the investors.

INTRODUCTION

The Receiver originally moved to approve a plan of distribution in July 2011. The Court's consideration of that plan was delayed by the involuntary bankruptcy. Since the case

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

was returned to this Court, the Receiver has had numerous discussions with a variety of people who have made proposals to generate money for the estate. As the result of these discussions, the Receiver recommends that he be allowed to invest money and policies in the Vida Longevity Fund instead of attempting to hold the policies to maturity. This represents a change from the plan that was proposed when the Motion to Approve was filed in July of last year.

In addition, the Receiver has reached an agreement with the HCF Receiver to combine the two estates. The details of the agreement are set forth in the new Plan and in the Receiver's December 2011 Report. This too represents a change from the plan that was the subject of Motion to Approve, as filed in July 2011.

Other than these two changes, the Plan remains largely the same. The valuation, priority and payment of claims remain substantially similar except as necessary to account for the HCF investors. The methods by which claims are approved, challenged and resolved also remain unchanged. Rather than filing a new Motion to Approve that would be substantially similar to the one previously filed, we believe that it would be simpler (and certainly easier on the trees) to simply supplement the existing Motion to formally request approval of the Plan of Distribution filed by the Receiver on January 3, 2012 and to address some issues that have recently arisen.

A PLAN OF DISTRIBUTION SHOULD BE ENTERED SOONER RATHER THAN LATER

As an initial matter, the Receiver believes that it is important that the Court approve a plan of distribution as soon as possible. The receivership has been in place for nearly two years. A decision on a plan of reorganization was scheduled for August of last year but was derailed by the involuntary bankruptcy. It is clear that the investors are victims of fraud and that they are entitled to the return of the money that they invested. Either of the plans presented by the Receiver – investing in the Vida Longevity Fund or simply holding the policies – provides for a

substantial payment to the investors this year. The time is now to move forward with this receivership and to begin to get money back to the investors.

I. There Is No Good Reason for Delay

A number of investors have suggested that the Court defer making a decision on a plan of distribution until after the Receiver's claims against the licensees and other responsible parties has been concluded. These investors argue that at the end of the litigation all of the investors will have the choice between an immediate return of their money and participating in a new plan of distribution to be proposed by the Receiver. Other investors have suggested that the Receiver do nothing with the policies so that they would remain available to be traded to all or a group of the third-party defendants in exchange for the return of the investors' money.

Neither of these suggestions represents an accurate assessment of the options actually available to the estate. As an initial matter, it will be years before the litigation will be resolved. Although trial is set for January of 2013, there is no guarantee that the trial will actually occur then or that the Receiver will prevail. Even if the trial occurs and the Receiver prevails, we can be assured that the defendants and third-party defendants will appeal any judgment in favor of the Receiver. A number of appeals have already been filed even though the Court has yet to enter a final order as to any aspect of the case. It will be years before all of the appeals likely to be generated by this case are resolved. Moreover, even if the Receiver (and the Special Receiver) prevail at trial, recover a judgment for the amount invested plus interest and hold that judgment on appeal, there is no guarantee that the defendants and third-party defendants will be able to pay such a judgment.

It is equally uncertain that a group of third-party defendants would agree to pay the estate the amount invested by the investors even in exchange for the policies. Such an offer is based

on the hope that the third-party defendants either have or could raise this kind of money. Certainly, no third-party defendant has ever suggested that such an offer would be forthcoming.

Accordingly, there is no good reason to delay the implementation of a plan.

II. Delay Is Detrimental to the Estate

There are, however, good reasons not to delay. First, the portfolio as currently structured cannot work. It is important to restructure the portfolio into a sustainable form. Second, delay reduces the assets immediately available for distribution. These factors favor adoption of a plan sooner rather than later.

It is impossible to manage the portfolio of insurance policies in the method in which Retirement Value represented that it would. As it stands currently, no policy has sufficient reserves to keep it in force until life expectancy. Most policies have significantly less and many policies are either out of reserves or will run out in just a few months. Simply holding the policies and attempting to keep them in force through maturity using only the funds reserved for them will not work. Even worse, attempting to do so will deplete the estate leaving it unable to pay the investors at all.

In order for Retirement Value to make fair restitution to the investors, the Receiver must be able to restructure the portfolio so that each investor shares pro rata in the proceeds of all policies. Restructuring the portfolio in this manner allows the flexibility necessary for the Receiver to manage the portfolio and to pay premiums as they come due. In addition, restructuring provides for the most equitable distribution of the estate's limited assets to the investors and other creditors for the following reasons set out in more detail in the Motion to Approve.

- Everyone investing in or attempting to invest in the RSLIP was a victim of fraud and other violations of the Texas Securities Act by Retirement Value entitling each to recover the full amount invested plus statutory interest. (Motion to Approve at 5-6)

- Retirement Value pervasively commingled funds among the reserve accounts so that no correlation exists between the intended and actual use of funds preventing the Receiver from tracing a particular investment to a particular policy. (*Id.* at 6-10)

- As a result of its pervasive commingling and improper handling of money, Retirement Value failed to reserve sufficient funds to pay estimated premiums for LE+24 as it represented it would. (*Id.* at 11-12)

- Retirement Value knowingly underestimated the life expectancies of the insureds in its portfolio causing it to overpay for its policies and to reserve far too little to pay premiums. (*Id.* at 12-18)

- Retirement Value is insolvent. It does not have sufficient assets on hand to make restitution to the investors or to maintain the policies in the manner contemplated by the RSLIP. (*Id.* at 18-19)

These circumstances are unlikely to change for the better.

For the last 18 months, the Receiver has been operating under an order that allows him to use funds not otherwise dedicated to a particular policy. The Receiver's ability to use funds for the payment of premiums needs to be formalized in a plan.

In addition, further delay simply reduces the cash available to distribute upon plan adoption. With the exception of the Cain Intervenor's plan to have the defendants refund the investors' money, all of the available options, including those proposed by others, involve the investment of the policies and a certain amount of cash into some form of a transaction.[3] Each of these transactions requires a certain level of cash to complete leaving the remaining cash available for distribution. In the meantime, however, the Receiver must still continue to pay premiums. While the payment of premiums and passage of time does increase the value of the

[3] Even simply holding the policies is a transaction of sorts. The estate would set aside some money for premiums and distribute the rest of its excess capital.

policies held by the estate, the increase in value has been and will continue to be less than the amount spent to keep the policies in force.

Moreover, the longer a decision on a plan is delayed, the more costs will be incurred. There is continuing discovery and litigation regarding the plan. Various groups continue to approach the Receiver with the next "greatest thing." All of these things cost time and money. All will end with the adoption of a plan.

THE RECEIVER'S PLAN IS THE BEST OPTION AVAILABLE TO THE ESTATE

In the Agreed TI, the Court directed the Receiver "to effect fair restitution, if possible, from the assets under my control according to a plan to be approved by the Court." Agreed TI at 6, § III 4. In formulating a plan for the Court's consideration, the Receiver is to conduct a diligent investigation into the identity of investor-victims, the amounts they paid to Defendants Retirement Value or Gray, any amounts already paid by Defendants Retirement Value or Gray to the investor-victims, and the circumstances under which their dealings with Defendants Retirement Value or Gray arose. *Id.* The Receiver has completed the required investigation and reported the results to the Court and the investors in three reports: the Initial Report of July 28, 2010; the Report of April 30, 2011 and the Report of December 31, 2011. All of these reports have been filed with the Court and, as required by the Agreed TI and the orders of the Bankruptcy Court, provided to the investors through a combination of mailings and posting on the Receiver's website.

Ultimately, the decision of how to distribute the assets of the estate is left to the discretion of this Court. *SEC v. Forex Asset Management, LLC*, 242 F.3d 325 (5th Cir. 2001). In exercising its discretion, we hope that the Court will be guided by the Receiver's recommendations, investigation and analysis. As set forth in his reports, the Receiver has

conducted an extensive investigation into the affairs of Retirement Value and those involved in its operations. In addition, the Receiver has conducted an extensive due diligence investigation into the Vida Longevity Fund and its principals (summarized in his December 2011 Report). His recommendations are based on these investigations.

The Receiver is a disinterested fiduciary and officer of this Court. As the Texas Supreme Court explained:

> It has been said that the receiver is the legal representative of the creditors. But the receiver does not act as the agent of the creditors or of any of the other parties. He is an officer of the court, the medium through which the court acts. He is a disinterested party, the representative and protector of the interests of all persons, including shareholders, creditors and others in the property in receivership.

Security Trust Company v. Lipscomb County, 180 S.W.2d 151, 158 (Tex. 1944). In similar circumstances, courts regularly give weight to the Receiver's judgment in matters regarding the proper handling and distribution of the estate's assets. *SEC v. Byers*, 637 F. Supp. 2d 166, 175 (S.D. N.Y. 2009)(noting that the court should give weight to the receiver's judgment); *also United States v. Petters*, 2011 WL 281031 at *7 (D. Minn. 2011)(listing the "receiver's support for the plan" as a relevant factor in approving a plan of distribution). This Court should do likewise.

I. Investment in the Vida Longevity Fund is the Best Available Option

In order to maximize the value of the assets in the estate and, consequently, the amount of money to be repaid to the investors, the Receiver must restructure the portfolio so that the estate may reap the benefits of maturities of the policies. Determining how to restructure requires an analysis of the risks, rewards and costs of investing in life settlements.

As has been discussed in the Receiver's reports, there are a number of risks inherent in investing in life settlements. These risks fall into two interrelated categories: (i) risks that the insurance company will not pay and (ii) risks that Retirement Value will not be able to pay

premiums to keep the policies in force. These risks are interrelated because the failure of an insurer to pay reduces the amount of money available to pay premiums due on other policies. Each of theses risks affects the investment in the RSLIP currently owned by the investors as well as all of the plans proposed by the Receiver or by others. There is no realistic plan for Retirement Value that avoids these risks.[4] The Receiver's Plan mitigates these risks to the best extent possible.

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.[5] 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 interest in the Fund will be determined based on the current net asset value of the Fund as of the date of closing, currently contemplated in April 2012. Similarly, the exact allocation between cash and policies will also be determined at closing 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.

This breakdown does not include the HCF policies. The Receiver's actuaries have prepared a preliminary evaluation of the HCF policies based on information provided by the HCF Receiver. Based on LE's and premium information provided by HCF's actuaries, the Receiver's actuaries, Lewis & Ellis, have determined that the HCF policies are worth in excess of $2 million. In an effort to confirm this valuation, we are working with the HCF Receiver to obtain current health information on the HCF insureds. Assuming that the estates are combined, the inclusion of the HCF policies will increase the amount of the initial distribution by an amount

[4] In an ideal world, the defendants and third-party defendants would simply return to the investors the money they invested and take the assets of the Receivership. This is not an ideal world

[5] The proposed transaction with the Fund and the Receiver's due diligence investigation and modeling of the transaction are discussed in detail in the December 2011 Report at 3-14.

equal to their value assigned to the policies using the Fund's valuation methodology. The initial distribution (and subsequent distributions) will be shared with the HCF investors as well.

A. The Fund provides quicker returns and reduced risks when compared to the other available options

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.[6] We forecast that maintaining an investment in the Fund for ten years would generate between $65.5 million and $72.5 million, including the initial $14 million distribution. If the investment were to be maintained for twenty years, the Fund would generate between $76.7 million and $85.8 million.[7]

As we have discussed previously, 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 other alternatives.

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

[6] 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.

[7] The methodology behind our forecast is set out in the December 2011 Report at 6-9.

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 a negative event, e.g., an insurer successfully contesting a policy.

Third, the Fund will be actively managed. This means that the managers in the Fund have the ability to buy and sell policies. This ability is particularly beneficial to the estate because the estate's portfolio is highly concentrated into just a few lives. Vida has the ability to sell some of the policies insuring the same lives and replace them with different policies in order to increase diversity.

Fourth, the Fund has access to capital that the Receiver does not have. The Fund is continuing to grow and to attract new investors. Further, the Fund's principals have a proven ability to raise money. This access to capital reduces the risk that policies will lapse due to inadequate funds.

The tax consequences of the Vida transaction are also favorable. The investment in the Fund will be made by the Receiver for the benefit of the estate. For tax purposes, the Receiver will be treated as a trust with the investors and other creditors treated as the beneficiaries of the

trust. The Receiver has been advised that the investment in the Fund will be a taxable event for the investors, i.e., it will be treated as a distribution to the investors of the assets of Retirement Value at fair market value (about $34 million) as payment of their investment (aggregate of $74 million). This should create a taxable loss for the investors.

The investors will, however, be liable for the taxes on their share of the Fund's income. As the Receiver will be taking the estate's share of the Fund's income in cash, there should not be a situation in which the taxes owed by the investors exceed the money actually received. Those investors holding their investments in IRAs will not have to pay taxes until they withdraw assets from the IRA. Other investors should be able to offset the taxable income from the Fund against the loss on the original investment in the RSLIP.

The criticisms of the Vida transaction leveled by Beste are without merit. As an initial matter, we note that Beste's criticisms should be viewed skeptically. He is the sponsor of a rival plan under which he no doubt hopes to profit substantially. In addition, he has been sued as a result of his participation in the operational management of Retirement Value and it serves his defense to attack the Receiver.

Beste's specific criticisms are easily disposed of.

First, he complains that the Fund is not itself registered. While this is true, it is not significant. The Fund operates pursuant to exemptions from registration contained in the Investment Company Act of 1940, as do a great many funds in the United States. In addition, interests in the Fund are offered pursuant to a safe harbor exemption from registration created by Regulation D under the Securities Act of 1933. Moreover, the Receiver, with the aid of experts in fund regulation, has carefully vetted the Fund's compliance with state and federal securities laws.

Second, Beste complains that a $23 million note held by the Fund is overvalued because it is tied to income from another fund, Life Assets Trust, in which Life Partners, Inc. owns a security under which it is also entitled to income from the Trust. Beste suggests that Life Partners' passive interest in Life Assets Trust somehow means that the Trust is dependent upon Life Partners for survival. In reality, the Trust's funding comes from a German bank under a credit facility under which the bank and the Trust share the income from the portfolio of policies held by the Trust. Moreover, the note is paying in accordance with its terms and as expected. The note has been evaluated by Ernst & Young, the Fund's auditors, who have determined that it is appropriately valued. The Receiver has reviewed the Trust, the credit facility supporting the Trust and the Trust's financial performance and is satisfied that the note is properly valued.

In addition, the credit risk of the note is borne entirely by the principals of Vida. Vida contributed the note in consideration for the issuance of limited partnership interests in the Fund. If the note goes into default, the membership interests that were purchased with the note will be cancelled. While the overall value of the Fund would decline, the other partners, including the estate, would hold a larger share of the Fund. The value of the estate's interest in the Fund would not be affected by failure of the note. Nor does the Fund rely upon income from the note for the payment of premiums. The Fund ignores any potential income from the note in calculating its premium reserves.

Third, Beste's criticism that the Receiver would require annual growth in excess of 20% to meet his projected returns is the result of mathematical error. The Receiver proposes to turn $34 million into $65.5 million by investing $20 million in cash and assets into the Fund. The growth needed to turn $34 million into $65.5 million of cash distributed over time is measured by the internal rate of return. The internal rate of return on the proposed transaction, i.e., the rate

by which the investment in the Fund would need to grow to meet the Receiver's goals and projected timing of distributions, is 12.68%. The 12.68% estimated by the Receiver based on the modeling by Lewis & Ellis is comparable to the historical return earned by the Fund.

B. The Vida Transaction is Superior to the Other Filed Plans

The Court has two additional plans for restructuring before it. As an alternative to his Plan, the Receiver has proposed holding the policies to maturity, which would allow for an immediate $7.7 million distribution. Michael Beste has also proposed a plan (the "Beste Plan") under which Retirement Value would borrow additional money and purchase additional policies.[8] The Beste Plan also proposes to make an immediate $14 million distribution, which as will be explained below is highly risky.

1. 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

[8] Beste has recently approached the Receiver about a modified plan. Unfortunately, he has failed to provide sufficient detail regarding his new plan, its economics and its principals for the Receiver to give it serious consideration. As he has yet to file this plan with the Court (and the hearing is next week), the Receiver addresses only his filed plan.

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. *See* December 2011 Report at 14-16.

2. Beste Plan

The Receiver's objections to the Beste Plan are discussed in detail in the Receiver's Objections to the Proposed Plan of Clearview Advisors LLC et al, filed with the Court on February 21, 2012. We will not repeat all of these objections here but instead summarize them and provide the Court with the benefit of what analysis the Receiver has been able to complete on the Beste Plan.

First, Beste has failed to provide the Receiver with any of the information regarding his plan requested by the Receiver in February. The information that we requested is the type of information that would normally be included in a private placement memorandum in a deal of the size contemplated by the CV Plan. And, the information we requested is considerably less detailed than the information that Vida provided to the Receiver.

As mentioned, Beste has approached the Receiver with a new proposal, which has not been filed with the Court. While he did provide some conclusory information in support of that proposal, Beste failed to provide the type of detail that a reasonable investor would require in evaluating a proposal of this type.

Second, the Beste Plan unduly favors the lenders over the investors. The Preference Notes are secured by all of the assets of Retirement Value which are worth approximately $37.5

million – $16 million in cash reserves, $8 million in polices already owned and $13.5 million in policies to be acquired. Despite being secured at a loan-to-value ratio of 47%, the Preference Notes would bear interest at 10% and receive 100% of the proceeds of the portfolio until repayment.[9] In short, the lenders will enjoy large returns while taking little risk. The risk instead will be borne entirely by the investors.

Third, The Beste Plan reserves too little money. The CV Plan provides for initial reserves of only $16 million.[10] And, for the first 36 months of operation, the CV Plan calls for all proceeds of the portfolio to be paid to the Preference Note holders with no payment into the reserves. CV Plan at 13, § V.B.6(c). Our actuaries have calculated the reserve requirements for the Beste Plan. They calculated that the level of reserves necessary for the median scenario (50% will require more, 50% will require less) was $27.8 million. There is next to no chance that $16 million in reserves would be sufficient. In other words, the Beste Plan has no chance of success.

Fourth, the Beste Plan creates substantial legal and tax issues. These issues range from compliance with the final cease & desist orders entered by the TSSB and TDI to compliance with federal and state securities laws in the issuance of the securities contemplated by the Beste Plan to compliance with the reporting requirements of the '34 Act. The tax status of Retirement Value remains unclear but it would probably be taxed as corporation which means that investors face the possibility of double taxation when (and if) they would receive money.

Fifth, the Beste Plan includes participation by persons, such as Beste and James, who are accused of participating in the Retirement Value fraud. We have since learned that the Beste

[9] By way of contrast, a home mortgage typically has a loan to value ratio in excess of 80% but charges only about 5% interest.

[10] Starting with initial reserves of $12 million, add $17.5 million in loan proceeds and remove $13.5 million for new policy purchases. CV Plan at 12-14, §§ V.B.2, V.B.4, V.B.9

Plan contemplates purchasing policies from James Settlement, which is accused of selling policies at grossly inflated prices to Retirement Value. In the Objection and in other filings, the Receiver has detailed some of the evidence against James and Beste and will not repeat it here. It is sufficient for today to simply note that Dick 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"[11] and that James had a "great deal of operational control"[12] to the extent that "other than myself as the president of the company, the only person that really ultimately mattered in the day-to-day operations of Retirement Value was Ron James."[13] Wendy Rogers concurred, describing James as a decision maker within Retirement Value.[14] As noted in our other filings, there is ample support in the form of contemporaneous documents to corroborate the testimony of Gray and Rogers.

ACCORDINGLY, the Receiver respectfully requests that the Court adopt his proposed Plan of Distribution filed in January 2012.

[11] Gray Dep. at 129-130 (discussing why Beste was copied on an e-mail discussing the potential that Milkie Ferguson would sign up as a licensee of Retirement Value).

[12] *Id*. at 111-12.

[13] *Id.* at 135; *also* Gray Dep. at 132 (describing relationship with James as "if Ron James sneezed, I caught cold").

[14] Rogers Dep., Vol. 2, at 440-41.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record herein by:

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- ☐ Certified Mail (return receipt requested)
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- ☐ Federal Express Delivery
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