

by many dedicated professionals in formulating each proposed plan. The plans however are not in the best interest of the investors.

I. General Objections

Intervenors object to the three referenced proposed plans on the basis that choosing a plan in April 2012 is unnecessary and premature. The Receiver has sufficient funds to manage the portfolio and pay the premiums far beyond April. The Court has many more decisions to make leading up and through the January 2013 trial date. These decisions will greatly impact the funds available and the individuals liable to the investors. There is no need to choose a plan at this time and it is not in the best interest of investors to do so, particularly when the proposed plans call for payouts not occurring for many, many years.

Under the same reasoning, none of the proposed plans provide for lower administrative fees in comparison to the Receiver's fees to manage and operate the Portfolio. In fact, it appears the Clearview Plan and the Receiver's Plan require a greater amount to be paid in administrative fees. There is no need to choose a plan at this point in time as choosing a plan now will not save the investors any money.

In this connection, the Court should never forget that Retirement Value targeted retired individuals. A large majority of the 900 investors, including Intervenors Cain and Edelstein, are in retirement and invested in Retirement Value on the representation that a return would come within a period of time likely to occur within their lifetimes. The investors are innocent parties and all possible efforts should be made to right the wrong that has been done to them and not require plans that likely make any return a part of their estates. The most equitable solution is to place the investors in the position they would have been had they not been defrauded by the various defendants in this case, which requires the January 2013 trial against the Defendants. At

the very least, and after trial, investors should be given a choice as to whether they wish to get their investment returned from Defendants, with interest, or continue on with a completely new investment as directed by a court-ordered plan. Intervenors firmly believe a large majority of investors will want their investment returned instead of furthering their risk. Investors should be given the option.

On December 7, 2011 this Court ruled that the Retirement Value product is a security. It is undisputed that the security was unregistered. Pursuant to Article 581-33 (D) of the Texas Securities Act, the Intervenors and the rest of the investors are entitled to rescission. That essentially means the Defendants are liable to investors for the return of their money, plus interest. The Court should not take any steps now that would affect investors' rights to obtain rescission, as the policies are being currently paid, and no need exists to exchange, sell, contribute or otherwise transfer title of the RV portfolio to a third party.

II. Objections to the Receiver's Plan

The Receiver's Proposed Plan is not in the best interest of the investors. While the Receiver's Plan is unclear in many respects, it proposes that investors should increase their risk by further investing in life settlements. In support of the Plan, the Receiver overestimates the period of time left until maturity of the portfolio, 20-30 years, which, if true, is unacceptable to investors when financially solvent and culpable Defendants are not being held accountable. Further, under the Receiver's Proposed Plan the Court loses direct control over the investors' funds.

The Receiver's Plan proposes to liquidate a portion of the Portfolio and take that cash, along with cash on hand, and re-invest the investors' funds into a life settlements fund, Vida Longevity Fund, which will purchase additional life settlements. As the Court is aware and is

evidenced by the Court's ruling that the product is a security, the life settlements industry has been under increased scrutiny. It is not in the best interest of the investors to further increase their interest in the life settlement industry until the issues behind the increased scrutiny are resolved.

The Receiver's Plan sets forth a new prediction regarding the time period it will take for the Portfolio to reach maturity. Originally, the Receiver had set forth predictions of 10-20 years until full maturity. Now, in support of his Plan, the Receiver has changed that prediction to 20-30 years until full maturity. Serious questions exist over these predictions and justifications that would support the Receiver's Plan.

Further, the Administrative costs of the Receiver's Plan are exponential and wholly unnecessary. The Receiver's Plan calls for the Receiver to continue at his post, and an additional set of managers to run the Portfolio and be paid a healthy and unnecessary fee for doing so. This is not in the best interest of the investors.

Finally, under the Receiver's Plan, the Court loses control of the investors' funds. Once the investors' funds are invested into the Vida Longevity Fund, there does not appear to be an option for the Court to monitor the Fund's management or to pull back the funds in the case of mismanagement. Intervenors are of the position that the Court's direct involvement in the disposition of the funds to the investors is crucial in order to ensure they are protected from the harm that has already occurred and any that could occur in the future.

The Receiver's Plan is not in the best interest of the investors and should be rejected.

III. Objections to the Clearview Plan

The Clearview Plan is not in the best interest of the investors. While the Clearview Plan is also unclear in many respects, like the Receiver's Plan, it proposes that investors should

increase their risk by further investing more capital into the same asset class and industry that has thus far not met the investors' expectations. The Clearview Plan is closely aligned with and likely will be managed by a defendant in this case, Michael Beste. The Clearview Plan requires the investors to take on a significant amount of additional debt and it places the investors lower in the priority to be paid back. The administrative costs of the Clearview Plan are too high. Finally, under the Clearview Plan the Court does not retain enough control over the investors' funds.

There is some confusion as to the involvement of Mr. Beste in the Clearview Plan. Mr. Beste is not explicitly named in the Plan but his counsel presented argument for the plan in a hearing on a Motion to Strike and referred to the Clearview Plan as the "Beste Plan" multiple times. Intervenors feel it is safe to assume Mr. Beste is behind this plan and would be involved in the management and/or development of the plan, much as he appears to have been was involved in the development of Retirement Value. It is not in the best interest of investors for their invested funds to be subjected to guidance and management of Mr. Beste, a defendant in this case, at least until he can completely exonerate himself from all charges.

The structure of the Clearview Plan requires that the investors take on additional debt. The plan urges investors to take out a loan for \$17 million and use those funds to acquire additional policies, further investing in life settlements. The debt would create new creditors that would take priority over the investors and would be paid back before the investors, extending the period of time before investors can get their money back. This is not in the best interest of the investors.

Similar to the Receiver's Plan, the Clearview Plan, as presented, is somewhat vague regarding practically *how* the portfolio would be operated. The Court should be and the

Intervenors are wary of this vagueness and ambiguity. It is clear, however that a Liquidating Trustee would be selected. It is unclear who would serve in this role; certainly Mr. Beste is not the best choice. Either way, there is no structure set forth as to how the Court would monitor this individual to insure the investors are protected. The Clearview Plan provides for the removal of the Receiver, who is essentially replaced by the Liquidating Trustee and must be compensated in some way. It also appears there are organizational expenses to be paid which have not been adequately disclosed.

The Plan is also unclear as to how the Liquidating Trustee would be monitored by the Court. Also, one of, if not the most curious and disturbing portions of the Clearview Plan is the "Cancellation of Instruments". The Plan provides that "[a]ny Participation Agreement, note, contract, instrument, security, or other documentation out of which an Investor Claim arises is hereby rescinded." Clearview Plan, Page 16. Intervenors in no way agree to or believe it to be in the best interest of investors to rescind their notes or any other documentation at this time. This is an issue to be decided and governed by the Court, not one of the defendants in this case.

The Clearview Plan is not in the best interest of investors and should be rejected.

IV. Objections to Ms. Amma Lynn Jones's Various Plans

Ms. Jones's Plan I proposes to sell the policies and immediately reinvest the proceeds of that sale at 5% interest. Intervenors assert that it is unlikely any investment could be found to pay this rate of return. Further, any plan proposing to sell the policies now is not in the best interest of the investors.

Ms. Jones's Plan II appears to be the Receiver's original plan, prior to the Vida Longevity Fund Plan, in which the money on hand is used to pay premiums until maturity. To the extent that this Plan preserves the status quo for the time being, Intervenors agree.

Ms. Jones's Plan III does not appear to be an actual plan, but rather commentary. Intervenor reserve the right to object to this plan upon further explanation.

V. The Cain/Edelstein Plan is Ideal

The Cain/Edelstein Plan is simple. Intervenor and the rest of the investors are entitled to rescission under the Texas Securities Act, Art. 581-33. Each defendant is jointly and severally liable to investors under the Act. Accordingly, the defendants in this case should together create a fund to return the investors' investment plus interest.

Certain defendants have argued that the RV product is a valuable asset. Intervenor are happy to return the "product," in exchange for 100% of their invested funds, plus lawful interest due. The Defendants can then move forward with the Clearview Plan or Receiver's Plan, their choice.

The Receiver's Plan and the Clearview Plan suggest furthering the investors' investment into the life settlements industry. This is not in the best interest of investors. Under Texas law, investors are entitled to rescission and boldly oppose making any decision or choosing any plan that may cause the transferring of the policies to third parties, which could foreclose the chance of rescission.

Respectfully submitted,

HANCE SCARBOROUGH, LLP

111 Congress Avenue, Suite 500

Austin, Texas 78701

(512) 479-8888

(512) 482-6891 (fax)

By: _____

Geoffrey D. Weisbart

State Bar No. 21102645

Terry L. Scarborough

State Bar No. 17716000

Mia L. Adams

State Bar No. 24078121

**ATTORNEYS FOR INTERVENORS DR. GARY CAIN,
BARRY EDELSTEIN AND QVEST III MASTER FUND LP**

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:

- U.S. Mail, First Class or
- Certified Mail (return receipt requested)
- Facsimile
- Federal Express Delivery
- Hand Delivery
- Electronic Service

on this the 21st day of February, 2012, to wit:

Jack Hohengarten
Jennifer Jackson
TEXAS ATTORNEY GENERAL
Financial and Tax Litigation Division
300 W. 15th Street, Sixth Floor
Austin, Texas 78711-2548
(512) 475-3503
(512) 477-2348 fax
jack.hohengarten@oag.state.tx.us
jennifer.jackson@oag.state.tx.us
COUNSEL FOR THE STATE OF TEXAS

Michael Napoli
K&L GATES
1717 Main Street, Suite 2800
Dallas, Texas 75201
(214) 939-5500
(214) 939-5849 fax
michael.napoli@klgates.com

Mary Schaerdel Dietz
K&L GATES
111 Congress Avenue, Suite 900
Austin, Texas 78701
(512) 482-6800
(512) 482-6859 fax
mary.dietz@klgates.com
COUNSEL FOR RV RECEIVER

Patrick S. Richter
Sam Rosen
SHANNON GRACEY RATLIFF & MILLER
301 Congress Avenue, Suite 1500
Austin, Texas 78701
(512) 610-2714
(512) 499-8559 fax
prichter@shannongracey.com
srosen@shannongracey.com
COUNSEL FOR THE BEJCEK INTERVENORS

Bogdan Rentea
RENTEA & ASSOCIATES
1002 Rio Grande Street
Austin, Texas 78701
(512) 472-6291
(512) 472-6278
brentea@rentelaw.com
nleake@rentelaw.com
COUNSEL FOR WENDY ROGERS AND THIRD
PARTY DEFENDANTS COLEMAN, GALLAGHER,
FEEKEN, GALLAGHER FINANCIAL, HARTMAN,
CASTELLANO, CERVENKA, FFLLC, EASTHAM,
GLOBAL DIRECT, SHIELDS, ESTATE PROTECTION
PLANNING CORPORATION, MAGARACI AND
MARCO LOPEZ

R. James George Jr.
John W. Thomas

Alberto T. Garcia III
GARCIA & MARTINEZ, LLP

GEORGE & BROTHERS, LLP
114 W Seventh, Suite 1100
Austin, Texas 78701-3015
(512) 495-1400
(512) 499-0094 fax
rjgeorge@georgeandbrothers.com
jthomas@georgeandbrothers.com
COUNSEL FOR RV RECEIVERS

5211 W. Mile 17 ½ Road
Edinburg, Texas 78541
(956) 380-3700
(956) 380-3703 fax
albert@garmtzlaw.com
yoli@garmtzlaw.com
COUNSEL FOR THE HARRISON INTERVENORS

Richard H. Gray
301 Main Plaza, #349
New Braunfels, Texas 78130
(210) 392-3550
legalfoodfight@yahoo.com
PRO SE DEFENDANT

Darrill S. Beebe
600 Six Flags Drive, Suite 650
Arlington, Texas 76011
(800) 831-9226
(817) 633-6982 fax
darbeebe@aol.com
PRO SE THIRD PARTY DEFENDANT

Milton G. Hammond
LAW OFFICE OF MILTON G. HAMMOND
6406 La Manga Drive
Dallas, Texas 75248
(214) 642-0881
(972) 782-4540 fax
mghammondlaw@gmail.com
COUNSEL FOR MARLOW INTERVENORS AND
THIRD PARTY DEFENDANTS BESTE, RON JAMES,
DON JAMES, JAMES SETTLEMENT SERVICES

Gerrit M. Pronske
Rakhee V. Patel
Melanie Goolsby
PRONSKE & PATEL, P.C.
2200 Ross Avenue, Suite 5350
Dallas, Texas 75201
(214) 658-6500
(214) 658-6509 fax
gpronske@pronskepatel.com
rpatel@pronskepatel.com
mgoolsby@pronskepatel.com
COUNSEL FOR MIKE BESTE

Robert L. Wright
ROBERT L. WRIGHT, P.C.
612 Eighth Avenue
Fort Worth, Texas 76104
(817) 850-0082
(817) 870-9101 fax
rwright@rlwpc.com
COUNSEL FOR THIRD PARTY DEFENDANTS POE,
GIVILANCZ, RICE, SENIOR RETIREMENT
PLANNERS, IKEY, RAZOR FINANCIAL SERVICES,
AHLERS

Eric J. Taube
HOHMANN TAUBE & SUMMERS, LLP
100 Congress Avenue, Suite 1800
Austin, Texas 78701
(512) 472-5997
(512) 472-5248 fax
erict@hts-law.com
COUNSEL FOR THE O'NEILL INTERVENORS

Reid H. Thorburn
1448 Long Creek Blvd.
New Braunfels, Texas 78130
(830) 608-1300
(830) 608-1000 fax

David and Elizabeth Gray
4559 E. 107th Street
Tulsa, Oklahoma 74137
(301) 512-4131
esogray72@gmail.com

reid.t@thorburn.com

PRO SE THIRD PARTY DEFENDANT

Henry J. Ackels
ACKELS & ACKELS, LLP
3030 LBJ Freeway, Suite 1550
Dallas, Texas 75234
(214) 267-8600
(214) 267-8605 fax
henry@ackelslaw.com
**COUNSEL FOR THIRD PARTY DEFENDANTS
MILKIE/FERGUSON INVESTMENTS, MILKIE AND
AIZEN**

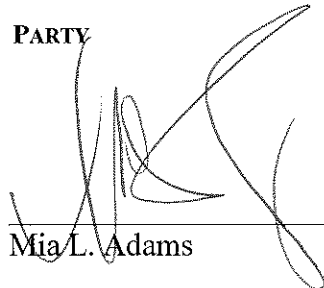
Michael W. O'Donnell
Dean V. Fleming
FULBRIGHT & JAWORSKI L.L.P.
300 Convent Street, Suite 2100
San Antonio, Texas 78205-3792
(210) 224-5575
(210) 270-7205 fax
modonnell@fulbright.com
dfleming@fulbright.com

Paul Trahan
FULBRIGHT & JAWORSKI L.L.P.
98 San Jacinto Boulevard, Suite 1100
Austin, Texas 78701-4255
(512) 474-5201
(512) 536-4598 fax
ptrahan@fulbright.com
**COUNSEL FOR WELLS FARGO THIRD PARTY
DEFENDANTS AND WHITNEY GILES**

PRO SE THIRD PARTY DEFENDANT

Isabelle M. Antongiorgi
TAYLOR DUNHAM, LLP
301 Congress Avenue, Suite 1050
Austin, Texas 78701
(512) 473-2257
(512) 478-4409 fax
iantongiorgi@taylordunham.com
COUNSEL FOR HCF RECEIVER

David R. Clouston
Christopher R. Richie
Leslye E. Moseley
SESSIONS FISHMAN NATHAN & ISRAEL LLC
900 Jackson Street, Suite 440
Dallas, Texas 75202
(214) 741-3001
(214) 741-3055 fax
dclouston@sessions-law.biz
criche@sessions-law.biz
lmoseley@sessions-law.biz
**COUNSEL FOR THIRD PARTY DEFENDANTS
LEVIN AND SCHROEDER**



Mia L. Adams