

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

STATE OF TEXAS,

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

Defendants,

AND

KIESLING, PORTER, KIESLING,  
& FREE, P.C.,

Relief Defendants.

IN THE DISTRICT COURT OF

126<sup>TH</sup> JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT:  
RETIREMENT VALUE'S PRODUCT WAS A SECURITY**

TO THE HONORABLE JUDGE OF SAID COURT:

The State of Texas, acting by and through its attorney of record, asks the Court to grant its motion for partial summary judgment because, as a matter of law, the product offered and sold by Retirement Value and Defendant Wendy Rogers was a security subject to the Texas Securities Act. The Securities Act defines "security" to include a note, evidence of indebtedness, and an investment contract. The re-sale life insurance policy program sold by the Defendants is all three.

## **I. Introduction**

This case is an action by the State Securities Board (State) against Retirement Value and one of its officers, Wendy Rogers, for violations of the Texas Securities Act. Specifically, the State alleges that the Defendants offered for sale and sold securities in violation of the State Securities Act, and that the Defendants further violated the State Securities Act and the Deceptive Trade Practices Act by making fraudulent misrepresentations or omissions in connection with the offer and sale of unregistered securities. This motion addresses only the State's arguments related to whether or not the product offered was a security.

Retirement Value was in the life settlement industry, in which owners of life insurance policies sell those policies to a third party (the "life settlement provider"). The life settlement provider, in turn, sells the policy to a company like Retirement Value that allows investors to participate in partial ownership of the life insurance policy. Retirement Values' investors buy a portion of a policy. The investor's money is used to purchase the policy, to pay premiums to keep the policy in effect until maturity (when the insured passes away), and to pay commissions, fees, and administrative costs.

Retirement Value's product was a security subject to the Texas Securities Act. The product was structured as a loan from investors to Retirement Value. The Securities Act includes notes, evidence of indebtedness, and investment contracts in the definition of "security." In addition to explaining why the Retirement Value product is a security as a matter of law, this motion also addresses common defenses to the State's arguments.

## **II. SUMMARY JUDGMENT STANDARD**

A Plaintiff is entitled to summary judgment if it proves all essential elements of the claim as a matter of law. *MMP, Ltd. v. Jones*, 710 S.W.2d 59, 60 (Tex. 1986). A plaintiff must show

there are no genuine issues of material fact. Tex. R. Civ. P. 166-A(c); *Provident Life & Acc. Ins. Co. v. Knott*, 128 S.W.3d 211, 215-16 (Tex. 2003).

### III. UNDISPUTED MATERIAL FACTS

1. Defendants used the attached “Policy Participation Agreement” in transactions with investors. See Exhibit A.
2. The Non-Qualified Policy Participation Agreement makes the following clear:
  - a. Retirement Value will become the sole owner of the purchased re-sale life insurance policies. Exhibit A at 2.
  - b. The participant/investor’s funds facilitate Retirement Value’s acquisition of the re-sale life insurance policies. Exhibit A at 2.
  - c. Participants will receive “your initial participation or basis plus base-line targeted gain paid for the use of your funds during the time outlined in this Agreement.” Exhibit A at 3, ¶ 1.1.
  - d. The participant’s funds are used to purchase the policy, fund the escrow agent’s payment of premiums, and pay costs including the death-tracking service, escrow fees, and interest payments. Exhibit A at 3, ¶ 1.1.
3. The Qualified Loan Agreement is even more explicit, referring to the transaction directly as a “loan.” Exhibit B at 2-3.
4. Both the Qualified paperwork and the Non-Qualified paperwork refer to the same product and function in the same manner. See Exhibit D, Rogers Dep. 226:12-21; July 15, 2011 (non-qualified product same as qualified).
5. Retirement Value’s officers repeatedly discussed the product structure as a loan, both internally and with licensees and attorneys. See Exhibit C (Collection of emails between

and among Dick Gray, Wendy Rogers, and others regarding Retirement Value's product intentionally structured as a loan, and implications for securities law).

- a. "At this time client funds (loans) are protected by them becoming irrevocable co-beneficiaries of the policy **ACTION**: as stated above, we will within days scrub the paperwork to clarify all these points – and to convert all NON-qualified forms to reflect very clearly the 'loan' model for 100% of our cases. It will be made perfectly clear (if it is not already so – we repeatedly state that client funds are used to facilitate by RV the acquisition, purchase and sole-ownership of certain re-sale life insurance policies') that we are the only owners and they are in effect, in a commercial transaction, making loans to us for that purpose." Exhibit C, Email of Sept. 24, 2009 from Dick Gray to Bricks Corbin and Wendy Rogers, RVR013015 (emphasis in original).
- b. "Licensees with RV inform their clients that a business loan (which finances our activity as a private buyer of previously-sold life insurance policies – hence 're-sale policies', collateralized by a death benefit processed through a beneficial trust is a rather safe way to earn a lot of interest." Exhibit C, Email of Oct. 3, 2009 from Dick Gray to Gary Oliver, RVR013576.
- c. "FYI – a promissory note is considered a security in most states – need to make sure RVLLC stays away from anything even close to that language." Exhibit C, Email of Sept. 23, 2009 from Liz Gray to Dick Gray, RVR018221.
- d. "As our Licensees you are inviting your clients to act, in effect, as 'facilitators' – to enable us to conduct our business through relatively short-term business loans." Exhibit C, Email of August 23, 2009 from Dick Gray to two licensees, RVR018785.

6. Defendant Wendy Rogers also admitted that the product was structured as a loan. See Exhibit D, Rogers Dep. 225:12-228:21; July 15, 2011 (qualified product was a loan, non-qualified product same as qualified, loan due on insured passing).

7. In addition, Retirement Value's former Chief Executive Officer, Dick Gray, explained to investors in his sales presentations that the product was structured as a loan:

DG: [R]ight now it's structure so it's a loan. Basically the way we have it's structured on the advise of our attorney's is, we . . .



we are the investor we are the buy the policies at Retirement Value and we do so, with funds provided by participants like yourself who are making us loans to operate our company...

RS: mmm-mmm

DG: ... and in exchange for the use of your funds, because it is a very profitable undertaking. We can pay you sixteen and a half percent supply annual interest for the use of your funds. Now, the way we protect you and your funds is to collateralize the loan by attaching you to the policy."

Exhibit E, Transcript of Texas State Securities Board Investigator phone call with Dick Gray, at page TSSB 050009.

#### IV. ARGUMENT AND AUTHORITIES

There are no issues of material fact regarding the nature and structure of Re-Sale Life Insurance Program (RSLIP) in this case. The RSLIP contract at issue in this case is not disputed, so the Court can construe the contract and representations about the contract together with the Securities Act to determine whether the product is a security as a matter of law.

The Texas Securities Act contains a detailed definition of "security." Three sub-definitions are important to this case. Under Texas and Federal law<sup>1</sup>, securities include notes, evidence of indebtedness, and investment contracts. Tex. Rev. Civ. Stat. Ann. art. 581-4 (West 2010); *see also* 15 U.S.C. § 77b (2000).

##### A. The RSLIP Program is a Note

###### i. Common Definition of Note

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<sup>1</sup> Texas Courts look to federal securities law when interpreting the Texas Securities Act because the two laws contain virtually identical definitions of "security" and because the Texas Securities Act should be construed and implemented to maximize coordination with federal law. *Wilson v. Lee*, 601 S.W.2d 483, 485 (Tex. Civ. App.—Dallas 1980, no writ); *Mayfield v. Troutman*, 613 S.W.2d 339, 344 (Tex. Civ. App.—Tyler 1981, writ ref'd n.r.e.) (quoting *Wilson*, 601 S.W.2d at 485); *See also* 15 U.S.C. § 77b (2000) (stating "[T]he term 'security' means any note..."); Tex. Rev. Civ. Stat. Ann. art. 581-4 (Vernon 2010) (stating "[T]he term 'security' or 'securities' shall include any ... note..."). Tex. Rev. Civ. Stat. Ann. art. 581-10-1 (Vernon 2010)(act may be construed to maximize coordination with federal and other state law).

The Texas Securities Act defines the term “securities” to include notes. Tex. Rev. Civ. Stat. Ann. art. 581-4 (West 2010). The term “note,” itself, is not further defined in the Texas Securities Act and thus should be construed by its common understanding and consistent with the purposes of the Texas Securities Act: to protect investors. A note is generally understood to mean an instrument containing an express promise of the signor to pay to a specified person or a bearer, a definite sum of money at a specified time. *See e.g.*, Black’s Law Dictionary.

The investments in the RSLIP Program were structured as loans to Retirement Value and are therefore notes. Investors secured their participation in the RSLIP Program through a Policy Participation Agreement, whereby Retirement Value promised a full net disbursement of investors’ original participation amount at maturity plus a 16.5% return for the full term of the agreement. Exhibit A, Non-Qualified Participation Documents at page 4 ¶ 1.12; *see also* Exhibit B, Qualified Loan Agreement Documents at page 4 ¶ 10.

The term of the agreement was directly tied to the calculated life expectancy of the insured under the life insurance policy. Exhibit A at pages 2-3, ¶¶ 1.4 (“Maturity”) and 1.8. The date the insured died set the date the investment matured and when Retirement Value would be required to repay the loan. *Id.* at page 2 ¶ 1.4. The loan’s maturity date, however, did not affect the amount of money Retirement Value was required to pay the investor, except that investors were entitled to a return of unused premiums, if any. *Id.* at page 4 ¶ 1.12.

Therefore investors tendered their funds to Retirement Value in exchange for Retirement Value’s promise to pay the investor a fixed sum of money at maturity. Exhibit E at TSSB 050069. Based upon the evidence, the investment participations in the RSLIP Program are notes as that term is defined and commonly understood.

Retirement Value and its officers intentionally and repeatedly discussed the product as a loan from participants to Retirement Value. For example, Dick Gray, former President and CEO of Retirement Value, made the following statements in e-mails (full copies of which are attached as Exhibit C):

- “At this time client funds (loans) are protected by them becoming irrevocable co-beneficiaries of the policy **ACTION**: as stated above, we will within days scrub the paperwork to clarify all these points – and to convert all NON-qualified forms to reflect very clearly the ‘loan’ model for 100% of our cases. It will be made perfectly clear (if it is not already so – we repeatedly state that client funds are used to ‘facilitate by RV the acquisition, purchase and sole-ownership of certain re-sale life insurance policies’) that we are the only owners and they are in effect, in a commercial transaction, making loans to us for that purpose.” Exhibit C, Email of Sept. 24, 2009 from Dick Gray to Bricks Corbin and Wendy Rogers, RVR013015 (emphasis in original).
- “Licensees with RV inform their clients that a business loan (which finances our activity as a private buyer of previously-sold life insurance policies – hence ‘re-sale policies’) collateralized by a death benefit processed through a beneficial trust is a rather safe way to earn a lot of interest.” Exhibit C, Email of Oct. 3, 2009 from Dick Gray to Gary Oliver, RVR013576.
- “FYI – a promissory note is considered a security in most states – need to make sure RVLLC stays away from anything even close to that language.” Exhibit C, Email of Sept. 23, 2009 from Liz Gray to Dick Gray, RVR018221.
- “As our Licensees, you are inviting your clients to act, in effect, as ‘facilitators’ – to enable us to conduct our business through relatively short-term business loans.” Exhibit C, Email of August 23, 2009 from Dick Gray to two licensees, RVR018785.

These admissions by Retirement Value officers reveal that there is no issue of material fact as to whether the RSLIP program was a note.

## **ii. Reves Family Resemblance Test**

The plain language of the offering documents and admissions of Retirement Value officers make clear that the RSLIP Program is a note for purposes of the Texas Securities Act. In an abundance of caution, the State also argues that the RSLIP Program is a note under the

analysis outlined in the United States Supreme Court's decision in *Reves v. Ernst & Young*, in which the Court adopted a "family resemblance" test to judge whether certain "notes" are securities. *Reves v. Ernst & Young*, 494 U.S. 56, 65 (1990). The *Reves* test begins with the rebuttable presumption that every note is a "security." *Id.*

Acknowledging certain species of notes may not be securities, the *Reves* family resemblance test sets out the following four factors to be considered in determining the category into which a note fits, i.e., whether a note is an investment or represents part of a commercial transaction: (1) motivation of seller and buyer; (2) plan of distribution; (3) reasonable expectations of investing public; and (4) other factors that reduce the risks, such as other regulatory frameworks covering the transaction. *Id.* at 60.

An application of the *Reves* family resemblance test to the investments in the RSLIP Program demonstrates these instruments are securities.

The first factor of the *Reves* test distinguishes when a note is an investment rather than a commercial transaction. When "the seller's purpose is to raise money for the general use of a business enterprise or to finance substantial investments and the buyer is interested primarily in the profit..." the note is an investment. *Id.*

Here the Defendants' purpose for selling the notes in the RSLIP Program was to acquire sole ownership in re-sale life insurance policies acquired from various re-sale life insurance policy sources. Exhibit A at 1. Investors purchased the investment in order to participate in the investment as an irrevocable co-beneficiary to the death benefit of certain life insurance policies. *Id.* The investors' objective was to make a profit and not to purchase a consumer good or assist Retirement Value's temporary cash flow needs.

In addition, the Defendants marketed and summarized the program to investors as “Your Key to a Secure Future” and “...THE BOTTOM-LINE: When an insured passes away, you are re-paid your original participation amount plus a gain, which we call your ‘base-line targeted gain.’” [sic] Exhibit F at 3. Therefore the notes in the RSLIP Program were investments rather than commercial transactions and are securities under the first factor of the *Reves* family resemblance test.

The second factor of the *Reves* test determines whether the plan of distribution of the instrument is one of “common trading for speculation or investment.” It is sufficient that the instrument was “offered and sold to a broad segment of the public.” See *Reves v. Ernst & Young*, 494 U.S. at 66; citing *Landreth Timber Co. v. Landreth*, 411 U.S. 681 (1985) (stock of closely held corporation not traded on any exchange held to be a “security”); *SEC v. W.J. Howey Co.*, 328 U.S. 293, 295 (1946) (units of citrus grove and maintenance contract “securities” although not traded on exchange).

Here the Defendants publicly offered these instruments through a network of more than 1200 sales agents, referred to as licensees, and through websites and brochures. E.g. Exhibit D, Rogers Dep. 294:10-11; July 15, 2011 (1200 licensees); Exhibit F. The notes in the RSLIP Program were offered and sold to a broad segment of the public and are securities under the second factor of the *Reves* family resemblance test.

In analyzing the third factor, the *Reves* court considered “... instruments to be ‘securities’ on the basis of such public expectations, even where an economic analysis of the circumstances of the particular transaction might suggest that the instruments are not ‘securities’ as used in that transaction.” *Reves v. Ernst & Young*, 494 U.S. at 66; see also *SEC v. C.M. Joiner Leasing Corp.*, 320 U.S. 334, 353 (1943). As such, the United States Supreme Court has consistently

identified the fundamental essence of a “security” to be its character as an “investment.” *Reves v. Ernst & Young*, 494 U.S. at 68-69. The term investment is defined as the placing of capital or laying out of money in a way intended to secure income or profit from its employment. See e.g., Black’s Law Dictionary.

The public reasonably believed the notes in the RSLIP Program to be investments. Defendants advertised Retirement Value and the RSLIP Program to investors as “Your Key to a Secure Future” and represented to investors that “Retirement Value LLC assures the total safeguarding and preserving of your basis and targeted income...” Exhibit B at 5. Investors tendered their monies to Retirement Value for the purposes of seeking a profit: a return of their initial participation amount plus a gain. Exhibit A at 4 ¶ 12. Even further, Defendants set up the RSLIP Program so investors could use an IRA or other qualified funds to invest in the RSLIP program. Exhibit B.

Based upon the foregoing, these notes were reasonably perceived by the public as an investment and are therefore securities under the third factor of the *Reves* family resemblance test.

Finally, there is no regulatory framework to protect those who purchased Defendants’ notes in the RSLIP Program. The Texas Department of Insurance’s regulation of life and viatical settlements is to provide protection for an insured who may sell or transfer his life insurance policy. See Tex. Ins. Code § 1111.002. More importantly, the Commissioner of Insurance is prohibited from adopting rules that regulate the actions of an investor providing money to a life or viatical settlement provider. See Tex. Ins. Code § 1111.003. Therefore, the investors who purchased the notes in the RSLIP Program had no protection against fraud, deceit, and the risk of losing their money other than the regulatory structure set forth in the Texas Securities Act.

For the reasons set forth above, the investments in the RSLIP Program constitute “securities” in the form of “notes” under the test articulated by the United States Supreme Court in *Reves*. There is no disputed fact that would overcome the presumption that the notes at issue in the RSLIP Program are securities.

Under both the commonly understood meaning of the word “note” and under the *Reves* balancing test, the RSLIP Program is a note for purposes of the Texas Securities Act.

**B. RSLIP Program is an Evidence of Indebtedness**

In addition to notes, the Texas Securities Act defines the term “securities” to include an “evidence of indebtedness.” The investments in the RSLIP Program are also securities in the form of “evidence of indebtedness.”

The Texas Supreme Court and the Texas Court of Criminal Appeals have defined the term “evidences of indebtedness to include all contractual obligations to pay in the future for consideration presently received.” *Searsy v. Commercial Trading Corp.*, 560 S.W.2d 637, 641 (Tex 1978); *see also Thomas v. State*, 919 S.W.2d 427 (Tex.Crim.App. 1996); *Thomas v. State*, 65 S.W.3d 38 (Tex.Crim.App. 2001).

The investments in the RSLIP Program satisfy the evidence of indebtedness test set forth in *Searsy*. For each transaction, the investor and Retirement Value executed a Policy Participation Agreement. Exhibit A. The Policy Participation Agreement provides investors will receive their initial participation plus a base-line targeted gain in exchange for the use of their funds during the time outlined within the “Agreement.” Exhibit A at 2 ¶ 1.1.

In exchange for the use of their money, investors were promised a “base line targeted gain” when the investment matured due to the death of the insured. Exhibit A at 4 ¶ 1.12. This “base line targeted gain” was promised at a later date, specifically when the insured passed away,

estimated to be within the insured's life expectancy plus 24 months. *Id.* at ¶¶ 1.4 (maturity on insured's passing); 1.12 (disbursement); 1.13 (LE plus 24 months).

Therefore, with each transaction there is a contractual obligation to pay in the future for consideration presently received. Based upon the evidence, the investments in the RSLIP Program are securities in the form of "evidence of indebtedness".

### **C. RSLIP Program is an Investment Contract**

In addition to being both a note and an evidence of indebtedness, the RSLIP Program is also an investment contract covered by the Texas Securities Act.

The Texas Securities Act defines the term "securities" to include investment contracts. An instrument constitutes an investment contract when the instrument involves (1) an investment of money (2) in a common enterprise (3) with an expectation of profits (4) where the efforts made by those other than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise. *Sears*, 560 S.W.2d at 640.

The term investment contract was first construed by the United States Supreme Court in *SEC v. W.J. Howey Co.*, 328 U.S. 293, 298-99 (1946) and was recently reaffirmed in *SEC v. Edwards*, 540 U.S. 389, 389 (2004). An investment contract involves an investment of money in a common enterprise with profits to come solely from the efforts of others. *Howey*, 328 U.S. at 299; *see also Edwards*, 540 U.S. at 389. The United States Supreme Court noted this test "embodies a flexible rather than a static principle, one that is capable of adaption to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits." *Howey*, 328 U.S. at 299.



The Texas Supreme Court has adopted the Howey test for use in Texas. *Searsy v. Commercial Trading Corp.*, 560 S.W.2d 637, 639-640 (Tex 1977) ((citing *Clayton Brokerage Co. of St. Louis v. Mauer*, 520 S.W.2d 802 (Tex. Civ. App.-Austin, writ ref'd n.r.e.)(dis. as moot on rehearing per curiam, 531 S.W.2d 805 (Tex. 1975)); *King Commodity Co. of Texas v. State*, 508 S.W.2d 439 (Tex. Civ. App.-Dallas 1974, no writ))).

The Texas Supreme Court initially explained an instrument constitutes an investment contract and is therefore a security under state law if it meets four requirements: (1) an investment of money, (2) a common enterprise, (3) an expectation of profits and (4) solely from the efforts of others. *Searsy*, 560 S.W.2d at 640. The Texas Supreme Court, also recognizing the test embodies a flexible principle, explained that the solely from the efforts of others requirement was likely to be evaded by creative salespersons who simply required investors to “exert some modicum of effort.” *Searsy*, 560 S.W.2d at 640. The Court reasoned “[t]his would be a blind and mechanical view of what constitutes an investment contract. We agree that the more realistic test is ‘whether the efforts made by those other than the investor are undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise. *Id.* ((citing *SEC v. Glenn W. Turner Enterprises, Inc.*, 474 F.2d 476, 482 (9th Cir.)(cert. denied, 414 U.S. 821, 94 S.Ct. 117, 38 L.Ed.2d 53 (1973))), *King Commodity Co. of Texas v. State*, 508 S.W.2d 439 (Tex. Civ. App.-Dallas 1974, no writ), and *State Commissioner of Securities v. Hawaii Market Center, Inc.*, 52 Haw. 642, 485 P.2d 105 (1971))).

Based upon the evidence supporting the elements “investment of money” and “expectation of profits,” the State will address those elements together.

### **(1) Investment of Money with (3) Expectation of Profit**

An investment contract requires an investment of money or property. *See Searsy*, 560 S.W.2d at 639. The first requirement of the test merely means investors must contribute some form of consideration for his right to participate in the scheme. *See* JOSEPH C. LONG, 12 BLUE SKY LAW § 2:45 (November 2009). With respect to “expectation of profit” the transaction is induced by the investor’s expectation of receiving a profit, but it should be noted that actual receipt of the promised profit is irrelevant. *Id.* at § 2:25.

The United States Supreme Court explained that “profits - in the sense of the income or return - that investors seek on their investment, not the profits of the scheme in which they invest, and may include, for example, dividends, other periodic payments, or the increased value of the investment.” *SEC v. Edwards*, 540 U.S. 389, 390 (2004). The Court further explained:

There is no reason to distinguish between promises of fixed returns and promises of variable returns for purposes of the test. In both cases, the investing public is attracted by representations of investment income. Moreover, investments pitched as low risk (such as those offering a “guaranteed” fixed return) are particularly attractive to individuals more vulnerable to investment fraud, including older and less sophisticated investors.

*Id.*

The Defendants told investors they would receive a 16.5% return on their investment payable from the death benefits of the life insurance policies. The RSLIP Program satisfies the first and third elements of the test; investors invested money with the expectation of profit.

## **(2) Common Enterprise**

An investment contract requires a common enterprise. *Searsy*, 560 S.W.2d at 640. There are two types of commonality recognized by courts, horizontal and vertical. *Id.*; *see also SEC v. Mutual Benefits Corp.*, 408 F.3d 737, 743 (11th Cir. 2005).

### **Horizontal Commonality**

The Texas Supreme Court endorsed the use of horizontal commonality as a test to determine whether a common enterprise exists and whether the second factor is satisfied. *Searsy*, 560 S.W.2d at 640. Horizontal commonality looks to the relationship “between investors and means that the success of one investor is concomitant with the success of other investors.” *Id.* This test has been restated as the “tying of each individual investor’s fortune to the fortunes of other investors by the pooling of assets, usually combined with the pro-rata distribution of profits.” *Revak v. SEC Realty Corp.*, 18 F.3d 81, 87 (2d Cir. 1994); see *Hart v. Pulte Homes of Michigan Corp.*, 735 F.2d 1001, 1004 (6th Cir. 1984); see also *Mutual Benefits*, 408 F.3d at 743 (horizontal commonality requires the investors’ promises of success and risks of loss be interdependent).

Horizontal commonality exists among investors of the RSLIP Program. Investor funds are deposited in an escrow account and pooled to purchase a life insurance policy. Exhibit F at 3, 5-6. When the insured dies, investors will receive a distribution of the death benefit. Exhibit See *id.* In addition, investors will also receive a distribution of all unused premiums that remain in escrow. Exhibit F at 5.

Because investor funds were pooled and investors were promised distributions of death benefits, the investors’ promises and risks were interdependent. Exhibit D, Rogers Dep. 280:27-281:2; July 15, 2011. This is relationship between the investors satisfies the horizontal commonality set forth in *Searsy*.

### **Vertical Commonality**

The Texas Supreme Court and the great majority of other states have also adopted the use of vertical commonality as a test to determine whether a common enterprise exists and whether

the second factor is satisfied. *Sears*, 560 S.W.2d at 640. Vertical commonality exists when “the success of the investor is dependent upon the efforts and success of the promoter.” *Id.* ((citing *SEC v. Koscot Interplanetary, Inc.*, 497 F.2d 473 (5th Cir. 1974); *SEC v. Glenn W. Turner Enterprises, Inc.*, 474 F.2d 476 (9th Cir.)(cert. denied, 414 U.S. 821, 94 S.Ct. 117, 38 L.Ed.2d 53 (1973))).

Vertical commonality exists between investors and the promoter in the RSLIP Program. The Defendants pooled investor funds to invest in and acquire sole ownership of life insurance policies and thereafter designated Kiesling Porter as beneficiary. Exhibit F at 3, 5-6. The success or failure of Defendant Retirement Value in acquiring these life insurance policies determines whether or not the funds are available to pay investors their profits.

Investors are were also told they will become “irrevocable co-beneficiaries” on the life insurance policies but were apparently given no legal interest in any facet of the policies. The consequences of bankruptcy of the owner or beneficiary, lien or judgment filed against or attached to the owner or the beneficiary, or the winding-down of the owner or the beneficiary impacts the investors’ return.

The success of investors is dependent upon the efforts and success of Defendant Retirement Value and contingent upon the continued viability and existence of Retirement Value.

The RSLIP Program satisfies both the test for horizontal commonality and the test for vertical commonality. A common enterprise is therefore present, and the second factor of the test is satisfied on separate and independent bases.

#### **(4) Essential Managerial Efforts of Others**

An investment contract requires the expectation of profits to be derived from the essential managerial efforts by those other than the investor. *Searsy*, 560 S.W.2d at 640. The requisite efforts are “the undeniably significant” efforts that affect the failure or success of the investment.

*Id.* In the landmark decision of *State v. Hawaii Market Center, Inc.*, the court said:

Courts should focus on the quality of the participation. In order to negate the finding of security the offeree [investor] should have practical and actual control over the managerial decisions of the enterprise. For it is this control which gives the offeree the opportunity to safeguard his own investment, thus obviating the need for state intervention.

485 P.2d 105 (1971). The Hawaii Market Center concept that “efforts” refers to control and managerial efforts was relied on in *SEC v. Glenn W. Turner Enterprises, Inc.*, and later adopted by the Supreme Court in *United Housing Foundation v. Foreman*. 414 U.S. 821 (1973); 421 U.S. 837 (1975); *See also* JOSEPH C. LONG, 12 BLUE SKY LAW § 2:71 (November 2009). Therefore, if an investor does not have the ability or right to exercise control over or participate in the things that determine the promised profit, then it is a security. *See* JOSEPH C. LONG, 12 BLUE SKY LAW § 2:71. The courts look to the passivity of the investor and the investor’s ability to safeguard his investment. *Id.*

The RSLIP Program involves the essential managerial efforts of others. These efforts are undeniably significant efforts and affect the failure or success of the RSLIP Program. These efforts include, but are not limited to, the life expectancy estimates provided by Midwest Medical that accompanied the life insurance policies. Investors are reliant upon a third party to accurately predict the date that the insured will die. Exhibit F at 2, 7. The life expectancy is a critical component of the RSLIP Program, because it determines the estimated term of the policy,

the anticipated maturity of the policy, the expected returns, and the likelihood investors will need to contribute additional premiums or face the lapse or forfeiture of the investment.

In addition to the life expectancy estimates, the undeniably significant efforts include, but are not limited to, the following:

- The otherwise unidentified policy aggregator selects life insurance policies that may be used in the RSLIP Program after “completion of [its] thorough due diligence.” Exhibit F at 2. This presumably includes conducting some type of analysis to determine the risks associated with specific life insurance policies and whether these life insurance policies will likely prove profitable.
- Kiesling Porter, as the escrow agent, is responsible for paying all premiums that come due and owing for the life insurance policies included within the RSLIP Program. Exhibit F at 2, 5.
- Defendant Retirement Value employs a Director of Policy Administration who “continually negotiates premium payments to cover the cost of insurance.” Exhibit F at 11.
- The investments in the RSLIP Program only mature upon the death of the insured, and therefore a third-party needs to promptly and accurately determine when the insured dies. Exhibit F at 1-6.
- Kiesling Porter, as the beneficiary of the life insurance policies, or Defendant Retirement Value, are presumably responsible for making all claims on the policies and negotiating any legal or other issues that arise during the claims process. *Id.*
- Kiesling Porter, as the beneficiary and the escrow agent, is responsible for receiving the proceeds of all policies and paying returns to investors. Exhibit F at 3, 5.
- Investors must submit additional pro-rata premium payments to ensure the life insurance policies remain in force and in effect if all funds earmarked as future premium payments are depleted. See Exhibit A at 4 ¶ 1.13. Investors are reliant upon a third party to administer these “premium calls.”
- In the event an investor is unable or unwilling to fund his pro-rata premium payments in this scenario, Defendant Retirement Value has the right to sell the investor's investment in the RSLIP Program to a third party for payment of the necessary premium contribution amount. *Id.* Investors are reliant upon Defendant Retirement Value's ability to obtain additional premium payments, because the

failure to acquire the funds necessary to pay for regular and continued premiums means the underlying life insurance policies may lapse. A lapse would likely result in all investors - not just the investor who was unable or unwilling to tender premium payments - losing the entirety of their investment.

*See also* Exhibit D, Rogers Dep. 249:10-25; July 15, 2011. Retirement Value earned its commissions and fees by providing a valuable service to investors, services which made it more likely that the investors would make more money, rendering the investment a success. *Id.* at 251:4-17.

The essential managerial efforts are not administrative or ministerial in nature, as evidenced by the fact the Defendants tout and emphasize the specialized skills, reputation, and abilities of the third parties that allow investors to expect significant profits and returns on their funds. By way of example, the Defendants specifically describe the business reputations, qualifications, and experience of certain third parties as follows:

- The Defendants describe the qualifications and licensure of Gray, President of Defendant Retirement Value, by explaining he “has helped clients make wise money decisions in hard financial times for the past 35 years and has been a licensed insurance agent for over 18 years.” Exhibit F at 11.
- The Defendants claim the exclusive Policy Financing Entity “has been selected to underwrite [sic] and perform the warehousing function for numerous funds involved in the management of public employee pensions and other international investment banking engagements. They never have been a target of any regulatory inquiry or litigation.” Exhibit F at 4.
- The Defendants told investors the policy aggregator has been purchasing life insurance policies through the secondary market for over 15 years. Exhibit F at 2. Defendants also represented that the policy aggregator and his staff review “\$500 million in face amount/death benefit each week” and they only re-sell these life insurance policies to Retirement Value “after completion of...thorough due diligence.” *Id.*
- Defendant Retirement Value told investors that Kiesling Porter “assures the total safeguarding and preserving of [the] basis and targeted income.” Exhibit F at 5. These are described as “essential components” of the RSLIP Program. *Id.*

The structure of the RSLIP Program suggests investors are reliant upon the viability, operation, and continued existence of both Defendant Retirement Value and Kiesling Porter. The structure of the RSLIP Program, moreover, precludes and prevents investors from taking any type of managerial action or impacting the investment in any manner. Retirement Value becomes the owner of the life insurance policies and Kiesling Porter becomes the beneficiary of the life insurance policies. Exhibit F at 6.

Investors simply provide their monies to Defendant Retirement Value and the efforts by those other than the investor perform the necessary tasks to realize a profit. Investors are therefore entirely passive in regard to the totality of the RSLIP Program from the time they tender their monies that marks their principal contribution to the time they receive the check that marks their profit.

The evidence establishes that the RSLIP Program involves an investment of money in a common enterprise with an expectation of profits. Investors are reliant upon the efforts of others, and these efforts are the undeniably significant ones that affect the failure or success of the enterprise. The RSLIP Program is therefore an investment contract and is a security as a matter of law.

#### **D. Anticipated Defenses**

##### **i. The RSLIP Program is not an investment contract**

Defendants who sell investments in the death benefits of life insurance policies often argue the investments do not constitute investment contracts and therefore are not securities. Many such defendants cite *SEC v. Life Partners, Inc.*, 87 F.3d 536 (D.C. Cir. 1996) and *Griffitts v. Life Partners, Inc.*, No. 10-01-00271-CV, 2004 WL 1178418 (Tex. Civ. App.-Waco May 26, 2004, no pet.)(mem. op.) in support of their contentions. However, more recent cases make



clear that such investments are, in fact, securities. See *SEC v. Mutual Benefits Corp.*, 408 F.3d 737 (11th Cir. 2005).

In *SEC v. Life Partners*, the D.C. Court of Appeals applied the Howey test to investments in the death benefits of life insurance policies. In this case, the Court entertained a distinction between pre- and post-investment efforts and explained efforts performed by a promoter prior to receiving investor funds could not be a significant factor in determining whether profits from the investment came from the efforts of others. See *SEC v. Life Partners*, 87 F.3d at 545-46. The Court also concluded that the relevant post-purchase activities by the promoter were “ministerial” and therefore could not satisfy the factor of the Howey test that related to the “efforts of others.” See *id.* at 548.

The Tenth Court of Appeals is the only state appellate court in Texas that has explored the issue of whether certain investments in the death benefits of life insurance policies constitute investment contracts under the Texas Securities Act. In *Griffitts v. Life Partners, Inc.*, the Tenth Court of Appeals affirmed a trial court's grant of summary judgment in an unreported memorandum decision seven pages in length. *Griffitts*, No. 10-01-00271-CV, 2004 WL 1178418. The Tenth Court of Appeals held the underlying purchase of interests in life insurance policies did not constitute an investment contract, because the plaintiff did not participate in a common enterprise whose profits came solely from the promoter's efforts. *Id.* at 2. The Court relied heavily on the reasoning of the D.C. Court of Appeals in *SEC v. Life Partners*. *Id.*

The *SEC v. Life Partners* decision and the reasoning relied upon in *Griffitts* have since been widely criticized by courts and scholars for flawed rationale and misconstruction of the Howey test. See e.g. JOSEPH C. LONG, 12 BLUE SKY LAW §§ 3:15, 3:16.1 (November

2009) (explaining that the SEC v. Life Partners decision was irrational and quickly the subject of judicial and legal criticism); *SEC v. Mutual Benefits Corp.*, 408 F.3d 737 (11th Cir. 2005).

The SEC v. Life Partners decision was recently revisited by the Eleventh Circuit Court of Appeals in *SEC v. Mutual Benefits Corp.*, 408 F.3d 737 (11th Cir. 2005). In *Mutual Benefits*, the Court analyzed whether an individual who purchased an investment in the death benefits of a life insurance policy expected a profit solely from the efforts of the promoter or a third party. The appellant relied upon the D.C. Court of Appeals' decision in *SEC v. Life Partners* in arguing the analysis necessarily involved a distinction between a promoter's activities prior to having use of investors' funds and his activities after he received the investors' funds. *Mutual Benefits*, 408 F.3d at 743. The appellant further argued the investment in the death benefits of the underlying life insurance policies involved no significant post-purchase activities and therefore any expectation of profits was not based solely on the effort of the promoter or a third party. *Id.*

In *Mutual Benefits*, the Eleventh Circuit Court of Appeals flatly declined to adopt the test from *SEC v. Life Partners* and issued a scathing opinion that was heavily critical of the D.C. Court of Appeals. *Id.* The Court reasoned the test adopted in *SEC v. Life Partners* was inconsistent with the investment contract test first adopted in by the United States Supreme Court in *Howey* and later reaffirmed in *Edwards*. The Court explained that neither *Howey* nor *Edwards* "require such a clean distinction between a promoter's activities prior to his having use of an investor's money and his activities thereafter" and "[s]ignificant pre-purchase managerial activities undertaken to insure the success of the investment may also satisfy *Howey*." *Mutual Benefits*, 408 F.3d at 743.

In rejecting the test adopted by *SEC v. Life Partners*, the Court emphasized that the test for an investment contract requires the courts to "broadly apply" the federal securities laws to all

“schemes derived by those who seek the use of money of others on the promise of profits.”

*Mutual Benefits* at 743 (citing *Howey*, 328 U.S. at 299). It quoted Edwards, noting

‘Congress’ purpose in enacting the securities laws was to regulate *investments*, in whatever form they are made and by whatever name they are called.’ To that end, it enacted a broad definition of ‘security,’ **sufficient ‘to encompass virtually any instrument that might be sold as an investment.’**

*Id.* at 742 (quoting *Edwards*, 540 U.S. at 393 (quoting *Reves v. Ernst & Young*, 494 U.S. 56 (1990) (second emphasis added))).

Based upon the foregoing, the distinction between pre- and post-managerial efforts is inconsistent with the investment contract test set forth in *Howey* and further adopted in *Searcy*.

Although the Tenth Court of Appeals adopted the reasoning of *SEC v. Life Partners*, a number of other state courts have declined to adopt the *SEC v. Life Partners* analysis. See *Michelson v. Voison*, 658 N.W.2d 188 (Mich. Ct. App. 2003), *Poyser v. Flora*, 780 N.E.2d 1191 (Ind. Ct. App. 2003), *Joseph v. Viatic Management, LLC*, 55 P.3d 264 (Colo. Ct. App. 2002), *Siporin v. Carrington*, 23 P.3d 92 (N.J. Ct. App. 2001), *Alabama v. Kash*, Case Nos. CC-00-25, 26 & 27 (Ala., St. Clair Co. Cir. Ct. July 14, 2001), *Landau v. Sheaffer*, Case No. CI-00-04672 (Pa. Ct. of Common Pleas, Lancaster County June 22, 2001), *Oklahoma Dept. of Securities v. Accelerated Benefits Corp.*, No. CJ-99-2500-66 (Okla. Co. Dist. Ct. Mar. 13, 2001), *Hill v. Dedicated Resources, Inc.*, No. 99-C-1714, 2000 WL 34001915 (Kan. Dist. Ct. July 12, 2000). *Sec. Comm’r State of Colo. v. Life Partners, Inc. et al.*, No. 2007 CV 5218 (Colo. Dist. Ct. Dec. 10, 2008).

Nearly every state now regulates viatical settlements as securities, either by virtue of precedent in the investment contract analysis or through an express statutory provision. See LONG, BLUE SKY LAW at § 3:16.9.

Even if this Court were inclined to follow the investment contract analysis relied upon in the Life Partners' cases, the evidence in this case proves the "undeniably significant efforts" of those other than the investors occur both pre- and post-purchase and such post-purchase efforts are not ministerial.

The RSLIP Program satisfies all elements of the investment contract test, are met and the the RSLIP Program is therefore a security. The evidence also proves the RSLIP Program is a note and an evidence of indebtedness and is therefore a security.

**ii. The RSLIP Program is excluded under Section 4.A**

Defendants frequently argue that their products fall within an exclusion from regulation. Section 4.A of the Texas Securities Act provides the term security does not apply to (a) any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contract (b) issued by an insurance company subject to the supervision or control of the Texas Department of Insurance (c) when the form of such policy or contract has been duly filed with the Department as now or hereafter required by law.

The State is not aware of any primary or secondary authorities that provide any precedent or guidance about whether this structure or the promise of becoming an "irrevocable co-beneficiary" suggest the agreements in the RSLIP Program are "in relation to or in consequence of" an insurance policy. An analysis or determination of this factor is not necessary for two reasons. First, the Commissioner of Insurance is precluded from adopting rules that regulate the

actions of an investor providing money to a life or viatical settlement provider. See Tex. Ins. Code § 1111.003.

Second, the RSLIP Program and its agreements and other materials were not issued by an insurance company subject to the supervision or control of the Texas Department of Insurance. Defendant Retirement Value is not an “insurance company” subject to the supervision or control of the Texas Department of Insurance. Exhibit G, Texas Department of Insurance Negative Certifications. Defendant Retirement Value has not filed any form of any insurance policy, endowment policy, annuity, or any contract or agreement in relation to or in consequence of any such policy or contract, including the RSLIP Program agreements, with the Texas Department of Insurance. *Id.* Because Defendant Retirement Value’s RSLIP Program and its agreements were not issued by an insurance company subject to the supervision or control of the Texas Department of Insurance and Defendant Retirement Value did not file any form of any contract or agreement in relation to or in consequence of any policy or contract with Texas Department of Insurance, the securities offering fails at least two of the three factors for the exclusion specified in Section 4.A of the Texas Securities Act. The exclusion therefore does not apply.

This analysis is consistent with not only the plain text of the Securities Act, but also furthers the purpose of the Securities Act: to protect investors. Following a different analysis would ensure that this instrument and other similar instruments operate in a regulatory vacuum, permitting certain individuals who manage the retirement funds of our citizens to escape regulation or consumer protection.

## V. CONCLUSION AND PRAYER

For the reasons set forth above, the State asks this Court to grant its motion for partial summary judgment because, as a matter of law, the undisputed facts underlying the RSLIP

Program are clear that the Program is a security subject to the Texas Securities Act. The RSLIP Program constitutes a note, evidence of indebtedness, and/or an investment contract as contemplated by the Act.

Respectfully submitted,

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**Attorneys for Plaintiff**  
**The State of Texas**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 19<sup>th</sup> day of July 2011, I served a copy of the above and foregoing document, **Plaintiff's Motion for Partial Summary Judgment: Retirement Value's Product was a Security**, to the following counsel as indicated below:

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*Via the court's e-filing system*

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Hill Country Funding, LLC,  
a Nevada Limited Liability Company*

*Via the court's e-filing system*

  
JACK HOHENGARTEN



STATE OF TEXAS

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COUNTY OF DALLAS

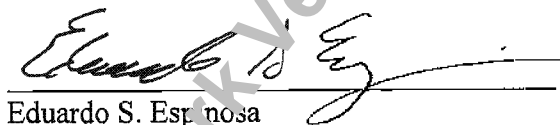
AFFIDAVIT OF EDUARDO S. ESPINOSA

BEFORE ME, the undersigned authority, personally appeared Eduardo S. Espinosa, who after being duly sworn, stated as follows:

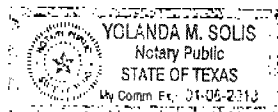
1. "My name is Eduardo S. Espinosa. I am over 18 years of age, of sound mind and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. The Court appointed me as the receiver for Retirement Value, LLC, a Texas limited liability company ("Retirement Value"), and the assets derived there from of Richard H. "Dick" Gray ("Gray") and Bruce Collins ("Collins") pursuant to the First Amended Temporary Restraining Order and Order Appointing Receiver entered on May 5, 2010 (as extended as to all Defendants on May 12, 2010 and as extended as to Collins on June 2, 2010, the "First Amended TRO") in the cause numbered D-1-GV-10-000454 and styled *State of Texas v. Retirement Value, LLC, Richard H. "Dick" Gray, and Bruce Collins, Defendants, and Kiesling, Porter, Kiesling, & Free, P.C., Relief Defendant* in the 126<sup>th</sup> District Court of Travis County, Texas ("Retirement Value Lawsuit").
3. I continue as the court-appointed receiver for Retirement Value and Gray's assets derived there from pursuant to the Agreed Temporary Injunction Order Against Defendants Retirement Value LLC and Richard H. "Dick" Gray and the Relief Defendant and Order Appointing Receiver entered on May 28, 2010 (the "Gray TI and Order Appointing Receiver") in the Retirement Value Lawsuit.
4. Initially, the First Amended TRO and now, the TI directs me to, among other things: take control of the property, assets, books, records, and the physical premises of Retirement Value; conduct and manage the business affairs of Retirement Value; notify investor-victims; and assist the State Securities Board and the Attorney General with their investigations of the Defendants' violations of the Securities Act and other laws of the State of Texas.
5. The following documents are attached to this affidavit:  
Exhibit A: Retirement Value Policy Participation Packet  
Exhibit B: Retirement Value Qualified Funds Loan Agreement  
Exhibit C: Emails to and from Retirement Value officers  
Exhibit F: Retirement Value Re-Sale Life Insurance Policies Brochure

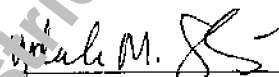
6. These documents are kept by Retirement Value in the regular course of business and it was the regular course of Retirement Value's business for an employee or representative of Retirement Value, with knowledge of the act, event, condition, or opinion that was recorded, to make this record or to transmit the information to be included in this record. The record was made at or near the time or reasonably soon after the act, event, condition, or opinion that was recorded. The records attached to this affidavit are the originals or exact duplicates of the originals."

FURTHER AFFIANT SAITH NAUGHT.

  
Eduardo S. Espinosa

SUBSCRIBED TO AND SWORN BEFORE ME by Eduardo S. Espinosa on July 19, 2011.



  
Notary Public in and for the State of Texas

My Commission Expires:  
1-6-2013



457 Landa Street, Suite B, New Braunfels, TX 78130 ♦ Phones: (830) 624-8858 / (210) 832-9040 ♦ Fax: (830) 609-5002 ♦ [www.retirementvalue.com](http://www.retirementvalue.com)

### Check List for Non-Qualified Participation

#### Complete set of documents found online through Retirement Value, LLC:

- \_\_\_\_\_ 1. Policy Participation Agreement
- \_\_\_\_\_ 2. Exhibit A
- \_\_\_\_\_ 3. Participant's Suitability Form (one for each Participant)
- \_\_\_\_\_ 4. Disclosure Acknowledgment (one for each Participant)
- \_\_\_\_\_ 5. Limited Power of Attorney (Client for RV, LLC)
- \_\_\_\_\_ 6. Special Power of Attorney (Client for Licensee)--Optional
- \_\_\_\_\_ 7. Form W-9 (please have Participant sign)
- \_\_\_\_\_ 8. Refer to Current 10-Case Booklet Spreadsheet to verify amount of participation available for Client (download latest spreadsheet from [www.retirementvalue.com](http://www.retirementvalue.com) website)

#### Items to be included from Client-Participant when completing forms:

- \_\_\_\_\_ 9. 155% copy of Driver's License or other government-issued PHOTO ID (current driver's license – if current address is different, a note of explanation is required)—MANDATORY!!
- \_\_\_\_\_ 10. If Participant is a Trust or another entity, copies of at least the declaration page(s) and the signature page(s).
- \_\_\_\_\_ 11. All checks are made payable to "Kiesling, Porter, Kiesling and Free, P.C. – Escrow Account" and in the memo section of the check put FBO and the Participant's name (funds will be deposited at Wells Fargo Bank, N.A.)

Mail ALL paperwork to Kiesling, Porter, Kiesling and Free, P.C.  
348 East San Antonio Street,  
New Braunfels, TX 78130

[Please fill out all forms completely and call with any questions – (830) 624-8858]





457 Landa Street, Suite B, New Braunfels, TX 78130 • Phones: (830) 624-8858 / (210) 832-9040 • Fax: (830) 609-5002 • [www.retirementvalue.com](http://www.retirementvalue.com)

### POLICY PARTICIPATION AGREEMENT

This Agreement is being entered into by and between:

Participant: \_\_\_\_\_  
(hereinafter referred to in the singular "Participant")

Address: \_\_\_\_\_  
(Street address) (City) (State) (Zip code)

Phone No.: \_\_\_\_\_ Cell No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

E-mail: \_\_\_\_\_

SSN: \_\_\_\_\_ DOB: \_\_\_\_\_ Marital Status: ☐ Single ☐ Married  
MM/DD/YYYY ☐ Divorced ☐ Widow(er)

Joint Participant (if any): \_\_\_\_\_  
(hereinafter referred to in the singular "Participant")

Address: \_\_\_\_\_  
(Street address) (City) (State) (Zip code)

Phone No.: \_\_\_\_\_ Cell No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

E-mail: \_\_\_\_\_

SSN: \_\_\_\_\_ DOB: \_\_\_\_\_ Marital Status: ☐ Single ☐ Married  
MM/DD/YYYY ☐ Divorced ☐ Widow(er)

and Retirement Value, LLC, a Texas limited liability company, whose principal address is 457 Landa Street, Suite B, New Braunfels, Texas 78130 (mailing address: P.O. Box 310635, New Braunfels, Texas 78131) (hereinafter referred to as "Agent").

WHEREAS, Agent is in the business of acquiring sole-ownership in re-sale life insurance policies acquired from various re-sale life insurance policy sources;

WHEREAS, Participant desires to facilitate acquisition by the Agent of one or more re-sale life insurance policies and participate on a pro-rata basis as an irrevocable co-beneficiary;

WHEREAS, Participant approves and adopts the standard(s) used by Agent to evaluate and qualify re-sale life insurance policies for Agent's investment purchase as sole owner of said re-sale life insurance policies;

WHEREAS, both parties understand and agree that the relationship of the Participant to the Agent is to provide funding to facilitate the acquisition of re-sale life insurance policies; and

WHEREAS, both parties understand and agree that this model of participation in a re-sale life insurance policy is not considered to be a security and therefore participation in a re-sale life insurance policy is not construed as the sale of a security by the Agent or the purchase of a security by the Participant.

NOW, THEREFORE, both parties wish to enter into a mutual agreement in which the Client will assist the Agent in acquiring, purchasing and becoming sole owner of certain re-sale life insurance policies through participation. The Client's participation is protected through and by an irrevocable co-beneficiary status in one or more re-sale life insurance policies pursuant to the Participant's instructions as set forth in Exhibit A of this Agreement.

### **I. General Disclosure Statement - Terms of Agreement**

1.1 **Agreement.** You are entering into an Agreement whereby you will become a Participant in a re-sale life insurance policy(ies) of which Agent will be the sole owner and for which the law firm of Kiesling, Porter, Kiesling & Free, P.C., located at 348 East San Antonio Street, New Braunfels, Texas 78130 (hereinafter referred to as "Escrow Agent"), will become the Escrow Agent. As a Participant in a re-sale life insurance policy you will acquire a safeguarded irrevocable co-beneficiary status in the death benefit based upon your initial participation or basis plus a base-line targeted gain paid for the use of your funds during the time outlined in this Agreement. Your participation in a policy will fund the following activities: (a) purchase of a re-sale life insurance policy(ies) by Agent; (b) payment of premiums by the Escrow Agent to maintain at all times the in-force status of the re-sale life insurance policy(ies) after purchase; (c) payment of administrative costs and fees associated with this transaction, including a "death tracking" service, commissions, Escrow Agent and bank fees, and interest payments as needed.

1.2 **Effective Date.** This Agreement shall not be effective until funds are transferred from Participant and received into the Escrow Account maintained by Escrow Agent at Wells Fargo, Bank, N.A., and the Agreement has been approved by Agent on a reasonable and timely basis.

1.3 **Insured.** The person whose life insurance policy has been sold is called the Insured and this person remains the Insured on a re-sale life insurance policy but no longer is the beneficiary for that policy. The Insured and his / her designated beneficiaries have given up all rights and interests in the re-sale life insurance policy. The Insured typically is of advanced age with a Life Expectancy ("LE") of between 3 and 10 years.

1.4 **Maturity.** Maturity of a policy is when the Insured passes away and written notice has been received by the Agent.

1.5 Policy Model. Re-sale life insurance policies are policies that have been sold already in the open market by the original Insured or the original owner, with the Agent as the new policy owner purchasing the death benefit of a life insurance policy at a discount to the "face value" or death benefit of the policy. The resale life insurance policy model developed by Agent is a private transaction in which one investor (Agent) buys policies from another investor (the policy supplier).

1.6 Policy Election. You may elect to be the irrevocable co-beneficiary for an entire re-sale life insurance policy, participate in only one policy, or spread your participation over several policies of your choosing. If you participate in one or more policies, understand that the Agent may obtain the balance of the purchase price and other associated costs, fees and expenses from additional participants. When the Insured passes away, you will receive the base-line targeted gain for your pro-rata participation on that policy.

1.7 Policy Replacement. Understand it is possible that at the time you elect participation in any re-sale life insurance policy it may have been fully subscribed already. In this situation, Agent will notify your Licensee immediately and will, pursuant to the terms of this Agreement, offer a replacement policy of a similar or greater total value based on the policy face amount and the Life Expectancy of the Insured.

1.8 Net Income. Understand that no one can predict with 100% accuracy the actual Life Expectancy of the Insured. Some factors that may affect the accuracy of an LE prediction are: (a) the experience and qualification of the medical personnel setting the LE; (b) the nature of the Insured's illness(es) or health condition(s); (c) future improvements in medical treatment(s) and cures. In this context, your net earnings may vary substantially from the base-line targeted gain because true net earnings will be higher if the Insured passes away earlier than the expected LE or it will be lower if the Insured passes away later than the expected LE. If the Insured passes away earlier than expected, you also will receive a pro-rata refund of your portion of the premium escrow amounts which were not used to pay premiums.

1.9 Tax Consequences. This transaction may have tax consequences for you. You are agreeing to participate with a sum of money upon which Agent will pay a base-line targeted gain in accordance with this Agreement. The net earnings you receive will, in most cases, if not all, be considered a taxable gain to you. You will need to consult with your tax advisor regarding this transaction so that you completely understand the tax implications of the transaction.

1.10 Non-Liquid. Monies used for participation are not liquid during the entire term outlined in the Policy Participation Agreement. Therefore, great care should be exercised and great caution observed in determining a proper, balanced participation amount for use in this re-sale life insurance policy transaction.

1.11 Participant's Demise. Please note, especially, that if the Participant passes away during the term of this Agreement, alternate or contingent beneficiaries will inherit or acquire this Agreement. However, said Agreement must remain in force until maturity due either to: (a) the passing of the Insured or (b) pay-out by the insurer. The policy does not become a "cash disbursement" in the hands of any Participant or heir(s) until maturity occurs. The death of the Insured – not the death of the Participant – determines the maturity date of this transaction.

1.12 Full Disbursement. Whenever maturity occurs due to the passing of the Insured, even if the Insured's passing is prior to the expiration of the calculated LE, Participant will receive a full net disbursement of their original participation plus targeted gains for the full term of this Agreement and will not be paid only a pro-rated partial return. Example: if the entire term of the policy is 48 months and the policy matures after 12 months due to the death of the Insured, the full 48-month targeted gain will be paid to the Participant, as well as a pro-rata share of any unused premiums remaining in the escrow sub-account for that policy.

1.13 Premium Escrow Sub-account. In the event that the Insured lives beyond the Life Expectancy period plus twenty-four (24) months and the premium escrow sub-account has been depleted, then upon the depletion of said premium escrow sub-account, Participant will be contacted and requested, on a pro-rata share basis, to pay future premiums until the Insured passes away. If a contingent co-beneficiary(ies) has inherited the policy(ies) upon the passing of the Participant, the contingent co-beneficiary(ies) will be contacted and it will be the responsibility of the contingent co-beneficiary(ies) to pay future premiums in accordance with this paragraph. Failure of Participant to make premium payments into the premium escrow sub-account under these circumstances will result in total forfeiture of all their participation in this policy and will result in the loss of both the original basis amount and all base-line targeted gain. In the event this occurs, Agent will then have the license to offer Participant's pro-rata portion in the policy to another person for payment of the necessary premium contribution amount. Participant also acknowledges Retirement Value, LLC or its Licensee provided very specific dollar amounts to illustrate this potential future risk.

Participant Participant

## II. Affirmative Representations of Agent

2.1 The Agent is a viable company whose business activities include the purchase of re-sale life insurance policies. Agent has no prior knowledge of your investment experience or your financial wherewithal to fund this transaction. Your decision to enter into this transaction will be based on your own independent investigation, but Agent takes the following specific steps to safeguard the monies you advance for this transaction:

- (a) Only insurance carriers rated "A-" or better by A.M. Best are used for re-sale life insurance policies;
- (b) All funds are maintained in or pass through the Escrow Agent and are deposited in a cash or cash equivalent account with Wells Fargo, N.A., 1000 North Walnut Street, New Braunfels, Texas 78130 (hereinafter the "Escrow Account") in an FDIC-Insured account, to be used for the purpose of purchasing the re-sale life insurance policy and the payment of premiums and other necessary payments peculiar to the Agent taking ownership of a policy. Notwithstanding, re-sale life insurance policies are not endorsed by any bank; outcomes are not guaranteed by any bank; and, this is not an FDIC-Insured financial transaction;
- (c) Funds used to purchase any re-sale life insurance policy noted in this Agreement are transferred to and exclusively handled by Pacific Northwest Title Company of Oregon, 111 Southwest Columbia Avenue, Suite 200, Portland, Oregon 97201;

- (d) Monies accumulated for paying all premiums due for each of the re-sale life insurance policies are maintained in an escrow sub-account at Wells Fargo Bank, N.A. and administered by the Escrow Agent;
- (e) Interest from all Escrow Accounts will be the property of the Agent, being part of the Agent's fee structure and will not be owned by or distributed to Participant; and
- (f) Agent or its Escrow Agent will not in any way use Participant's participation money in any manner whatsoever other than what is directed by the Participant in this Agreement.

2.2 During the Term of this Agreement, Agent shall:

- (a) provide to Participant all documentation pertinent to the Participant's co-beneficiary interest in the policy;
- (b) provide a copy of this Agreement to the designated Escrow Agent; and
- (c) create and maintain accurate records on Participant that pertain to the participation in the policy and from time to time, as appropriate, provide reports to Participant.

2.3 No Additional Duties. Except as set forth in paragraph 2.2, Agent shall have no other duties or obligations to Participant other than to use reasonable efforts to assist Participant if requested.

2.4 Right to Grant Additional Interest. Agent may grant to additional Participants an interest in the policy, provided that Agent will not allow the combined interest to exceed the face amount or death benefit of the policy.

### III. Affirmative Representations, Rights & Obligations of Participant

3.1 Participant hereby confirms that he / she has read and understands the above. Participant further hereby confirms that \_\_\_\_\_ (Licensee) has explained fully a re-sale life insurance policy transaction together with all associated risks.

3.2 Free Will. Participant acknowledges that he / she has carefully examined his / her financial resources, investment objectives, and tolerance for risk and that after considering the benefits and risks associated with this transaction, Participant freely elected to enter into this transaction with Agent.

3.3 Due Diligence. Participant represents and warrants that Participant is sufficiently sophisticated in financial matters of this type to make an independent, informed, wise and balanced decision to participate in a re-sale life insurance policy and that this matter was thoroughly reviewed with his / her Retirement Value, LLC Licensee and Participant has had the opportunity to obtain such additional information necessary to verify the accuracy of the information contained herein and satisfy his / her due diligence efforts on this transaction in order for him / her to evaluate the merits and risks of this Agreement. Participant further represents and warrants that Participant has access to professional investment advice, has adequate means of providing for current and future financial needs and possible contingencies,



has no need for liquidity for these funds, is able to bear the risk of an interest in a policy(ies), for an indeterminate period of time, could afford a complete loss of this participation and is committing to a participation which bears a reasonable relationship to Participant's total net worth.

Participant

Participant

3.4 Confidentiality. Participant will maintain the confidentiality of all medical and insurance information received in connection with participation on a policy(ies) and the Agent's purchase of the re-sale life insurance policy(ies) at issue in this transaction.

3.5 No Contact With Insured. Participant agrees not to contact the insured third-party named in the policy, and acknowledges that, under Texas law, only Agent (if Agent is a 'provider'), or the Agent's designee, can contact Insured to determine health status.

3.6 Buy and Hold. Participant understands and agrees that this Agreement is of a "buy and hold" nature; that there is no offer made or any offer implied of liquidity during the entire period of Agreement; that Agent offers no buy-back guarantee; that the Participant understands that even upon his / her death, a contingent beneficiary(ies) "inherit(s)" this Agreement but must wait for its full maturity before realizing any "cash distribution" from this re-sale life insurance policy program.

3.7 Waiver of Right to Disclosure. Participant waives any right of disclosure that Participant may possess from Agent relating to Agent's fees paid to its policy supplier, any broker, attorney, and / or necessary service company(ies), accountant(s) or consultant(s) in the acquisition of the policy.

3.8 Ownership Status. Participant represents and warrants that he / she will retain sole ownership in the pro-rata status in the policies that he / she is selecting and that Participant will not sell, assign or distribute his / her portion in said policies to any other person or entity.

3.9 Reliance on Agent or Licensee. Participant represents and warrants that he / she has not relied on Agent for any legal, tax or investment advice whether expressly stated, inferred or assumed, any statements, representations or warranties, whether verbal or in writing, made by Agent, its Licensees or employees, with respect to his / her decision to enter into this transaction. For example, if Participant lives in a community property state, the special, legal, and tax requirements of that state must be fully met with the assistance of their own advisors.

3.10 No Guarantee. Agent has not provided or guaranteed any of the following: (i) a specific return on investment; (ii) a specific amount to be paid to Participant, (iii) a "buy back" guarantee, or (iv) a specific date of Maturity.

3.11 Accuracy. Participant further represents that the information contained herein is true, complete and accurate and may be relied on by Agent in entering into the transaction described herein.

#### IV. Miscellaneous

4.1 Venue. Venue for any lawsuit arising out of this Agreement shall be in Comal County, Texas and, in the case of federal jurisdiction, in the United States District Court for the Western District of Texas, San Antonio Division.

4.2 Amendment. The terms and conditions of this Agreement may only be amended by a writing signed by the Parties.

4.3 No Waiver. Except as expressly provided herein, the rights and remedies herein provided shall be cumulative and not exclusive of any other rights or remedies provided by law or otherwise. Failure by a Party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such Party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition. A waiver may only occur pursuant to the express written permission of an authorized officer of the Party against whom the waiver is asserted.

4.4 Severability. In the event any term, condition, or provision of this Agreement is declared or found by a court of competent jurisdiction to be illegal, unenforceable, or void, the Parties shall endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the Parties fail to agree on such amendments, such invalid term, condition, or provision shall be severed from the remaining terms, conditions, and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.

4.5 Assignment. Except as otherwise provided herein, neither this Agreement nor any rights granted hereunder may be assigned or otherwise transferred by any Party, in whole or in part, whether voluntarily or by operation of law. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

4.6 Notices. Any notice required or permitted under this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by registered or certified mail, postage prepaid, or (iii) sent by facsimile, and addressed as follows:

To Participant:

At the address for Participant as specified  
on page 1 of this Agreement

To Agent:

Retirement Value, LLC  
457 Landa Street, Suite B  
New Braunfels, Texas 78130  
Fax: (866) 498-4644

Mailing Address:

Retirement Value, LLC  
P.O. Box 310635  
New Braunfels, Texas 78131

Either Party may amend its address by written notice to the other Party in accordance with this section. Notices will be deemed to have been given at the time of actual receipt.

4.8 Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Parties and supersedes and cancels, revokes, and rescinds all previous negotiations, agreements, and commitments, whether oral or in writing, with respect to the subject matter described herein, and neither party shall be bound by any term, clause, provision, or condition save

as expressly provided in this Agreement or as duly set forth in writing as a subsequent amendment to this Agreement, signed by duly authorized officers of each Party.

### **Mutual Agreement**

The Parties agree that this transaction will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Participant(s) and Agent agree that all claims, disputes, controversies, differences or other matters in question arising out of the relationship between Participant and Agent (and its officers, directors, agents and / or employees), related to this Agreement, or otherwise, shall be settled finally, completely and conclusively by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, by one or more arbitrators, chosen in accordance with the Rules. The decision of the arbitrator(s) shall be final and binding on all parties. Any arbitration held in accordance with this paragraph shall be private and confidential. On request of either party, the record of the proceeding shall be sealed and may not be disclosed except insofar, and only insofar, as may be necessary to enforce the award of the arbitrator(s). The prevailing party shall be entitled to recover all reasonable and necessary attorney's fees and costs from the non-prevailing party.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**Participant:**

**Participant:**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

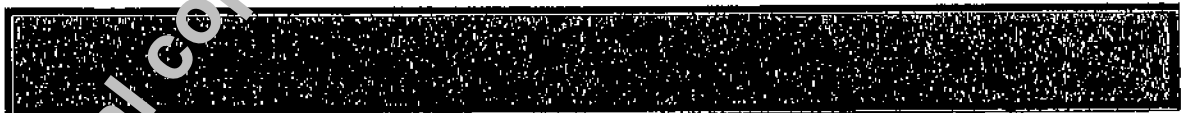
Print Participant's Name (Print) \_\_\_\_\_

Print Participant's Name (Print) \_\_\_\_\_

**RETIREMENT VALUE, LLC**  
a Texas limited liability company

By: \_\_\_\_\_  
Member

Dated: \_\_\_\_\_





## EXHIBIT A

Participant Name \_\_\_\_\_ Date \_\_\_\_\_

Joint Participant Name \_\_\_\_\_ Date \_\_\_\_\_

### Irrevocable Co-Beneficial Status to Protect Participation Funds

Participant desires to assist Agent to acquire, purchase and become sole owner of certain re-sale life insurance policies; will participate using Dollars (US\$) \_\_\_\_\_

and agrees to participate with said funds to cover all costs associated with the following re-sale life insurance policies to be owned by Agent:

RV, LLC Policy Code	Policy Face \$	Issuing Carrier	Insured LE	CLIENT PARTICIPATION	x 16.5%	x 12 mos	x LE	Base-line Targeted Gain	VALUE AT MATURITY
LL1899-102209-AT	\$7,000,000	Lafayette Life	64 months	\$0.00				\$0.00	\$0.00
LFG248-012610-HM	\$3,000,000	Lincoln Financial	51 months	\$0.00				\$0.00	\$0.00
AXA994-011510-BD	\$2,100,000	AXA Equitable	51 months	\$0.00				\$0.00	\$0.00
MM1025-112009-GR	\$3,000,000	Mass Mutual	51 months	\$0.00				\$0.00	\$0.00
GFG089-012110-RF	\$1,000,000	Genworth Life	51 months	\$0.00				\$0.00	\$0.00
PL1980-111109-JS	\$4,000,000	Pacific Life	49 months	\$0.00				\$0.00	\$0.00
AXA091-012110-PC	\$5,000,000	AXA Equitable	45 months	\$0.00				\$0.00	\$0.00
LFG183-111109-MR	\$5,000,000	Lincoln Financial	40 months	\$0.00				\$0.00	\$0.00
PL1140-111109-DM	\$10,000,000	Pacific Life	38 months	\$0.00				\$0.00	\$0.00
AGL130-012110-PM	\$2,000,000	American General	33 months	\$0.00				\$0.00	\$0.00

The policies above may no longer be available by the time your funds are posted to the Master Escrow Account. Please INITIAL to the left of your participation election below. Retirement Value, LLC has executed a Policy Purchase Agreement for every policy in this bouquet. However, the sellers can withdraw policies from the insurance carriers complete the ownership change officially in their home-office records. If any of these policies are withdrawn or sold out, they will be replaced immediately with policies of comparable value.

Participant: \_\_\_\_\_

Joint Participant: \_\_\_\_\_

By: \_\_\_\_\_ Member/Date \_\_\_\_\_

I elect to place my total amount in EQUAL PORTIONS among all ten (10) policies available upon the arrival of my funds in the Master Escrow Account.  
I elect to place my total amount in SELECTED AMOUNTS noted in the Exhibit above, in policies of comparable value.  
I elect to be notified by my Retirement Value Licensee of the current bouquet of policies when my funds have been posted to the Master Escrow Account so I may select policies available at that time.



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## CONTINGENCY CO-BENEFICIARY DECLARATION FORM

NOTE: In the event of the death of the Participant and an irrevocable contingent co-beneficiary is notified by the Agent of their co-beneficiary status in a re-sale life insurance policy, said contingent co-beneficiary will produce to Agent a copy of a government issued ID, i.e., driver's license, passport, as well as Form W-9 or Form W-8BEN. No payout of proceeds from a matured policy will be given to any contingent co-beneficiary without proper identification on file with the Agent.

Name:	Percentage of Ownership: 0%		
Address:			
City, State, Zip Code:			
SS #:	DOB:	E-mail Address:	
Relation to Participant:	If Trust – date of Trust:		

Name:	Percentage of Ownership: 0%		
Address:			
City, State, Zip Code:			
SS #:	DOB:	E-mail Address:	
Relation to Participant:	If Trust – date of Trust:		

Name:	Percentage of Ownership: 0%		
Address:			
City, State, Zip Code:			
SS #:	DOB:	E-mail Address:	
Relation to Participant:	If Trust – date of Trust:		

Name:	Percentage of Ownership: 0%		
Address:			
City, State, Zip Code:			
SS #:	DOB:	E-mail Address:	
Relation to Participant:	If Trust – date of Trust:		



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The selected Irrevocable Contingent Co-Beneficiary(ies) will receive payouts at the percentages designated on ALL POLICIES SELECTED unless Participant otherwise notes. Please submit an additional copy of this form IF there will be different Irrevocable Contingent Co-Beneficiaries designated for other policies.

**Participant must designate one of the following:**

- ☐ If a Contingent Co-Beneficiary has died before the maturity of this policy, the estate of the Contingent Co-Beneficiary will receive the proceeds from the matured policy; or
- ☐ If a Contingent Co-Beneficiary has died before the maturity of this policy, that Contingent Co-Beneficiary's percentage of proceeds in the matured policy will be evenly distributed between or among the remaining Contingent Co-Beneficiary(ies).

As Participant in this re-sale life insurance policy, upon my demise I do hereby designate the above-named Contingent Beneficiary(ies) as holding an irrevocable Contingent Co-Beneficial interest in the policies listed above, and I do hereby transfer and assign irrevocably, all right, title and interest in said policy to such Contingent Co-Beneficiary(ies). This designation will become effective only if the Agent is notified of Participant's death and a certified death certificate is provided to Agent.

**Participant:**

\_\_\_\_\_

Print Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Joint Participant:**

\_\_\_\_\_

Print Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**RETIREMENT VALUE, LLC**

a Texas limited liability company

By: \_\_\_\_\_ Dated: \_\_\_\_\_

Member



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## PARTICIPANT SUITABILITY FORM – ONE FOR EACH PARTICIPANT\*

### Client-Participant information:

Name: \_\_\_\_\_  
(Individual Name / Trust / Company)

If Trust – date of Trust: \_\_\_\_\_

Spouse's Name: \_\_\_\_\_

I am of sound mind and am able to determine on my own that participating in this program is a correct use of a portion of my net worth. I can afford to participate in this program knowing that my participation is illiquid for an indeterminate period of time. I feel that I have sufficient knowledge and experience in business and financial matters to determine whether or not this is a good use of a portion of my funds.

Please initial each line below that applies to you.

### Investing Experience:

- \_\_\_\_\_ I have the experience to analyze and determine whether participation in certain investments is suitable for me.
- \_\_\_\_\_ If I feel it necessary, I will consult with a financial advisor before making any decisions.
- \_\_\_\_\_ I have in the past or presently am invested in stocks, bonds, and / or mutual funds traded on a national security exchange.
- \_\_\_\_\_ I have in the past or presently am invested in commodities or future contracts.
- \_\_\_\_\_ I have participated in other re-sale life insurance policies.
- \_\_\_\_\_ I have a relationship with partners or companies that invest in real estate.
- \_\_\_\_\_ I have other types of investments other than above.

Individual Annual Income	<input type="checkbox"/> \$50,000-\$150,000	<input type="checkbox"/> \$150,000-\$250,000	<input type="checkbox"/> \$250,000+
Total Household Income	<input type="checkbox"/> \$50,000-\$150,000	<input type="checkbox"/> \$150,000-\$250,000	<input type="checkbox"/> \$250,000+
Approximate Net Worth (Excluding primary residence)	<input type="checkbox"/> \$150,000-\$250,000	<input type="checkbox"/> \$250,000-\$500,000	<input type="checkbox"/> \$500,000+

☐ I have a professional advisor who is not affiliated with Retirement Value, LLC in any way and who has sufficient knowledge in business and financial matters to advise me in connection with my participation in this product and to determine that this is a viable option for a portion of my money.

Professional Advisor: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Title: \_\_\_\_\_

☐ \_\_\_\_\_

As the Trustee of a Trust, the Trust is interested in participating in the re-sale life insurance policies offered by Retirement Value, LLC and in receiving a pro-rata irrevocable co-beneficiary share of the death benefit of one or more of the policies for the Trust. I represent the following (please check any and all statements that pertain to you):

☐ I represent and warrant that I have full authority to enter into any agreement on behalf of the Trust. I am able to determine that participating in this program is a correct use of a portion of the net worth of the Trust. The Trust can afford to participate in this program knowing that the participation is illiquid for an indeterminate period of time. I feel that I have sufficient knowledge and experience in business and financial matters to determine whether or not this is a good use of a portion of the Trust's funds.

☐ The Trust has a professional advisor who is not affiliated with Retirement Value, LLC in any way and who has sufficient knowledge in business and financial matters to advise me in connection with the Trust's participation in this product and to determine that this is a viable financial option for the Trust.

Professional Advisor: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Title: \_\_\_\_\_



## REPRESENTATIONS AND WARRANTIES

I represent that I have carefully read and examined the Policy Participation Agreement and determined that participation in one or more re-sale life insurance policies is appropriate and suitable for me. I understand the risks involved as explained by our Licensee. Understanding that participation in a re-sale life insurance policy is not liquid, I have adequate means to provide for day-to-day financial needs and would be able to meet financial obligations without this monetary participation. I represent that I can bear the financial risk for an indefinite period of time. I represent and warrant that I have read this Suitability Form and represent and warrant that the information contained in it is true, correct and accurate and may be relied on by Retirement Value, LLC.

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
\*Joint Participant (only if Spouse of above Participant)

\_\_\_\_\_  
Date



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## **DISCLOSURE ACKNOWLEDGMENT**

*Please read carefully before initialing.*

1.     \_\_\_/\_\_\_     I have received and reviewed a Suitability Form and the Policy Participation Agreement describing the nature and risks associated with the participation in a re-sale life insurance policy.
2.     \_\_\_/\_\_\_     I understand the undersigned financial consultant\* (if such is signing) is my financial consultant, and is not an agent, employee, or representative of Retirement Value, LLC ("Retirement Value"). I further understand that any representations, advice, opinions or recommendations made by the undersigned financial consultant are his / hers alone and not the representations, advice, opinions or recommendations of Retirement Value, LLC.
3.     \_\_\_/\_\_\_     I understand that any projected base-line targeted gain from this transaction is calculated based on an estimated life expectancy for the person insured under the policy; that the actual earnings may vary substantially from the base-line targeted gain because the actual life of the insured almost certainly will be less than or greater than rather than exactly equal to the estimated life expectancy; the net actual earnings will be higher if the insured passes away earlier than the life expectancy and lower if the insured passes away later than the life expectancy – due to the pro-rata refund of un-used premiums or having had to pay a pro-rata share of premiums due.
4.     \_\_\_/\_\_\_     I understand that the insured in whose life insurance policy I am participating may outlive me, particularly if I am of advanced age.
5.     \_\_\_/\_\_\_     I have been advised to consult my own tax advisor regarding the tax consequences of participating in a re-sale life insurance policy.
6.     \_\_\_/\_\_\_     I understand and have been advised that I have the right to rescind or cancel my participation in any re-sale life insurance policy for ten (10) calendar days even after Retirement Value, LLC has received and accepted my application for participation and that if I elect to rescind my participation to receive a full refund of all initial participation funds without penalty or fee of any kind.

7. \_\_\_\_/\_\_\_\_ I understand that re-sale life insurance policies are illiquid, that I will not have access to the funds used to participate in the re-sale life insurance policies until the policies mature due to the death of the insured, and that no one can determine with exact certainty when any policy will mature. Accordingly, I have determined that I have sufficient liquid assets or other income to provide for daily and emergency needs and that I can bear the risk of participating in these re-sale life insurance policies and not having access to these funds for an indeterminate period of time.
8. \_\_\_\_/\_\_\_\_ All of my questions concerning the re-sale life insurance policies I am considering have been answered. I understand the risk involved and have decided to participate with the understanding that any earnings on these policies will be realized by my estate, heirs or devisees should I pass away before the insured.

EXECUTED the \_\_\_\_ day of \_\_\_\_\_, 2010.

PARTICIPANT

PARTICIPANT

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

FINANCIAL CONSULTANT\*

\_\_\_\_\_  
Signature

\* **NOT** a Retirement Value, LLC Licensee.



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**LIMITED POWER OF ATTORNEY**  
**RETIREMENT VALUE, LLC / CLIENT-PARTICIPANT**  
(Limited Power of Attorney is required for each Participant)

This Power of Attorney is made by and between \_\_\_\_\_  
(hereinafter referred to as "Participant") and Retirement Value, LLC (hereinafter referred to as  
"Agent" or "Attorney-in-fact") appointing Retirement Value, LLC as Participant's true and lawful  
Agent and Attorney-in-fact for transacting Participant's acquisition of an irrevocable co-beneficiary  
status in a re-sale life insurance policy(ies).

My Attorney-in-fact is hereby authorized to act for me in my name, place and stead, and for  
my use and benefit, and to do, execute, or to concur with persons jointly interested with myself therein  
in the doing or executing of all or any of the acts, deeds and things set forth below as if same were  
my acts and deeds. My Attorney-in-fact shall have the following powers:

I. A. Enter into any and all contracts, agreements or documents necessary to facilitate  
the purchase by the Agent of a re-sale life insurance policy or policies or certificate(s) if a group  
policy in which I shall acquire an irrevocable co-beneficiary status through a Policy Participation  
Agreement executed by me.

B. Complete, record and file any document(s) necessary for the transfer of ownership  
with the insurance carrier and / or irrevocable assignment of co-beneficiary status with the Escrow  
Agent of the purchased re-sale life insurance policy or certificate(s) if a group policy through a Policy  
Participation Agreement executed by me.

C. Concerning the disbursement of funds by the Escrow Agent, instruct and direct  
Escrow Agent in the funding or purchase of a policy or policies, payment of premiums to maintain  
said policy or policies in an in-force status, payment of any and all administrative, bank and escrow  
fees, including commissions, that are associated with the purchase of a re-sale life insurance policy or

policies or certificate(s) if a group policy in which I shall acquire an irrevocable co-beneficiary status through a Policy Participation Agreement executed by me.

D. Do any and all other actions that may be necessary to facilitate the acquisition of a policy or policies designated by a Policy Participation Agreement executed by me.

E. Notify Participant of any additional premium monies needed if it becomes necessary for the Participant to contribute additional funds to keep the re-sale life insurance policy designated by a Policy Participation Agreement executed by me in-force.

F. Upon the death of any insured, obtain the death certificate and instruct the Escrow Agent as to the disbursement of the death benefit to the Participant or the Participant's designee.

G. If for whatever reason Escrow Agent resigns or terminates its contract with Agent, Agent can appoint another escrow agent to take its place and Agent can transfer all funds and related records to the successor escrow agent and the successor escrow agent shall then assume all duties and obligations of the Escrow Agent. The Escrow Agent shall have no liability for the successor escrow agent.

2. This Power of Attorney is for the sole purpose of designating Agent as the Participant's Attorney-in-fact for the purpose of purchasing a re-sale life insurance policy(ies) to be owned by the Agent, to facilitate the acquisition and maintaining of an irrevocable co-beneficiary standing by the Participant through the Escrow Agent with regard to said policy or policy(ies), and shall convey no other authority.

3. This Power of Attorney DOES NOT give license to Attorney-in-fact to change in any way the designation of the Participant's contingent irrevocable co-beneficiary(ies) for any re-sale life insurance policy designated by a Policy Participation Agreement executed by me.

4. This Power of Attorney DOES NOT give Agent authority to take any action to deny or deprive Participant of Participant's irrevocable co-beneficiary status in any policy or policies without specific instructions from Participant.

5. This Power of Attorney DOES NOT give Attorney-in-fact authority to disburse Participant's funds for any purpose not specifically delineated within this Power of Attorney.

6. This Power of Attorney may be terminated at any time by either party with written notice to that effect.

7. This Power of Attorney represents the entire and sole agreement between the Parties hereto with all provisions to be enforced as provided herein. No other representations, agreements or covenants, whether written or oral, shall govern this relationship.

**RETIREMENT VALUE, LLC**

a Texas limited liability company

**Participant**

By: \_\_\_\_\_  
Member

Signature

Dated: \_\_\_\_\_

Print Name

Dated



457 Landa Street, Suite B, New Braunfels, TX 78130 • Phones: (830) 624-8858 / (210) 832-9040 • Fax: (830) 609-5002 • [www.retirementvalue.com](http://www.retirementvalue.com)

**SPECIAL POWER OF ATTORNEY**  
**LICENSEE / CLIENT-PARTICIPANT**

(Special Power of Attorney is required for each Participant)

The undersigned ("Client-participant") hereby appoints \_\_\_\_\_ ("Licensee") as its Agent and Attorney-in-fact to review, evaluate, and direct Retirement Value, LLC ("Retirement Value") as to Client-participant's participation in a re-sale life insurance policy on the Client-participant's behalf. In all such participation, Retirement Value, LLC is authorized to follow the instructions of Client-participant's Agent in every respect concerning the Client-participant, and is authorized to act for the Client-participant and in the Client-participant's behalf in the same manner and with the same force and effect as Client-participant might or could with respect to any such participation, as well as with respect to all other things necessary or incidental to the furtherance or conduct of such participation or the maintenance or protection of any interest in any re-sale life insurance policy which Client-participant selects.

Client-participant hereby acknowledges that Retirement Value, LLC will rely on this authorization in taking instruction and direction from Client-participant's Agent on behalf of the Client-participant. Client-participant agrees to indemnify and hold Retirement Value, LLC harmless from any and all claims or damages whatsoever arising out of compliance with instructions or directions issued by Client-participant's Agent pursuant to Agent's authorization.

Retirement Value, LLC does not by implication or otherwise endorse the operational methods of Agent. Client-participant further understands that Retirement Value, LLC relies on the direction and instruction of Client-participant as to the selection and amount of any re-sale life insurance policy interest participated in and that, by granting this power to Client-participant's Agent to exercise Client-participant's rights of discretion and instruction to Retirement Value, LLC, Client-participant does so at its own risk.

Client-participant hereby ratifies and confirms any and all transactions with Retirement Value, LLC heretofore and hereafter made by Client-participant's Agent on behalf of the Client-participant.

This authorization and indemnity is in addition to (and in no way limits or restricts) any rights which Retirement Value, LLC may have under any other agreement or agreements between the Client-participant and Retirement Value, LLC. This authorization and indemnity is continuing, and shall remain in full force and effect until revoked by the Client-participant via written notice addressed to and received by Retirement Value, LLC at 457 Landa Street, Suite B, New Braunfels, Texas 78130 (mailing address: P.O. Box 310635, New Braunfels, Texas 78131-0635). Any such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation.

This authorization and indemnity shall inure to the benefit of Retirement Value, LLC and any successors or assigns.

Client-participant understands fully the obligations which Client-participant has assumed by executing this Power of Attorney. Client-participant understands that Client-participant's Agent is not an agent, employee, partner or affiliate of Retirement Value, LLC and that Retirement Value, LLC is in no way responsible for any loss or damages occasioned by the actions or advice of the individual or organization named above.

**Licensee**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Dated: \_\_\_\_\_

**Client-Participant**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Dated: \_\_\_\_\_



**Request for Taxpayer  
Identification Number and Certification**

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out Item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, Item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



## Re-Sale Life Insurance Policies





Thank you for the privilege of allowing us to share our proprietary re-sale life insurance policy program with you. We believe both prospective Licensees and prospective Client-participants will want to know:

- All Client-participant funds are deposited in escrow accounts at **Wells Fargo Bank, NA** with a rich, storied, near-mythic legacy dating back to 1852. Naturally, their agreement to accept our deposits cannot be interpreted as and is not an endorsement of our program.
- All Client-participant funds are managed by **Kiesling, Porter, Kiesling & Free, P.C.**, a 40+ year-old law firm in New Braunfels, Texas, functioning as Escrow Agent. Retirement Value, LLC never handles any Client-participant funds at any stage of this program.
- Premium payments will be escrowed to cover **Life Expectancy ("LE") plus 24 months**. This means if an insured has an LE of 60 months, premiums will be escrowed for 84 months – and upon the death of the insured, all un-used premiums will be distributed on a pro-rata basis to all Client-participants in addition to the return of their initial basis plus expected gains.
- The fundamental data required in any Life Expectancy Report is thoroughly underwritten by and provided to us through **Midwest Medical Review, LLC** – an external, independent and totally-objective LE source very highly-regarded among insurance professionals.
- The re-sale policies exhibited by Retirement Value, LLC as immediately available for Client-participant selection are exactly that – they are available immediately. Each case in our "bouquet" has been sourced from a private investor who has been buying policies in the life insurance Secondary Market for over 14 years. On average, he and his staff review \$500 million in face amount / death benefit each week to make their selections; then execute formal policy purchase agreements to take ownership of each case; finally re-sell some of those policies to us after completion of their thorough due diligence.
- For potential Licensees reviewing this summary sheet – our policy source promises us up to \$30 million in face amount each week if needed, thus assuring your ability to meet the demands of even your very largest Individual and institutional Client-participants.
- Our high policy purchase volume assures Retirement Value, LLC exceptionally low policy purchase prices – thereby increasing the margin or "spread". We pass through to Client-participants outstanding base-line targeted gains as a result of this lower overhead.

We welcome this special opportunity to introduce you to a true "win-win" program and look forward to the privilege of serving you. Thank you for allowing us to "visit" with you this way!

Dick Gray  
President / CEO  
Retirement Value, LLC



## Re-Sale Life Insurance Policies

## An Overview

There really are no mysteries about or any complicated moving parts with re-sale life insurance policies owned by **Retirement Value, LLC**. We buy the death benefit of a life insurance policy at a deep-discount from the full "face amount". This "spread" or leveraging of our funds generates significant gains upon the passing of the insured - in which you participate on a pro-rata basis. This decades-old idea is just that straight-forward. Nothing more; nothing less!

Simply put, for almost twenty years "retail" or individual financial decision-makers have been able to enjoy the same spectacularly high gains previously realized for decades by only the very wealthy or by institutional / "wholesale" players in the secondary market for life insurance. These profit levels from the "spread" in such cases have been realized ever since selling the "death benefit" within a life insurance policy to an assignee was declared "legal" by the U. S. Supreme Court in 1911.

Client-participants in our re-sale life insurance policy program are "Irrevocable co-beneficiaries". As an irrevocable co-beneficiary, upon maturity of the policy due to the death of the Insured, you receive a pro-rata distribution of the death benefit. All policies in which you participate have been sold by individuals or companies who no longer wanted or needed the policy. The specific amount you receive at maturity is determined by your original participation amount plus your base-line targeted gain.

**HERE'S THE BOTTOM-LINE:** When an insured passes away, you are re-paid your original participation amount plus a gain, which we call your "base-line targeted gain". Your total at maturity could be higher if there are any un-used premiums to be refunded. These payments are made to you by **Kiesling, Porter, Kiesling & Free, P.C.**, our Escrow Agent — a 40+ year-old Texas law firm that independently manages all monies used for your participation.

## Re-Sale Life Insurance Policies

## Legal Foundation

One of the questions most frequently asked by someone considering participation in a re-sale life insurance policy is: "Is this legal?" Justice Oliver Wendell Holmes, Jr. [b.1841 d.1935] of the U.S. Supreme Court [appointed December 8, 1902, by President Theodore Roosevelt] answered 'Yes' when he penned the majority opinion for **GRIGSBY V. RUSSELL**, 222 U.S. 149 (1911) December 4, 1911. Justice Holmes stated with clarity on behalf of the entire high bench:

*"... it is desirable to give life policies the ordinary characteristics of property; to deny the right to sell... is to diminish appreciably the value of the contract in the owner's hands. It has been decided that a valid policy is not avoided by the cessation of the insurable interest..."*

**FOR 2008 THE RE-SALE LIFE INSURANCE MARKET WAS VALUED AT OVER \$12 BILLION.**



## Re-Sale Life Insurance Policies

## Financing Entity

Retirement Value ("RV") was selected by their exclusive Policy Financing entity to penetrate the re-sale market for reasons of integrity, professionalism, an unyielding pursuit for compliance, and an unsurpassed focus on detail.

RV's Financing Entity is one of the earliest participants in the Life Settlement market and has been one of the most consistent and largest private partakers since 1995. They were one of the leading estate planners and producers for the most prominent Life Insurance issuers in the US throughout the 1980s and 1990s and their entry into Life Settlements was by pure accident (as is the case with most of history's innovations). No one "created" Life Settlements; they just happened.

Their entry was a result of one of his estate planning clients wanting to let a policy lapse due to money constraints. Concerned about his client's plight, he went and met with her. She conveyed her financial situation and he offered her a substantial sum of money on the spot. The client was ecstatic as this was an option not previously open to her or anyone at that time. Leaving with the policy he'd just bought, and wondering aloud "what have I just done?" - this may have been the first "Life Settlement" ever transacted.

Since that date, they became active planners in developing the first wave of policies for secondary harvest. This came about as the result of many years as a prominent estate planner and seeing and analyzing the various life products on the market for the benefit of his prominent and wealthy clientele. The policies that were first presented (after contestability) were from life insurers that had been strategically selected for several characteristics, one of them being the lowest cost of insurance ("COI" charges). This led to a rapid increase in policies being written across a wide spectrum of elderly in the US as they went on road-shows across America to present the Life Settlement option for increasing life insurance sales.

Since then the Financing Entity has been selected to consult, underwrite, and perform the warehousing function for numerous funds involved in the management of public employee pensions and other international investment banking engagements. They have never been a target of any regulatory inquiry or litigation.

RV's Financing Entity has provided prefunded, policy warehousing at 0% interest for the re-sale life insurance policies we offer to clients.



## Re-Sale Life Insurance Policies

## Escrow Agent

Safeguarding and preserving both a Client-participant's basis and targeted income in a re-sale life insurance policy are essential components of our program. *Retirement Value, LLC* assures the total safeguarding and preserving of your basis and targeted income by using an independent Escrow Agent, *Kiesling, Porter, Kiesling & Free, P.C.*

### OUR ESCROW AGENT AS THIRD-PARTY FIDUCIARY

*Retirement Value, LLC* assures the total safeguarding and preserving of your money by using *Kiesling, Porter, Kiesling & Free, P.C.* in New Braunfels, Texas, a 40+ year-old law firm that functions as Escrow Agent to receive and process all funds for our re-sale life insurance policy cases.

The Escrow Agent also pays all premiums due on all policies and refunds to you on a pro-rata basis any un-used premiums remaining in escrow when the insured passes away.

All monies processed by *Kiesling, Porter, Kiesling & Free, P.C.* are deposited in escrow accounts held at *Wells Fargo Bank, N.A.* in New Braunfels, Texas.

At no time do any Client-participant funds come to, pass through, or get handled by anyone at *Retirement Value, LLC*. Also, participants in our re-sale life insurance policy program receive reports on a regular basis from *Retirement Value, LLC* and the Escrow Agent to verify that the proper premiums have been paid and the policies remain in-force.



## Re-Sale Life Insurance Policies

### "The Spread"

#### TOP OF "THE SPREAD" = INCOME

All death benefit pay-outs from the re-sale policies are paid only to *Kiesling, Porter, Kiesling & Free, P.C.* as beneficiary to protect you.

#### BOTTOM OF "THE SPREAD" = EXPENSES

- Cost of buying the policy
- Ongoing premium payments to maintain the policy
- Application fees for qualified-funds accounts
- Escrow Agent fees and bank costs
- Administrative and referral fees



*Re-sale life insurance policies* have few "moving parts". Client-participants are paid back all of their basis plus their pro-rata portion of "The Spread", or the difference between costs and the final pay-out when an insured dies.

Your funds allow *Retirement Value, LLC* to purchase and to own re-sale life insurance policies that already have been sold to a private investor by the original policy owner(s) or the original Insured(s). "The Spread" shows graphically how *Retirement Value, LLC* is able to pay you such a high income on your funds. Pay-back of all monies in a re-sale life insurance program occurs when the insured passes away. All un-used premiums held in escrow by *Kiesling, Porter, Kiesling & Free, P.C.* are refunded to Client-participants.



## Midwest Medical Review, LLC Life Expectancy Certificate

DATE: 3/25/2009

PATIENT: LNL789-031909-EK

SSN:

D.O.B.: 9/5/1927

AGE: 82

SEX: FEMALE

### PRIMARY DIAGNOSIS:

Hypertensive Heart Disease, Hypertension, Dyslipidemia, Overweight, Shortness of Breath, Colon Polyp, Dysphagia, and Osteopenia

### SUMMARY OF DIAGNOSES & RISK STRATIFICATION

Subject is an 82 year old, 5' 6" 182 lb Caucasian female found to have ongoing medical diagnoses, which currently do not indicate a life threatening scenario. Her medical history is significant for Hypertensive Heart Disease. Her Cardiac Comorbidities include Age, Postmenopausal Female, Hypertension, Overweight, Shortness of Breath, Dyslipidemia, and Inflammatory Processes. She has a history of Supraventricular Tachycardia following dental procedure. She has a history of Sinus Bradycardia with Non-specific ST-T wave changes. Her ECG from 2/08 showed sinus rhythm with occasional supraventricular premature complexes and possible left atrial enlargement. Her Stress Test from 4/05 showed an ejection fraction of 72% and was negative for ischemia. She has a history of being intolerant to some medication. She has a history of a Colon Polyp, Dysphagia, and Gastroenteritis. She has a history of Osteopenia which responded to therapy. She has a history of a Right Breast Fibroadenoma. She has a history of Uterine Prolapse with secondary Cystocele and Rectocele. Her Mammogram from 7/07 was with benign findings. Her Pap test from 8/07 was negative for malignancy. She has a history of Shingles. Surgical History includes Partial Vaginal Hysterectomy ('95), Breast Biopsy with benign findings (8/06), Tonsillectomy, and Colonoscopy S/P Polypectomy. Her Lipid Studies from 7/08 include Cholesterol 224 mg/dl, Triglycerides 101 mg/dl, HDL-Cholesterol 69 mg/dl, LDL-Cholesterol 144 mg/dl, and Cholesterol/HDL-Cholesterol Risk Ratio 3.3. Her Lipid Studies from 6/07 include Cholesterol 238 mg/dl, Triglycerides 126 mg/dl, HDL-Cholesterol 58 mg/dl, LDL-Cholesterol 141 mg/dl, and Cholesterol/HDL-Cholesterol Risk Ratio 4.1. Her Lipid Studies from 7/06 include Cholesterol 271 mg/dl, Triglycerides 100 mg/dl, HDL-Cholesterol 65 mg/dl, LDL-Cholesterol 186 mg/dl, and Cholesterol/HDL-Cholesterol Risk Ratio 4.2. Family History includes Father died age 80 Coronary Artery Disease and Mother died age 80 Coronary Artery Disease. Social History includes Married with 2 children, negative for tobacco and alcohol, and age appropriate exercise. Medications Listed include Aspirin, Antibiotics, Crestor, Celebrex, Benicar, Lipid, Omnicor, Lipitor, Welchol, Zocor, Zetia, Toprol XL, and Vitamins/Supplements. Given the Age of the Subject and her Medical Management with Compliance, her projected LE would be **42 Months** on available information. This does not mean that Ms. [Name] will not die sooner nor live longer than the time frame indicated. Clearly the factors outlined above have mortality implications.

This Review was compiled solely for  
other company.

and may not be used by any

Signed: *Chapman*  
GLENN S. CHAPMAN, M.D., DIRECTOR OF MEDICAL REVIEWS

Please note: A Life Expectancy cannot be precisely determined for any specific patient, but rather is the average life expectancy of a large group of patients with similar clinical and individual profiles. No one can guarantee or warrant the accuracy of any patient's precise life expectancy. The information contained in this forecast is provided as confidential information for the use of the individual or entity named.



RETIREMENT VALUE, LLC									
FOR REFERENCE ONLY.									
Current 10-case bouquet available for client participation									
SAMPLE OF A RECENT BOUQUET.									
POLICY CODE	ISSUING COMPANY	ISSUED GENDER	AGE AT ISSUANCE	PROJECTED LIFE EXPECTANCY	LEADERSHIP DATE	ANNUAL PREMIUM	RESERVE VALUE	RESERVE VALUE FOR FUTURE	RESERVE VALUE FOR FUTURE
LT1699-102209-AT	Lafayette Life	MALE	75	64 months	02/15/2009	\$1,703,230	16.50%	86.00%	
AXA826-110509-IC	AXA Equitable	MALE	78	60 months	11/23/2009	\$183,417	16.50%	82.50%	
SLA338-112009-CD	Sun Life Assurance	FEMALE	82	59 months	06/12/09	\$1,103,600	16.50%	81.13%	
JPI002-102309-RB	Jefferson Pilot	FEMALE	81	53 months	10/15/2008	\$809,109	16.50%	72.88%	
AXA346-112009-QR	AXA Equitable	FEMALE	83	62 months	11/20/2009	\$1,743,600	16.50%	71.60%	
JPI272-112009-PS	Jefferson Pilot	FEMALE	80	49 months	11/20/2009	\$694,600	16.50%	67.38%	
PL1930-111109-J9	Pacific Life	MALE	79	49 months	10/26/2009	\$2,043,900	16.50%	67.38%	
AXA728-112009-ST	AXA Equitable	FEMALE	80	49 months	11/18/2009	\$1,002,680	16.50%	67.38%	
JPI183-111109-MR	Jefferson Pilot	MALE	82	40 months	10/30/2009	\$2,873,060	16.50%	55.00%	
PL1140-111109-OM	Pacific Life	MALE	83	38 months	11/11/2009	\$4,928,239	16.50%	52.25%	
									\$39,550,000
									\$16,894,943
									10.5% annually x total LE in years

RETIREMENT  
VALUE, LLC

RETIREMENT VALUE, LLC Client participation example and base-line targeted income during ten years									
Case: LL1899-102209-AT Page 75 @ 64-month Life Expectancy w/ \$7,000,000 face amount and annual premiums of \$204,944 collected through month 88									
Client Income: 16.5% simple annual income during 64 month Life Expectancy = 88.00% base-line targeted income -extended and adjusted for a period of ten years									
Basis: Client base-line targeted income = simple annual income @ 16.5% x a Life Expectancy of 64 months -plus pro-rata premium refunds /minus pro-rata premium payments									
Assumptions: \$10,000 participation x 1.8800 = \$18.80 total return at maturity = 0.2885% share of the face amount = \$550.42 annual pro-rata premium share >88 months									
At the end of Year 1	At the end of Year 2	At the end of Year 3	At the end of Year 4	At the end of Year 5	At the end of Year 6	At the end of Year 7	At the end of Year 8	At the end of Year 9	At the end of Year 10
122.86%	117.36%	111.85%	106.35%	100.84%	95.34%	89.83%	84.33%	78.83%	73.33%
\$22,286	\$21,736	\$21,185	\$20,635	\$20,084	\$19,534	\$18,983	\$18,433	\$17,883	\$17,333
Client Income is higher than the "base-line targeted income" of 16.5% at the end of each year because of the favorable re-distribution of the extended premiums in the interest account when the interest date.									
58.88%	58.88%	58.88%	58.88%	58.88%	58.88%	58.88%	58.88%	58.88%	58.88%
\$21,736	\$21,736	\$21,185	\$20,635	\$20,084	\$19,534	\$18,983	\$18,433	\$17,883	\$17,333
Percentages or dollars through year seven reflect a required pro-rata refund of unused premiums. All percentages or dollars after month 88 reflect a pro-rata payment of a share of premiums by this client. Example: In this example, maturity at the end of year #1 would result in \$3,486.00 extra for this client as a refund of unused premiums. If year total return is then 122.86% shown rather than 88.00%.									

Unofficial



## Re-Sale Life Insurance Policies

## Our Management Team

### **Dick Gray** – Founder / President / CEO

Mr. Gray has held these positions since company start-up and remains very active in guiding the public presentation of the proprietary re-sale life insurance policy model he helped pioneer. Dick has helped clients make wise money decisions in hard financial times for the past 35 years and has been a licensed insurance agent for over 18 years. Personal participation in the re-sale life insurance policies for his own retirement planning reinforces his credibility when assisting numerous clients in doing the same. After earning an A. B. degree in political science and a Master of Divinity degree — and prior to the start of his business career — Dick proudly completed four years of U.S. Army active duty as a Chaplain, which included 13 months of decorated field duty in Viet Nam.

### **Wendy Rogers** – Vice President, Administration and Services

Mrs. Rogers supervises our Client Services Department while contributing personally to the development, design and implementation of all marketing and print materials; she also coordinates all computer and information technology needs. Wendy manages the massive data accumulation an operation like ours generates and assures client privacy, while providing timely on-line access for licensees and clients alike to all information needed for a satisfying business relationship with us. She combines 10 years of service in the insurance, financial planning, and banking industries with several years of re-sale policy sales experience. Wendy's B.S. in Agribusiness was earned at Texas A&M University — College Station, and she also has earned a Master of Business Administration.

### **Bruce Collins** – Chief Operating Officer

Mr. Collins brings to this crucial position many years of success and achievement in the general financial services industry, including work as a registered rep, and over five years of directly-relevant success within our re-sale / life settlement industry as a Master Licensee and top-level player for our product line with another company. Mr. Collins coordinates all Licensee administration, policy-making decisions, and implementing execution for all "field" activities. He currently holds a Series 62, 6, and 7 licensing. Mr. Collins resides in Grand Prairie, TX, placing him at the financial epicenter of so much of the explosive growth and success at Retirement Value, LLC.

### **Katie Hensley** – Director of Finance

Mrs. Hensley is the primary point of contact for all Licensee commission matters at Retirement Value, LLC. Ongoing administration of all commissions and invoicing of all commission payments to the Escrow Agent; coordinating development of sales hierarchies; placing client funds on the specific policies your Clients select; recommending new policies to be placed on the bouquet — these are just a few of the duties she performs efficiently and accurately. Katie holds a Bachelor of Business Administration from Texas A&M University-Kingsville.

### **Jeremy Gray** – Director of Policy Administration

Mr. Gray coordinates all policy acquisition and is the point of contact between our policy supplier and Kiesling, Porter, Kiesling & Free, P.C. He also maintains constant communication with all life insurance carriers that have issued policies that Retirement Value currently owns. He continually negotiates premium payments to cover the cost of insurance with these carriers for each policy and invoices the premium payments through our Escrow Agent to be paid to the appropriate insurance carriers.

### **DeAnne Lewis** – Manager of Client Services

Mrs. Lewis and her expanding staff "scrubs" all in-bound client paperwork sent to us by the Escrow Agent. She coordinates the flow of all communications with the Licensees, Escrow Agent, and the selected Custodian for all qualified funds. Mrs. Lewis joined our team with over 6 years of experience in the legal field with the two largest law firms in Austin, Texas, both as a Word Processing Supervisor and as a Legal Secretary in Insurance Defense Litigation.



457 Landa Street, Suite B, New Braunfels, TX 78130 • Phone: (830) 624-8858 / (210) 832-9040 • Fax: (866) 498-4644 • [www.retirementvalue.com](http://www.retirementvalue.com)

### **Check List for Qualified Funds Loan Agreement**

#### **Complete set of documents found online through Retirement Value, LLC:**

- \_\_\_\_\_ 1. IRA Owner's Loan Agreement
- \_\_\_\_\_ 2. IRA Owner's Policy Participation Agreement and Exhibit A
- \_\_\_\_\_ 3. IRA Owner's Suitability Form
- \_\_\_\_\_ 4. Loan Disclosure Acknowledgment
- \_\_\_\_\_ 5. Limited Power of Attorney (IRA Owner for R.V., LLC)
- \_\_\_\_\_ 6. Special Power of Attorney (IRA Owner for Licensee)
- \_\_\_\_\_ 7. Wiring Instructions
- \_\_\_\_\_ 8. Refer to Current 10-Case Borrower Spreadsheet to verify amount of participation available for Client (download latest spreadsheet from [www.retirementvalue.com](http://www.retirementvalue.com) website)

#### **Items to be included from IRA Owner when completing forms:**

- \_\_\_\_\_ 9. 155% copy of Driver's License or other government-issued PHOTO ID  
(must include current address - if current address is different, a letter of explanation is required)
- \_\_\_\_\_ 10. Current or most recent statements from CURRENT Custodian(s)
- \_\_\_\_\_ 11. Custodian paperwork - **EITHER** IRA PLUS SOUTHWEST, LLC or PROVIDENT GROUP
- \_\_\_\_\_ 12. If loan proceeds (both checks & wire transfers) are **made payable to:**  
(one or the other)  
IRA Plus Southwest, LLC, FBO IRA Owner's Name IRA # \_\_\_\_\_  
or  
Provident Group, FBO IRA Owner's Name IRA # \_\_\_\_\_

(Please fill out all forms **completely** and call with any questions - (830) 624-8858)

PLAINTIFF'S  
EXHIBIT

B



457 Landa Street, Suite B, New Braunfels, TX 78130 • Phones: (830) 624-8858 / (210) 832-9040 • Fax: (866) 498-4644 • [www.retirementvalue.com](http://www.retirementvalue.com)

## **LOAN AGREEMENT**

### **Individual Retirement Account**

Effective Date: \_\_\_\_\_  
(Manager of RV, LLC will date)

This Agreement is being entered into by and between:

Retirement Value, LLC, a Texas limited liability company, whose principal address is 457 Landa Street, Suite B, New Braunfels, Texas 78130 (mailing address: P.O. Box 10635, New Braunfels, Texas 78131-0635) (hereinafter referred to as "Agent")

AND

Individual Retirement Account # \_\_\_\_\_ ("Lender") maintained for  
The benefit of \_\_\_\_\_ ("IRA Owner")  
(Name of IRA Owner)

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Custodian of Record ("Custodian"): (please choose one)

☐ IRA Plus Southwest, LLC, whose mailing address is 8226 Douglas Avenue, Suite 332, Dallas, TX 75225 and whose telephone number is (800) 473-1977; or

☐ Provident Group, whose address is 7345 S. Durango Drive, Suite B107-356, Las Vegas, Nevada 89113 and whose telephone number is (702) 434-0023.

"Loan" amount in the sum of \_\_\_\_\_  
(write out amount)

WHEREAS, Agent is in the business of purchasing and being sole owner of re-sale life insurance policies acquired from various re-sale life insurance policy sources;

WHEREAS, the IRA Owner has reviewed and authorized an Agreement for a non-recourse Loan from IRA Owner's Individual Retirement Account for use by Agent in acquiring, purchasing and being sole owner of a certain re-sale life insurance policy or policies;

WHEREAS, IRA Owner approves and adopts the standard(s) used by Agent to evaluate, qualify, acquire, purchase and solely own a re-sale life insurance policy or policies;

WHEREAS, IRA Owner approves of collateralizing the Loan with a pro-rata death benefit in IRA Owner-selected re-sale life insurance policy or policies solely owned by Agent;

WHEREAS, IRA Owner understands and agrees that Loan proceeds used by Agent and the process followed by Agent in acquiring, purchasing and becoming sole owner of a re-sale life insurance policy or policies is not considered to be a security. Therefore, the IRA Owner authorizes a Loan for the purposes outlined herein which in no way is considered or construed to be participating in any type of security.

NOW, THEREFORE, all Parties wish to enter into a mutual agreement by which the Agent will accept Loan proceeds from the Lender through an Individual Retirement Account for use in acquiring, purchasing and being sole owner of a re-sale life insurance policy or policies, said Loan proceeds to be collateralized with a pro-rata death benefit in one or more re-sale life insurance policies pursuant to the IRA Owner's authorization as set forth in the Loan Agreement(s) and IRA Owner's Policy Agreement(s).

#### **General Disclosure to Agent - Terms of Loan**

1. Lender is entering into a Loan Agreement whereby Lender will Loan to Agent certain funds from an Individual Retirement Account of which the IRA Owner is the beneficial owner, said Loan proceeds to be used by Agent to acquire, purchase and be sole owner of a re-sale life insurance policy or policies and for the use of a law firm of Kiesling, Porter, Kiesling & Free, P.C., 348 East San Antonio Street, New Braunfels, Texas 78130 (hereinafter referred to as "Escrow Agent") will become the Escrow Agent. As instructed by IRA Owner, Lender will disburse to the Escrow Agent certain funds to be collateralized with a pro-rata death benefit based on the combined value of the Loan and a base-line expected income. This Loan will fund the following activities: (a) purchase of a re-sale life insurance policy or policies by Agent; (b) payment of premiums by the Escrow Agent to maintain at all times the in-force status of the re-sale life insurance policy or policies after purchase; (c) payment of administrative costs and fees associated with this transaction, including a "death tracking" service, commissions, escrow agent and bank fees and interest payments as needed.

2. The person whose life insurance policy has been sold is called the Insured and this person remains the Insured on a re-sale life insurance policy but no longer is the beneficiary for that policy. The Insured and his / her designated beneficiaries have given up all rights and interest in the death benefit of the re-sale life insurance policy or policies.

3. Re-sale life insurance policies are policies that already have been sold on the open market by the original Insured or the original owner, with the Agent as the new policy owner purchasing the death benefit of a life insurance policy at a discount to the "face value" or death benefit of the

policy; said purchase usually made from another investor / owner and not directly from the Insured or original owner. In a re-sale life insurance policy agreement, the Insured typically is of advanced age with a Life Expectancy ("LE") of between 3 and 10 years. This document will refer to these transactions collectively as "re-sale life insurance policies".

4. IRA Owner may instruct Lender to Loan funds to facilitate the purchase of an entire re-sale life insurance policy, to participate in only one policy, or spread the Loan proceeds over several policies. If this Loan funds the acquisition, purchase and sole ownership by Agent of more than one policy, it is understood that the Agent may obtain the balance of the purchase price and other associated costs, fees and expenses from additional Client-Participants and / or IRA Owners. When the Insured passes away, Custodian on behalf of the Lender will receive back: all of the original loan, the base-line expected interest for the Loan, and any pro-rata refund of unspent premium funds associated with the policies acquired because of this Loan.

5. Agent will collateralize this Loan by giving Lender an assignable pro-rata death benefit in each re-sale life insurance policy outlined in the IRA Owner's Policy Agreement, said death benefit portion being equal to the original Loan proceeds plus a base-line expected interest payment determined by the Life Expectancy of each Insured. This collateralized value is maintained by and administered for each Lender by the Escrow Agent until the policy matures due to the death of the Insured. Understand it is possible that at the time the Loan is extended for any re-sale life insurance policy, said policy may have been fully subscribed. In this situation, Agent will notify Lender through the Custodian, IRA Owner, and IRA Owner's Licensee immediately and will, pursuant to the terms of the IRA Owner's Policy Participation Agreement, offer Lender an opportunity to provide Loan proceeds for a policy of a higher or greater total value based on the policy face amount and the Life Expectancy of the Insured.

6. Understand that no one can predict with 100% accuracy the actual LE of any Insured. Some factors that may affect the accuracy of an LE prediction are: (a) the experience and qualification of the medical personnel setting the LE, (b) the nature of the Insured's illness(es) or health condition(s), (c) future improvements in medical treatment(s) and cures. In this context, the net Loan interest may vary substantially from the base-line expected interest because true net interest would be higher if the Insured passed away earlier than the expected LE or it would be lower if the Insured passed away later than the expected LE. If the Insured passes away earlier than expected, the Lender will receive on behalf of the IRA Owner for redeposit in the Individual Retirement Account a pro-rata refund of the escrow amounts which were not used from the Loan to pay premiums.

7. This Loan transaction may have tax consequences for IRA Owner and the Individual Retirement Account. IRA Owner is authorizing Lender to Loan a sum of money upon which Agent will pay a base-line expected interest in accordance with the IRA Owner's Policy Agreement. The net interest credited by this Loan will be paid to the Lender when the re-sale life insurance policy or policies mature due to the death of the Insured. IRA Owner will need to consult with a tax advisor regarding this Loan so there is complete understanding of the tax implications of this Loan transaction.

8. Monies used for the Loan in this program are not liquid during the entire term as outlined in the IRA Owner's Policy Agreement. Therefore, great care should be exercised and great caution



observed in determining a proper, balanced Loan amount for use in this re-sale life insurance policy transaction.

9. Please note, especially, that if IRA Owner passes away during the term of the Loan Agreement, the beneficiary(ies) or contingent beneficiary(ies) of the Individual Retirement Account will inherit / acquire the Loan Agreement - but said Loan Agreement remains in-force until maturity due either to: (a) the passing of the Insured or (b) pay-out by the insurer. This Loan Agreement never results in a "cash disbursement" to any beneficiary(ies) or contingent beneficiary(ies) until maturity. The death of the Insured - not the death of the IRA Owner - determines the maturity date of this Loan Agreement and it is the obligation of IRA Owner to so inform all beneficiary(ies) and contingent beneficiary(ies).

10. Whenever maturity occurs due to the passing of the Insured, even if the Insured's passing is prior to the expiration of the calculated LE, the Loan Agreement will result in the Individual Retirement Account receiving a full return of all the original Loan amount plus all promised base-line expected interest. Example: if the entire term of the Loan Agreement is 48 months and the policy matures after 12 months due to the death of the Insured, along with the original Loan amount, the full 48-month interest accrual will be paid to the Lender, as well as a pro-rata share of any unused premiums remaining in the policy escrow sub-account.

11. In the event that the Insured lives beyond the Life Expectancy plus another twenty-four (24) months and in the unlikely event that the policy escrow sub-account managed by the Escrow Agent becomes depleted, then upon the depletion of said premium-paying escrow sub-account it may become necessary to contact the Lender through the Custodian and the IRA Owner to have IRA Owner authorize Lender to pay to the Escrow Agent, on a pro-rata basis, future premiums that may become due until the Insured passes away. Therefore, sufficient funds must be allocated within the Individual Retirement Account to meet this unlikely, but possible future need. These additional premium payments are not part of the original Loan amount and will not be paid back at maturity.

INITIAL HERE

IRA Owner to initial

12. Since this Loan is funded by an Individual Retirement Account, IRA Owner may want to consult with a tax advisor or a Custodian regarding additional amounts to be advanced if the Insured lives beyond the Life Expectancy and future pro-rata premium payments must be made to keep the re-sale life insurance policy or policies from lapsing. It may be necessary for IRA Owner to retain some reserves in the Custodial Account to pay possible future premiums.

13. The Agent is a viable company whose business activities include the purchase of re-sale life insurance policies. Agent has no prior knowledge of IRA Owner's investment experience or IRA Owner's financial wherewithal to approve this Loan transaction. The IRA Owner's decision to enter into this transaction will be based on his / her own independent investigation; still, Agent takes the following specific steps to safeguard the Loan funds:

- (a) Only insurance carriers rated "A-" or better by A.M. Best are used for this re-sale life insurance loan program;
- (b) All Loan proceeds are maintained by or pass through the Escrow Agent and are deposited in a cash or cash equivalent account with Wells Fargo Bank, N.A., 1000 North Walnut Street, New Braunfels, Texas 78130 (hereinafter the "Escrow Account") in an FDIC-Insured account, to be used for the purpose of enabling Agent to purchase a re-sale life insurance

policy or policies owned solely by the Agent; the payment of premiums and other necessary payments peculiar to the Agent taking ownership of a policy. Notwithstanding, re-sale life insurance policies are not endorsed by any bank; outcomes are not guaranteed by any bank; and this is not an FDIC-Insured financial transaction.

- (c) Loan proceeds used by Agent to purchase a re-sale life insurance policy or policies noted in the IRA Owner's Policy Agreement are transferred to and exclusively handled by Pacific Northwest Title Company of Oregon, 111 Southwest Columbia Avenue, Suite 100, Portland, Oregon 97201.
- (d) Monies accumulated for paying all premiums due for a re-sale life insurance policy or policies owned by Agent are maintained in escrow sub-accounts at Wells Fargo Bank, N.A. and administered by the Escrow Agent.
- (e) Interest from all Escrow Accounts will be the property of the Agent, being part of the Agent's fee structure and will not be owned by or distributed to Lender for re-deposit in IRA Owner's Individual Retirement Account.
- (f) Agent or its Escrow Agent will not in any way use Loan proceeds in any manner whatsoever other than what is directed by the IRA Owner.

14. IRA Owner hereby represents and warrants to Agent that IRA Owner is sufficiently sophisticated in financial matters of this type to make an independent, informed, wise and balanced decision to participate in a Loan involving a re-sale life insurance policy. IRA Owner further represents and warrants that this matter has been thoroughly reviewed with his / her Retirement Value, LLC Licensee. IRA Owner further represents and warrants that he / she has access to professional investment advice by adequate means of providing for current and future financial needs and possible contingencies; has no need for liquidity in this Loan; is able to bear the risk of a Loan in a policy or policies for an indeterminate period of time; could afford a complete loss of the Loan; and is committing to a Loan amount which bears a reasonable relationship to IRA Owner's total net worth.

IRA Owner to initial

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#### Affirmative Representations of IRA Owner

1. IRA Owner hereby certifies that he / she has read and understands the above. IRA Owner further hereby confirms that \_\_\_\_\_ (Licensee) has explained fully this Loan Agreement for a re-sale life insurance policy and all associated risks.
2. IRA Owner further acknowledges that he / she has carefully examined his / her financial resources, investment objectives, and tolerance for risk and that after considering the benefits and risks associated with this Loan Agreement, freely authorizes and directs the Lender to execute this transaction with Agent using funds from an Individual Retirement Account.
3. IRA Owner has been given the opportunity to ask questions of and receive answers from Agent concerning the terms and conditions of this Loan Agreement and any other matters pertaining to this transaction, and IRA Owner has had the opportunity to obtain such additional data necessary to verify the accuracy of the information contained herein and satisfy his / her due diligence efforts in this transaction in order for him / her to evaluate the merits and risks of this Loan Agreement.
4. IRA Owner further represents that he / she fully understands the risks associated with this transaction either by independent analysis or as explained by one or more professionals, trusted financial advisors and / or attorneys not affiliated with or in any way associated with or compensated by Agent or its affiliates.

5. IRA Owner further represents that he / she has adequate means to provide for his / her current and future financial needs and personal contingencies; that he / she has no need for liquidity in the participation of this transaction and that he / she is able to bear the financial risk described in this Loan Agreement for the determined period of time; that he / she has had adequate time to seek legal, tax and investment advice.

6. IRA Owner will maintain the confidentiality of all medical and insurance information received in connection with Agent's purchase and sole ownership of the re-sale life insurance policy or policies at issue in this transaction.

7. IRA Owner understands and agrees that the Loan Agreement and the IRA Owner's Policy Agreement are of a "buy and hold" nature; that there is no offer made or any offer implied of liquidity during the entire period of the Loan Agreement or the IRA Owner's Policy Agreement; that Agent offers no buy-back guarantee; that the IRA Owner understands that even upon his / her death, a contingent beneficiary(ies) "inherit(s)" the Loan Agreement and the IRA Owner's Policy Agreement but must wait for its full maturity before realizing any "cash" distribution from this re-sale life insurance policy Loan.

8. IRA Owner represents and warrants that this Loan Agreement is executed by Lender at the instruction of and with the approval of IRA Owner for his / her exclusive gain through an Individual Retirement Account and that IRA Owner will not "sell", assign or distribute this Loan Agreement to any other person or entity.

9. IRA Owner represents and warrants that he / she has not relied on Agent for any legal, tax or investment advice for this Loan Agreement. Further expressly stated, inferred or assumed. IRA Owner further represents and warrants that he / she has such knowledge and experience in financial, investment and business matters in general so that he / she is capable of evaluating the risks and merits before entering into this Loan Agreement and directing Lender to complete this transaction with Agent.

10. IRA Owner has not relied exclusively and only on any statements, representations or warranties, whether verbal or written, made by Agent, its Licensees or employees, with respect to his / her decision to authorize this Loan Agreement.

11. IRA Owner further represents that the information contained herein is true, complete and accurate and may be relied on by Agent in entering into the transaction described herein.

#### **Mutual Agreement**

The Parties agree that this transaction will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. IRA Owner and Agent agree that all claims, disputes, controversies, differences or other matters in question arising out of the relationship between IRA Owner and Agent (and its officers, directors, agents and / or employees), whether related to the Loan Agreement, IRA Owner's Policy Agreement, or otherwise shall be settled finally, completely and conclusively by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, by one or more arbitrator, chosen in accordance with the Rules. The decision of the arbitrator(s) shall be final and binding on all parties. Any arbitration held in accordance with this paragraph shall be private and confidential. On request of either party,

the record of the proceeding shall be sealed and may not be disclosed except insofar, and only insofar, as may be necessary to enforce the award of the arbitrator(s). The prevailing party shall be entitled to recover all reasonable and necessary attorney's fees and costs from the non-prevailing party.

**Acknowledged by:**

**AGENT:**

**RETIREMENT VALUE, LLC**  
a Texas limited liability company

\_\_\_\_\_  
Manager's signature

\_\_\_\_\_  
Print Manager's name

**IRA Owner:**

**IRA Owner's Release Authorization for:**

☐ Traditional IRA ☐ Roth IRA ☐ SEP IRA ☐ Simple IRA ☐ Beneficiary IRA (check one)

\_\_\_\_\_  
IRA Owner's signature

gH MRE

Social Security # \_\_\_\_ / \_\_\_\_ / \_\_\_\_

\_\_\_\_\_  
Print IR Owner's

Date of birth: Month \_\_\_\_ Day \_\_\_\_ Year \_\_\_\_

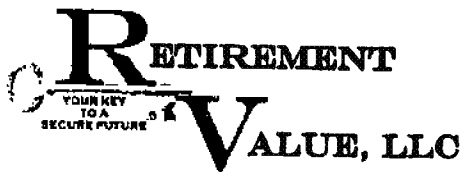
Date: \_\_\_\_\_

Place of birth: \_\_\_\_\_  
City & State or City & Country if not U.S.

Photo ID type: \_\_\_\_\_

Photo ID number: \_\_\_\_\_

Expires on: Month \_\_\_\_ Day \_\_\_\_ Year \_\_\_\_



457 Landa Street, Suite B, New Braunfels, TX 78130 • Phones: (830) 624-8858 / (210) 832-9040 • Fax: (866) 498-4600 • [www.retirementvalue.com](http://www.retirementvalue.com)

## IRA OWNER'S POLICY PARTICIPATION AGREEMENT

Effective Date: \_\_\_\_\_

(Manager of RV, LLC will date)

### **IRA FUNDS ONLY:**

USD\$ \_\_\_\_\_  
(total loan amount)

This IRA Owner's Policy Participation Agreement (hereinafter referred to as "Agreement"), effective no earlier than the date fully executed by all Parties (hereinafter referred to as "Effective Date"), is being entered into by and between Retirement Value, LLC, a Texas limited liability company, whose principal address is 457 Landa Street, Suite B, New Braunfels, Texas 78130 (mailing address: P.O. Box 310635, New Braunfels, TX 78111-0635) (hereinafter referred to as "Agent"), and

IRA Owner's name: \_\_\_\_\_

IRA Owner's address for service of this Agreement: \_\_\_\_\_

(hereinafter referred to as "IRA Owner"). Collectively, Agent and IRA Owner are referred to herein as "the Parties."

### Recitals

The Parties have entered into a Loan Agreement under which the IRA Owner authorizes the Lender to extend a Loan to the Agent for the purpose of acquiring, purchasing and solely owning re-sale life insurance policies. IRA Owner is entitled to select policies from the list of re-sale life insurance policies Agent will acquire, purchase and own using the Loan proceeds released from IRA Owner's Individual Retirement Account in which IRA Owner will hold an irrevocable pro-rata death benefit interest in for the use of said Loan by the Agent. IRA Owner has appointed Agent as his / her agent and attorney-in-fact to assist in consummating this Loan transaction approved by the IRA Owner.

In consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt of which is acknowledged, the Parties agree as follows:

**SECTION 1**  
**EFFECTIVE DATE**

- 1.1 **Effective Date.** This Agreement shall not be effective until Loan proceeds are transferred from the IRA Owner's Individual Retirement Account, received into the Master Escrow Account maintained by Escrow Agent at Wells Fargo Bank, N.A., in New Braunfels, Texas, and the Agreement has been approved by Agent on a reasonable and timely basis.

**SECTION 2**  
**AGENT'S RIGHTS AND OBLIGATIONS**

- 2.1 During the Term of this Agreement, Agent shall:
- (a) provide to IRA Owner and Custodian all documentation pertinent to the use of the Loan by Agent;
  - (b) provide a copy of this Agreement to the designated Escrow Agent; and
  - (c) create and maintain accurate records for IRA Owner and Custodian that pertain to the use of the Loan by Agent and from time to time, as appropriate, provide reports to both IRA Owner and Custodian.
- 2.2 **No Additional Duties.** Except as set forth in Paragraph 2.1, Agent shall have no other duties or obligations to IRA Owner or Custodian other than to use reasonable efforts to assist IRA Owner and / or Custodian as requested.
- 2.3 **Right to Grant Security Interests.** ~~Agent may grant to additional client participants and additional IRA Owners a fractional participation in the re-sale life insurance policy, provided that Agent will not allow the combined fractional participation to exceed the face amount or death benefit of the re-sale life insurance policy.~~

**SECTION 3**  
**IRA OWNER'S RIGHTS AND OBLIGATIONS**

- 3.1 **IRA Owner's Loan Protection.** IRA Owner's Loan shall be collateralized and protected with an irrevocable pro-rata death benefit in each re-sale life insurance policy acquired by Agent using the Loan proceeds approved by IRA Owner and advanced by Lender. Said irrevocable pro-rata death benefit shall be detailed and set forth in Exhibit A, attached hereto.
- 3.2 **No investment in a life insurance contract.** The Agent alone shall have complete and sole ownership of each and every re-sale life insurance policy enumerated in Exhibit A, each such re-sale life insurance policy acquired and purchased by using the Loan proceeds authorized by the IRA Owner. No part of this Loan transaction ever gives the Individual Retirement Account ownership in any re-sale life insurance policy. This Loan transaction intends

always to honor and has been specifically constructed to honor the U.S. Tax Code Sec. 408(a)(3) prohibition against Individual Retirement Accounts being invested in life insurance contracts.

- 3.3 **Settlement.** Upon maturity of each selected re-sale life insurance policy at the death of the Insured, Lender on behalf of IRA Owner will receive a settlement from the Escrow Agent consisting of: (a) a full refund of all original net Loan proceeds; (b) payment of all earned interest for the use of the funds until policy maturity; and (c) a pro-rata refund of any unused premiums from the escrow sub-account for each policy at Wells Fargo Bank, N.A.
- 3.4 **Payment Terms.** Terms of payment are as provided in the Loan Agreement currently in effect between the Parties.
- 3.5 **Associated Costs.** IRA Owner acknowledges that all Loan proceeds will be used to cover all costs associated with the acquisition, purchase and sole ownership by Agent of a re-sale life insurance policy or policies, to include cost of purchase of the re-sale life insurance policy; paying premiums on the re-sale life insurance policy; and paying administrative costs and any other fees associated with the re-sale life insurance policy, including commissions.
- 3.6 **Confidentiality.** IRA Owner agrees not to disclose any identifying information about the Insured to any person except as necessary to enable Agent to execute the Loan Agreement and Policy Agreement.
- 3.7 **No Contact With Insured.** IRA Owner agrees not to contact the Insured third party named in the re-sale life insurance policy and acknowledges that, under Texas law, only Agent (if Agent is a Provider), or the Agent's designee, can contact Insured parties to determine health status.
- ~~3.8 **Additional Premiums if Necessary.** In the event of the depletion of the premium-paying escrow sub-account, IRA Owner will be requested to authorize Lender to advance additional monies on a pro-rata basis to help pay future premiums until the Maturity Date. IRA Owner's failure to authorize such additional monies under these circumstances will result in total forfeiture of IRA Owner's interest in the re-sale life insurance policy or policies and will result in the loss of both the full, initial Loan proceeds as well as expected interest payments on the Loan. Agent will thereafter have the right to offer IRA Owner's interest in the re-sale life insurance policy or policies to another person for payment of the necessary premium contribution amount.~~
- 3.9 **Waiver of Right to Disclosure.** IRA Owner waives any right of disclosure that IRA Owner may possess from Agent relating to Agent's fees paid to its policy supplier, any broker, attorney, and / or necessary service company(ies), accountant(s) or consultant(s) in the acquisition of the re-sale life insurance policy.

**SECTION 4**  
**IRA OWNER'S ACKNOWLEDGEMENTS**

**4.1 IRA Owner agrees and acknowledges that:**

- (a) fees and commissions paid to Agent for the acquisition and performance of purchasing and re-selling the re-sale life insurance policy are included in the IRA Owner's initial Loan proceeds;
- (b) any interest gained from the aggregate of IRA Owner's Loan proceeds in the Escrow Account(s) will become the property of Agent and become part of Agent's fees for assisting in the acquisition of the re-sale life insurance policy;
- (c) all re-sale life insurance policies that are the subject matter of this IRA Owner's Policy Agreement are of a "buy and hold" and illiquid nature;
- (d) in the event of IRA Owner's death, the rights under the Loan Agreement and IRA Owner's Policy Agreement shall transfer to IRA Owner's Individual Retirement Account beneficiary(ies) and / or contingent beneficiary(ies), but those beneficiaries must wait for the Maturity Date before realizing any "cash distribution" from said Account;
- (e) IRA Owner will receive a pro rata death benefit settlement of any and all proceeds paid under the terms of the re-sale life insurance policy upon the death of the Insured(s) named in the re-sale life insurance policy ("Maturity");
- (f) Agent has not provided or guaranteed any of the following: (i) a specific interest on Loan proceeds; (ii) a specific amount to be paid to the IRA Owner's Individual Retirement Account; (iii) a "buy back" guarantee, or (iv) a specific date of Maturity; and
- (g) IRA Owner has reviewed the re-sale life insurance policy confidential information and has elected to authorize a Loan from his / her Individual Retirement Account to permit the Agent to acquire, purchase and become sole owner of the re-sale life insurance policy or policies enumerated in Exhibit A.

**SECTION 5**  
**MISCELLANEOUS**

- 5.1 Governing Law.** The rights and obligations of the Parties under this Agreement shall be governed by and construed in accordance with laws of the State of Texas, without reference to conflicts of law principles.



- 5.2 **Venue.** Venue for any lawsuit arising out of this Agreement shall be in Comal County, Texas and, in the case of federal jurisdiction, in the United States District Court for the Western District of Texas, San Antonio Division.
- 5.3 **Amendment.** The terms and conditions of this Agreement may only be amended by a writing signed by the Parties.
- 5.4 **No Waiver.** Except as expressly provided herein, the rights and remedies herein provided shall be cumulative and not exclusive of any other rights or remedies provided by law or otherwise. Failure by a Party to detect, protest, or remedy any breach of this Agreement shall not constitute a waiver or impairment of any such term or condition, or the right of such Party at any time to avail itself of such remedies as it may have for any breach or breaches of such term or condition. A waiver may only occur pursuant to the express written permission of an authorized officer of the Party against whom the waiver is asserted.
- 5.5 **Severability.** In the event any term, condition, or provision of this Agreement is declared or found by a court of competent jurisdiction to be illegal, unenforceable, or void, the Parties shall endeavor in good faith to agree to amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the Parties fail to agree on such amendments, such invalid term, condition, or provision shall be severed from the remaining terms, conditions, and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.
- 5.6 **Assignment.** Except as otherwise provided herein, neither this Agreement nor any rights granted hereunder may be assigned or otherwise transferred by any Party, in whole or in part, whether voluntarily or by operation of law. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
- 
- 5.7 **Notices.** Any notice permitted or required under this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by registered or certified mail, postage prepaid, or (iii) sent by facsimile, and addressed as follows:

**To IRA Owner:**

Use address for IRA Owner as specified on Page 1 of this Agreement.

**To Agent:**

Retirement Value, LLC  
457 Landa Street, Suite B  
New Braunfels, Texas 78130

**Mailing Address:**

Retirement Value, LLC  
P.O. Box 310635  
New Braunfels, Texas 78131

**Fax:** (866) 498-4644

Either Party may amend its address by written notice to the other Party in accordance with this section. Notices will be deemed to have been given at the time of actual receipt.

- 5.8 **Defined Terms.** The terms defined herein remain the same as those defined in the Loan Agreement which is part of this Loan transaction.
- 5.9 **Entire Agreement.** This Agreement sets forth the entire Agreement and understanding between the Parties and supersedes and cancels, revokes, and rescinds all previous negotiations, agreements, and commitments, whether oral or in writing, with respect to the subject matter described herein, and neither party shall be bound by any term, clause, provision, or condition save as expressly provided in this Agreement or as duly set forth in writing as a subsequent amendment to this Agreement, signed by duly authorized officers of each Party.

IN WITNESS THEREOF, the undersigned have signed this Agreement as of the Effective Date.

IRA OWNER:

REPLACEMENT VALUE, LLC

Registered Utility Company

SIGN HERE

IRA Owner's signature

RV, LLC Manager's signature

IRA Owner's printed name

RV, LLC Manager's printed name

Date signed by RV, LLC Manager:

(Agreement "Effective Date")

Licensee Information:

Name:

Licensee Number:

Tel:

Cell:

Fax:



EXHIBIT A

FBO IRA #

Of ("IRA Owner")

Irrevocable Co-Beneficial Interest to Protect Loan Proceeds

IRA Owner desires to assist Agent to acquire, purchase and become sole owner of certain re-sale life insurance policies and will participate by loaning

Dollars (US\$)

and agrees to participate with said loan to cover all costs associated with the following re-sale life insurance policies to be owned by Agent:

RV LLC Policy Code	Policy Face \$	Issuing Carrier	Insured LE	IRA LOAN	x 16.5%	2 mos x LE	Total Income	VALUE AT MATURITY
LNL177-031909-MC	\$1,500,000	Lincoln National	70 months	\$0.00	16.5%		\$0.00	\$0.00
AGL73L-031909-WK	\$3,000,000	American General	70 months	\$0.00	16.5%		\$0.00	\$0.00
AXA804-031909-RM	\$4,500,000	AXA Equitable	69 months	\$0.00	16.5%		\$0.00	\$0.00
MAM860-071509-ML	\$1,500,000	Mass Mutual	69 months	\$0.00	16.5%		\$0.00	\$0.00
AGL66L-071509-LB	\$750,000	American General	64 months	\$0.00	16.5%		\$0.00	\$0.00
TRA281-071509-RJ	\$1,500,000	Transamerica	56 months	\$0.00	16.5%		\$0.00	\$0.00
ING201-071509-AG	\$5,000,000	ING	55 months	\$0.00	16.5%		\$0.00	\$0.00
ANI852-031909-HO	\$5,000,000	American National	53 months	\$0.00	16.5%		\$0.00	\$0.00
ING283-031909-AI	\$2,000,000	ING Life	43 months	\$0.00	16.5%		\$0.00	\$0.00
OML446-031909-RL	\$2,000,000	Old Mutual Life	40 months	\$0.00	16.5%		\$0.00	\$0.00

EVERY policy must show a dollar amount - even if the amount is \$0.00. Please INITIAL to the left of your loan election and in the box below

Participant:

Dated:

INITIAL HERE

SIGN HERE

RETIREMENT VALUE, LLC

a Texas limited liability company

By:

Member/Date

Print Name:

I elect to place my total \$ loan in EQUAL PORTIONS among all ten (10) policies listed for this bouquet.  
I elect to place my total \$ loan in SELECTED AMOUNTS noted in the Exhibit above.

Retirement Value, LLC has executed a Policy Purchase Agreement for every policy in this bouquet. However, the sellers can withdraw policies right until the insurance carrier completes the ownership change officially in their home-office records. If any of these policies are withdrawn or sold out, they will be replaced immediately with policies of comparable or higher client value.

Exhibit A

Revised 07-13-2009

INITIAL HERE



457 Land Street, Suite B, New Braunfels, TX 78130 • Phone: (830) 624-8858 / (210) 832-9040 • Fax: (866) 498-4644 • [www.retirementvalue.com](http://www.retirementvalue.com)

## IRA OWNER'S SUITABILITY FORM

### IRA Owner's information:

Name: \_\_\_\_\_  
(print IRA Owner's Name)

I am of sound mind and am able to determine on my own if authorizing any Individual Retirement Account ("IRA") to participate in this program as a Lender is a wise and proper use of a portion of such funds. I can afford to participate in this program knowing that my participation is illiquid for an indeterminate period of time. I feel that I have sufficient knowledge and experience in business and financial matters to determine whether or not this is a proper use of such IRA account.

Please initial each line below that applies to you.

### Investing Experience:

- \_\_\_\_\_ I have the experience to analyze and determine whether participation in certain investments is suitable for me.
- \_\_\_\_\_ If I feel it necessary I consult with a financial advisor before making any decisions.
- \_\_\_\_\_ I have in the past or currently am invested in stocks, bonds, and / or mutual funds traded on a national securities exchange.
- \_\_\_\_\_ I have in the past or currently am invested in commodities or future contracts.
- \_\_\_\_\_ I have participated in other re-sale life insurance policies.
- \_\_\_\_\_ I have a relationship with partners or companies that invest in real estate.
- \_\_\_\_\_ I have other types of investments other than above.

Individual Annual Income	<input type="checkbox"/> \$50,000-\$150,000	<input type="checkbox"/> \$150,000-\$250,000	<input type="checkbox"/> \$250,000+
Total Household Income	<input type="checkbox"/> \$50,000-\$150,000	<input type="checkbox"/> \$150,000-\$250,000	<input type="checkbox"/> \$250,000+
Approximate Net Worth (Excluding primary residence)	<input type="checkbox"/> \$50,000-\$150,000	<input type="checkbox"/> \$150,000-\$250,000	<input type="checkbox"/> \$250,000+

This section to be completed ONLY if an ADVISOR other than Retirement Value, LLC or its Licensee has assisted with this application.

☐ I have a professional advisor who is not affiliated with Retirement Value, LLC in any way and who has sufficient knowledge in business and financial matters to advise me in connection with my participation in this product and to determine that this is a viable option for a portion of my money.

Professional Advisor: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Title: \_\_\_\_\_

### REPRESENTATIONS AND WARRANTIES

I represent that I have carefully read and understand the IRA Owner's Policy Participation Agreement and IRA Owner's Loan Agreement and determine that authorizing my Individual Retirement Account to function as a Lender for my funds to facilitate the purchase by Retirement Value, LLC of one or more re-sale life insurance policies for its sole ownership is appropriate and suitable for me. I understand the risks involved as explained by the Licensee through whom I am working. Understanding that any loan proceeds from my Individual Retirement Account in a re-sale life insurance policy or policies are not liquid, I have adequate means to provide for day-to-day financial needs and will be able to meet financial obligations without this participation. I represent that I can bear the financial risk for an indefinite period of time. I represent and warrant that I have read this Suitability Form and represent and warrant that the information contained in it is true, correct and accurate and may be relied on by Retirement Value, LLC. I also agree that I will notify Retirement Value, LLC of the material change in the above information prior to the completing of this Loan transaction by and through my Individual Retirement Account.

I am the Owner of a: (check one)

☐ Traditional IRA ☐ Roth IRA ☐ SEP IRA ☐ Simple IRA ☐ Beneficiary IRA

IRA OWNER:

\_\_\_\_\_  
(signature) SIGN HERE \_\_\_\_\_  
Date

\_\_\_\_\_  
(print name)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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## **LOAN DISCLOSURE ACKNOWLEDGMENT**

### **Individual Retirement Account**

*Please read carefully before initialing.*

1. \_\_\_\_\_ I have received and reviewed a Suitability Form and the "General Disclosure Statement – Terms of Loan" of the Loan Agreement, beginning on page 2, paragraphs 1-14, describing the nature of and risks associated with a Loan to help facilitate the purchase by Retirement Value, LLC ("Retirement Value") for its sole ownership of re-sale life insurance policy or policies.
2. \_\_\_\_\_ I understand the undersigned financial consultant (if such is signing) is my financial consultant, and is not an agent, employee, or representative of Retirement Value. I further understand that any representations, advice, opinions or recommendations made by the undersigned financial consultant are his / her own and not the representations, advice, opinions or recommendations of Retirement Value.
3. \_\_\_\_\_ I understand that my projected base-line expected interest paid for my Loan in this transaction is calculated based on an estimated Life Expectancy ("LE") for the person insured under the policy or policies; that the actual net interest on my Loan may vary substantially from the base-line projected interest because the actual life of the insured almost certainly will be less than or greater than rather than exactly equal to the estimated LE; the net actual interest will be higher if the Insured passes away earlier than the LE and lower if the Insured passes away later than the LE. This is the result of either a pro-rata refund to my Individual Retirement Account of unused premiums or of my Individual Retirement Account having to advance additional monies to pay a pro-rata share of future premiums due.
4. \_\_\_\_\_ I understand that the Insured for the re-sale life insurance policy or policies, the purchase of which by Retirement Value is facilitated by my Loan, may outlive me, particularly if I am of advanced age.
5. \_\_\_\_\_ I have been advised to consult my own tax advisor regarding the tax consequences of participating in a re-sale life insurance policy or policies by means of a Loan through my Individual Retirement Account. I have also been advised to determine independently in consultation with my own

tax advisor what possible adverse tax consequences might result from maintaining suitable liquidity in my Individual Retirement Account to cover possible additional future premium payments or advances that may need to be made from my Individual Retirement Account. I realize that this is particularly important if I am near, at, or over the maximum age allowed to make additional contributions to a retirement plan account, which currently is 70½ years for an Individual Retirement Account (IRA).

6. \_\_\_\_\_ I understand and have been advised that I have the right to rescind or cancel this Loan Agreement entirely without any penalty or fee of any kind for ten (10) calendar days after receiving confirmation from Retirement Value that my Loan Agreement has been received and accepted.

7. \_\_\_\_\_ I understand that a re-sale life insurance policy or policies are illiquid; that I will not have access to the Loan until the policy or policies mature due to the death of the Insured; and that no one can determine with exact certainty when any re-sale life insurance policy will mature. Accordingly, I have determined that I have sufficient liquid assets or other income to provide for daily and emergency needs and thus can bear the risk of executing this Loan Agreement to facilitate the purchase by Retirement Value for its sole ownership of a re-sale life insurance policy or policies. I understand that I may not have access to the Loan proceeds for an indeterminate period of time.

8. \_\_\_\_\_ All of my questions concerning the re-sale life insurance policy or policies to be acquired using the proceeds of my Loan executed through my Individual Retirement Account have been answered. I understand the risk involved and have decided to participate in this Loan program with the understanding that any benefit and return on these re-sale life insurance policies will be realized by my designated beneficiary(ies) of my Individual Retirement Account should I pass away before the Insured on the re-sale life insurance policy or policies.

ACKNOWLEDGED on this Date: \_\_\_\_\_

IRA Owner:

Financial Consultant:

(if any -- not the Licensee of Retirement Value, LLC)

SIGN HERE

\_\_\_\_\_  
IRA Owner's signature

\_\_\_\_\_  
Financial Consultant's signature

\_\_\_\_\_  
Print IRA Owner's name

\_\_\_\_\_  
Print Financial Consultant's name



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## **LIMITED POWER OF ATTORNEY**

### **Individual Retirement Account**

### **RETIREMENT VALUE, LLC - BY IRA OWNER**

This Power of Attorney is made by and between \_\_\_\_\_ (hereinafter referred to as "IRA Owner") and Retirement Value, LLC (hereinafter referred to as "Agent" or "Attorney-in-fact") appointing Retirement Value, LLC as IRA Owner's true and lawful Agent and Attorney-in-fact for arranging and overseeing the IRA Owner's Individual Retirement Account Loan to facilitate the acquisition of, purchase of, and sole ownership by Agent of certain re-sale life insurance policies and in collateralizing said Loan by the Individual Retirement Account with the pro-rata death benefit of said re-sale life insurance policy or policies.

1. My Attorney-in-fact is hereby authorized to act for me in my name, place and stead, and for my use and benefit, and to do, execute, or to concur with persons jointly interested with myself therein in the doing or executing of all or any of the acts, deeds, and things set forth below as if same were my acts and deeds and my Attorney-in-fact shall have the following powers:

A. Enter into any and all contracts or agreements necessary for a Loan to be made by my Individual Retirement Account to facilitate the acquisition of, purchase of, and sole ownership by Agent of a re-sale life insurance policy or policies or certificate(s) if a group policy, said loan to be collateralized with the pro-rata death benefit of said re-sale life insurance policy or policies.

B. Complete record and file any document(s) necessary to arrange a Loan to be made by my Individual Retirement Account to facilitate the acquisition of, purchase of, and sole ownership by Agent of a re-sale life insurance policy or policies or certificate(s) if a group policy, said loan to be collateralized with a pro-rata death benefit of said policy or policies.

C. Concerning the disbursement of any and all funds by the Escrow Agent upon maturity of the Loan, instruct and direct Escrow Agent to coordinate and restore to my Individual Retirement Account the original Loan amount together with any and all promised Loan interest income, as well as any pro-rata share of any unused premiums remaining in the escrow sub-account.

D. Upon the death of any Insured for any re-sale life insurance policy owned by Agent utilizing the Loan proceeds from the Individual Retirement Account, obtain the death certificate and instruct the Escrow Agent as to the proper disbursement to the IRA Owner's Individual Retirement Account.



E. Notify IRA Owner of any additional monies needed if it becomes necessary for the IRA Owner to advance additional funds from the Individual Retirement Account to keep the re-sale life insurance policy or policies in-force.

F. If for whatever reason Escrow Agent resigns or terminates its contract with Agent, Agent can appoint another escrow agent to take its place and Agent can transfer all funds and related records to the successor escrow agent and the successor escrow agent shall then assume all duties and obligations of the Escrow Agent. The Escrow Agent shall have no liability for the successor escrow agent.

2. This Power of Attorney is for the sole purpose of designating Agent as the IRA Owner's Attorney-in-fact for the purpose of arranging a Loan from the IRA Owner's Individual Retirement Account to facilitate the acquisition of, purchase of, and sole-ownership by Agent of a re-sale life insurance policy or policies, said Loan to be collateralized with the death benefit in said policy or policies and shall convey no other authority.

3. This Power of Attorney may be terminated at any time by either Party, with written notice to that effect.

4. This Power of Attorney represents the entire and sole agreement between the Parties hereto with all provisions to be enforced as provided herein. No other representations, agreements or covenants, whether written or oral, shall govern this relationship.

**IRA OWNER**

**RETIREMENT VALUE, LLC**  
a Texas limited liability company

SIGN HERE

By: \_\_\_\_\_

\_\_\_\_\_  
IRA Owner's signature

\_\_\_\_\_  
Manager's signature

\_\_\_\_\_  
Print IRA Owner's name

\_\_\_\_\_  
Print Manager's name

Date: \_\_\_\_\_

Date: \_\_\_\_\_



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## **SPECIAL POWER OF ATTORNEY**

### **Individual Retirement Account**

### **LICENSEE - BY IRA OWNER**

The undersigned ("IRA Owner") hereby appoints \_\_\_\_\_ ("Licensee") as its Agent and Attorney-in-fact to review, evaluate and direct Retirement Value, LLC ("Retirement Value") as to a Loan by the IRA Owner's Individual Retirement Account to facilitate the acquisition of, purchase of and sole-ownership in Retirement Value of certain resale life insurance policies and in collateralizing said Loan by the Individual Retirement Account with the pro-rata death benefit of one or more of said policies. In all such Loan matters, Retirement Value is authorized to follow the instructions of IRA Owner's Agent in every respect and is authorized to act for the IRA Owner and in the IRA Owner's behalf in the same manner and with the same force and effect as IRA Owner might do, with respect to any Loan, as well as with respect to all other things necessary or incidental to the furtherance or administration of such Loan or the maintenance or protection of any pro-rata collateral interest in the death benefit by the Individual Retirement Account.

IRA Owner hereby acknowledges that Retirement Value will rely on this authorization in taking instruction and direction from IRA Owner's Agent on behalf of IRA Owner's Individual Retirement Account. IRA Owner agrees to indemnify and hold Retirement Value harmless from any and all claims or damages whatsoever arising out of compliance with instructions or directions issued by IRA Owner's Agent pursuant to Agent's authorization.

Retirement Value does not, by implication or otherwise, endorse the operational methods of Agent. IRA Owner further understands that Retirement Value relies on the direction and instruction of IRA Owner through and by the Agent as to the amount of any Loan made by the Individual Retirement Account and that, by granting this power to the Agent to exercise IRA Owner's rights of discretion and instruction to Retirement Value, IRA Owner does so at its own risk.

IRA Owner hereby ratifies and confirms any and all transactions with Retirement Value and the Custodian heretofore and hereafter made by IRA Owner's Agent on behalf of IRA Owner.

This authorization and indemnity by IRA Owner is in addition to (and in no way limits or restricts) any rights which Retirement Value may have under any other agreement or agreements between the IRA Owner and Retirement Value. This authorization and indemnity is continuing, and shall remain in full force and effect until revoked by the IRA Owner via written notice addressed to and received by Retirement Value at 457 Landa Street, Suite B, New Braunfels,

Texas 78130 (mailing address: P.O. Box 310635, New Braunfels, Texas 78131-0635). Any such revocation shall not affect any liability in any way resulting from transactions initiated prior to such revocation.

This authorization and indemnity shall inure to the benefit of Retirement Value and any successors or assigns.

IRA Owner understands fully the obligations which IRA Owner has assumed by executing this Power of Attorney. IRA Owner understands that the IRA Owner's Agent is not an agent, employee, partner or affiliate of Retirement Value and that Retirement Value is in no way responsible for any loss or damages occasioned by the actions or advice of the individual or organization named above.

**IRA OWNER:**

**LICENSEE**

SIGN HERE

Signature of IRA Owner

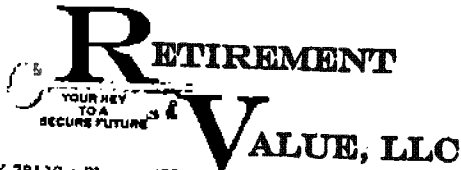
Signature of Licensee

Print Name of IRA Owner

Print Name of Licensee

Date

Date



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## **WIRING INSTRUCTIONS**

Wiring Instructions For IRA Plus Southwest or Provident Group  
to Escrow Agent for Retirement Value clients.

**Wells Fargo Bank, N.A.**  
New Braunfels Walnut Office  
1000 North Walnut Avenue, New Braunfels, TX 78130

**Bank ABA Routing # 121000749**

For credit to: **Kiesling, P.C. Kiesling & Free, P.C. Insurance**  
**Escrow Account**  
348 E. San Antonio Street, New Braunfels, TX 78130

**Account # 27-337212**

Reference IRAC owner's name on the wiring instructions.

**From:** Bricks Corbin <bricks@berkshiremoody.com>  
**Sent:** Thursday, September 24, 2009 11:39 AM  
**To:** 'Dick Gray' <rgray@retirementvalue.com>; 'Wendy Rogers' <wrogers@retirementvalue.com>  
**Cc:** 'Larry Harn' <ljharn@comcast.net>; 'Chad Waddell' <chad@berkshiremoody.com>; 'David Gray' <dgray@retirementvalue.com>; 'Katie Hensley' <khensley@retirementvalue.com>; 'Liz Gray' <egray@retirementvalue.com>; tmoos@retirementvalue.com; 'Jeremy Gray' <jgray@retirementvalue.com>; kgray@retirementvalue.com  
**Subject:** RE: Still concerned

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Dear Dick .....Breeding horses is tough enough; so I willingly leave the elephant work up to you all.

It was very gracious of you to take so much time to write such a complete email addressing our mutual concerns. As always your friendship and caring shows. You and your team are deeply appreciated.

Once upon a time I, my to be Registered Representative, and big time SEC attorney were seated across the table from the Securities Commissioner (2) in Austin. He had been cited for selling Promissory Notes. After all the pleasantries had been given the Commissioner stated why he had called the meeting, in essence the gentleman had violated the Texas Securities Act by selling unregistered promissory notes, with emphasis on the word "notes". In short he asked me if I could read English and of course I responded in the affirmative. He then asked the other two gentlemen the same question. He then slid the act across the table and asked that we confirm that the act did in fact say a promissory note was a security. Once our counsel read from the act they stood up and said that it really does not take long to arrive at a conclusion in such obvious violations, and that the Rep would be fined and could not be licensed in Texas for the next 10 years (if this was not the exact sentence it is close enough for government work). The meeting took less than 20 minutes and in fact the Rep never did get another license in Texas. Section 4 is still in the act and is as follows.

#### Sec. 4. Definitions.

The following terms shall, unless the context otherwise indicates, have the following respective meanings:

A. The term "security" or "securities" shall include any limited partner interest in a limited partnership, share, stock, treasury stock, stock certificate under a voting trust agreement, collateral trust certificate, equipment trust certificate, preorganization certificate or receipt, subscription or reorganization certificate, **note, bond, debenture, mortgage certificate or other evidence of indebtedness, any form of commercial paper**, certificate in or under a profit sharing or participation agreement, certificate or any instrument representing any interest in or under an oil, gas or mining lease, fee or title, or any certificate or instrument representing or secured by an interest in any or all of the capital, property, assets, profits or earnings of any company, investment contract, or any other instrument commonly known as a security, whether similar to those herein referred to or not. The term applies regardless of whether the "security" or "securities" are evidenced by a written instrument. Provided, however, that this definition shall not apply to any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contract, issued by an insurance company subject to the supervision or control of the Texas Department of Insurance when the form of such policy or contract has been duly filed with the Department as now or hereafter required by law.

**PLAINTIFF'S  
EXHIBIT**

C

RVR013013

I know you all are probably students of the Act and have reviewed this matter in many ways, so I am probably preaching to the choir. However, the word note still send cold shivers up my spine. In seeing all the bloodshed brought forth by the Regulators it is something I do not want any of us to experience. Again, it really does not change the meaning of note regardless of how many words we put in front of it. Again, I am not an attorney, but if RV and their licensees are not on extremely solid ground the Regulators can actually destroy lives. Like I said before, most Regulator employees are short termers trying to find a way to gain recognition, they are definitely not there to help. This should be a long journey for us all and there is nothing like having the right wheels under the train; we are all seeking the same thing I believe, "a peaceful and profitable journey".

RV can only receive cash as fast as the participants send in their checks. So to make life simple let us use the example of a \$500,000 policy and it will be subscribed to in \$50,000 and the turn around is about 60 days. So you end up with each participant contributing 10% of the capital required. Is there really a lot of difference in them making loans representing 10% of the capital or getting a certificate of ownership representing 10%? You can only retire a policy in the time frame that the Participants send in the money. Maybe it just seems too simple but you sure as heck do not have to fight the note stigma. Also a person in a qualified situation is issuing their own note to a Custodian Trust Company with their beneficial and ownership cited as the collateral.

On a very positive note I am most pleased to see the move toward the Trust. From the beginning I believed this would be a tremendous move and offer great security and peace of mind for the participants. You get a solid 12 on this one.

The last item and then I will shut up, is regarding the Licensee Agreements. Your attorney did an outstanding job protecting RV but left the Licensee with a lot of rope. When all the Elephant Mating subsidies it would appear appropriate to add some definitions and specifics rather than the vast and broad requirements of the Licensee regarding full disclosure. Most of your Licensees have no idea of really what is requested of them in certain sections of the Agreement. The barn door is wide open for misunderstanding or more importantly having done what RV desires done in behalf of the participant.

Hope some of this can help.

Have a wonderful day and a restful evening,

Your Friend

## **Bricks Corbin**

President

Phone: (281) 367-0386

Fax: (281) 596-7212

Email: [bricks@elephantshiremoody.com](mailto:bricks@elephantshiremoody.com)

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**From:** Dick Gray [mailto:[rgray@retirementvalue.com](mailto:rgray@retirementvalue.com)]

**Sent:** Thursday, September 24, 2009 7:16 AM

**To:** 'Bricks Corbin'; 'Wendy Rogers'

**CC:** 'Larry Harn'; 'Chad Waddell'; 'David Gray'; 'Katie Hensley'; 'Liz Gray'; [tmoss@retirementvalue.com](mailto:tmoss@retirementvalue.com); 'Jeremy Gray'; [kgray@retirementvalue.com](mailto:kgray@retirementvalue.com)

**Subject:** RE: Still concerned

Bricks:

It's been several fast-paced what I call "rollerblade days" in a row this week so if Larry has talked with Wendy I am unaware of that – and he has not talked with me, although he may be part of my accumulated pile of unreturned messages. It may help for you all to have an update on what will happen on our end.

- **Background:** There is common agreement among all we contact and all those upon whom we rely for clear guidance that the IRS Revenue Ruling on Life Settlements released May 1<sup>st</sup> now means this product is not going to be taxed as a capital gain (unless profits are generated by the re-sale of the policy PRIOR TO death). It seems pointless to argue, as we have tried, that our model is not reflected in ANY example shown in the IRS Revenue Ruling. Even what we ARE appears to be lumped into what they show. Gains or income or profit or whatever word or contrivance we try fails to move taxation away from being ordinary income. Last Friday a highly-regarded securities attorney agreed – and firmly advised us against seeking our own IRS Revenue Ruling on our own model. This means there is no need to play with words in our NON-qualified paperwork or seek some linguistic contrivance that would aid our clients in seeking such tax favored treatment for their participation in our product. Looks as though it's just gonna be taxed as ordinary income. Qualified money ALREADY is structured as a "loan" because of IRS prohibition against qualified money "owning" an insurance contract – and that's 65%-70% of our volume. So, what about the up to 35% of our cases that are NOT qualified? **Action:** we will revert to the "loan" language we always used under another company name. All participants will be making loans as lenders and earning interest income to be taxed as ordinary income.
- **Background:** We do not deal with Life Settlements. At Retirement Value we always buy policies that already have been purchased by another private investor or aggregator. So we created the phrase "re-sale life insurance policies" to describe our model. We do not re-sell the re-sale policies to our client-participants or to IRAs. We obtain funds from them to finance OUR business activity – which is to buy previously-purchased policies for our private investment purposes. We are the only owner. At this time client funds (loans) are protected by them becoming irrevocable co-beneficiaries of the policy **Action:** as stated above, we will within days scrub the paperwork to clarify all these points – and to convert all NON-qualified forms to reflect very clearly the "loan" model for 100% of our cases. It will be made perfectly clear (if it is not already so – we repeatedly state that client funds are used to "facilitate by RV the acquisition, purchase and sole-ownership of certain re-sale life insurance policies") that we are the only owners and they are in effect, in a commercial transaction, making loans to us for that purpose. This language clarification ought to move our model even further down the NON-security continuum.

Further, we finally are on the edge of an additional major refocus of the program through the use of a trust or trusts. We actually have recommended that upon full subscription of each policy in the bouquet the ownership be transferred by RV to a trust of which the Escrow Agent will be trustee. That trust, in turn, will designate a beneficial trust as the only beneficiary – and each participant from the client side will have a proper, proportionate representation in that beneficial trust based on their participation in the policy. The carrier will pay the death benefit to the beneficial trust, etc. etc. etc. Meanwhile the Escrow Agent can properly wear multiple hats as Escrow Agent and trustee for two trusts on each policy. All of this is very easily done at almost no legal-expensed cost by paralegals modifying "boiler plate" docs and hitting "print". RV will continue its professional management role for a fee – of sending regular advisories to the Escrow Agent about policy purchase disbursements and premium payments. It is not a negative reflection on anyone else in this action chain to say that we simply trust no one as much as we trust ourselves to be the true functional "fiduciary" for ALL of these cases – to determine and then advise about the proper payment of all purchase amounts and premiums.

If there is any downside to all of what I have reported to you it is "time" – there are so many important and key players in this "game" that it seems as though the Viet Nam era observation applies: "Getting anything done here is like mating elephants. Everything is done at a very high level with much grunting and groaning – and it takes months to see the results."

Meanwhile we are very pleased to confirm the formal engagement of the very-highly-esteemed Mr. Roy Mouer in Houston as an attorney-advisor for securities-type issues at RV at both the state and federal level.

Dick Gray  
President / CEO  
Retirement Value, LLC  
427 Landa Street, Suite B, New Braunfels, TX 78130  
P.O. Box 310635, New Braunfels, TX 78131-0635  
(800) 624-8858 ofc (866) 498-4644 fax (210) 392-3550 mobile  
[dgray@retirementvalue.com](mailto:dgray@retirementvalue.com)

CONFIDENTIALITY NOTICE -- The documents and information accompanying this electronic transmission contain

RVR013015

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**From:** Bricks Corbin [mailto:bricks@berkshiremoody.com]  
**Sent:** Wednesday, September 23, 2009 10:22 AM  
**To:** Dick Gray; 'Wendy Rogers'  
**Cc:** 'Larry Harn'; 'Chad Waddell'  
**Subject:** Still concerned  
**Importance:** High

Dear Dick and Wendy....Larry and I have done some more digging and thinking. I have asked him to relay his latest findings and questions. We both are hesitant to keep scratching, but I have been there when attorneys seem to find a way to let me hear what I want to hear and then I pay the price later on. We do not want to be a pest in any way but there just may be some value in what we believe the facts to be. Obviously we pray that our input will be of some help in your determination process.

Larry will try to contact you all this afternoon. In that emails are so impersonal and lack tonality this info is best passed along in a verbal conversation.

One of my concerns is that RV is advertising to the public in all its literature etc that they are alluding to re-selling life insurance policies when in fact this simply does not happen. A wide target for a regulator and can make RV something they do not want to be. Without ultimate tie into the ownership of a specific policy I believe there is always a valid concern.

Again, I am no lawyer and I know how hard everyone wants to make things airtight, but you can never be too careful these days.

Warmest regards,

**Bricks Corbin**

President  
Phone: (281) 367-0386  
Fax: (281) 596-7212  
Email: [bricks@berkshiremoody.com](mailto:bricks@berkshiremoody.com)



**From:** Dick Gray <rgray@retirementvalue.com>  
**Sent:** Saturday, October 3, 2009 5:03 AM  
**To:** goliver@gopriv.com  
**Bcc:** David Gray <dgray@retirementvalue.com>; Wendy Rogers <wrogers@retirementvalue.com>; Katie Hensley <khensley@retirementvalue.com>; 'Liz Gray' <egray@retirementvalue.com>; tmoss@retirementvalue.com; Jeremy Gray <jgray@retirementvalue.com>; Kendall Gray <kgray@retirementvalue.com>; 'Mike McDermott' <sendmegoodnews@yahoo.com>; my100grand@gmail.com; Bruce Collins <nostockmarketrisk@yahoo.com>; 'B. Scott Barnard' <sbarnard@donegan.com>; 'Sansing Edmond' <eddy@thesafeinvestment.com>; damien@thesafeinvestment.com; michael@fellowshipfinancial.com; trpl@cfl.rr.com; reid@thorburn.com; sfs@thorburn.com; rmouer@sbcglobal.net  
**Subject:** FW: Article about life settlements  
**Attach:** Life Settlements article (Bo Johnson).mht (571 KB) msg

---

Gary:

"Comment" from what perspective? This article does an admirable job of addressing with both brevity and clarity very complex matters still in transition legally and within the regulatory community. One thing certainly is true – all of us can be pleased professionally when fraud and wrong-doing are uncovered and punished. A sales rep or Licensee who knowingly markets a fraudulent product or improperly markets a proper and totally-compliant product ought to be found out and punished.

Regarding Retirement Value specifically and our "re-sale life insurance" program – we have taken great care to design the way we operate so that we not only are within the law(s) at both the state and federal level – the net outcome is that we occupy a special-definition niche that is not specifically addressed by any law(s) of which we are aware at either the state or federal level. Being "neither fish nor fowl" presents RV with special challenges – and companion obligations – as well as great marketing opportunities.

Example: In states where ANY "Life Settlement" or even a remotely-associated transaction has been defined as "a security" we permit NO open or general marketing. No post cards, telemarketing, etc. Yet we do allow our Licensees in such states who have state insurance licenses or a suitable professional designation (CPA, CFP, an attorney, etc.) to assist existing clients with whom they have a clearly-demonstrable current and ongoing relationship.

A Licensee associated with RV actually "sells" nothing – ever. Licensees with RV inform their clients that a business loan (which finances our activity as a private buyer of previously-sold life insurance policies – hence "re-sale policies") collateralized by a death benefit processed through a beneficial trust is a rather safe way to earn a lot of interest. It's really that simple – even in the complex and seemingly complicated world of "high finance".

Thanks!

Dick Gray  
President / CEO  
Retirement Value, LLC  
457 Landa Street, Suite B, New Braunfels, TX 78130  
P.O. Box 310635, New Braunfels, TX 78131-0635  
(830) 624-8858 ofc (866) 498-4644 fax (210) 392-3550 mobile  
rgray@retirementvalue.com

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**From:** Gary  
**Sent:** Wednesday, September 30, 2009 11:21 AM  
**To:** Dick Gray  
**Subject:** Article about life settlements

RVR013576

Dick,

Would you comment on the above attached article as to how it does or does not apply to Retirement Value? Something I can forward to the CEO of an FMO that sent forwarded it to me. Thanks,

Gary

Unofficial copy Travis Co. District Clerk Velva L. Price

**From:** Liz Gray <egray@retirementvalue.com>  
**Sent:** Wednesday, September 23, 2009 7:41 PM  
**To:** 'David Gray' <dgray@retirementvalue.com>  
**Subject:** FW: Transition to a Trust mechanism  
**Attach:** SecureZIP Attachments.ZIP

---

FYI – a promissory note is considered a security in most states – need to make sure RVLLC stays away from anything even close that language.

Liz Gray  
Compliance Officer  
**Retirement Value, LLC**  
457 Landa St., Suite B  
New Braunfels, Texas 78130  
T: (830) 624-8858  
F: (866) 498-4644  
[egray@retirementvalue.com](mailto:egray@retirementvalue.com)

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**From:** Dick Gray [mailto:rgray@retirementvalue.com]  
**Sent:** Wednesday, September 23, 2009 6:44 PM  
**To:** bwfree@sbcglobal.net; 'Kristen Quinney Porter'  
**Cc:** 'David Gray'; 'Wendy Rogers'  
**Subject:** Transition to a Trust mechanism

Kristen and Brent:

Please refresh my memory on when you had that meeting with an outside advisor on the trust idea. We are facing significant and mounting pressure to resolve this and to announce to the field the net outcome(s). Meanwhile, trust ideas keep arriving. Here is how Life Partners does things. I would want to avoid the use of the official phrase "promissory note".

My latest "version" of an idea is (1) upon achieving full subscription of a case – transfer the actual **ownership** of each policy to a trust. That is fixed and will not change – might even be an irrevocable trust with solid legal legs. The trust actually will be listed at the issuing carrier as the owner; Retirement Value, LLC now has no ownership of or interest in the policy. Meanwhile, all participants become on a proper ratio part of a **beneficial trust** listed with the issuing carrier. Kiesling is trustee of both the ownership trust and the beneficial trust – and also remains totally free to function as Escrow Agent moving money for policy purchase and premium payments. RV, LLC continues to be the sales agent or processing agent right up until ownership transfer and beneficiary changes. Then RV's role is limited to policy administrator on behalf of Kiesling as trustee.

We need to move forward on a structure as quickly as possible. There are other changes needed to update our paperwork and forms - and we might as well make these changes all at the same time. Thanks!

Dick

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communication in error, please notify us by telephone immediately. Unauthorized interception of this electronic transmission is a violation of Federal criminal law.

**From:** Bruce Collins [mailto:nostockmarketrisk@yahoo.com]  
**Sent:** Wednesday, September 23, 2009 3:05 PM  
**To:** Wendy Rogers  
**Cc:** Dick Gray  
**Subject:** RE: RE: Transition to Trust mechanism

Makes sense. Here's a copy of a Promissory Note placed into one my IRAs. The policy is in a trust and Pardo is the Trustee. Without having any legal training this meets my test for logic. LPI does not own the asset and the asset is it's own legal entity. I don't think it's possibly if someone sues RVLLC that something can be attached if the company does not own it.

Bruce G. Collins  
Certified Estate Planner  
1510 Legendary Ct.  
Grand Prairie, TX 75050  
214/732-5422 1/800-410-5987  
FAX 972-602-6929

\*\*\*\*\*

--- On Wed, 9/23/09, Wendy Rogers <wrogers@retirementvalue.com> wrote:

From: Wendy Rogers <wrogers@retirementvalue.com>  
Subject: RE: RE: Transition to Trust mechanism  
To: "Bruce Collins" <nostockmarketrisk@yahoo.com>  
Cc: "Dick Gray" <rgray@retirementvalue.com>, "Mike McDermott" <sendmegoodnews@yahoo.com>  
Date: Wednesday, September 23, 2009, 1:53 PM

Based upon our past experiences, there would be a trust drafted for each policy. Yes, this would change our current client paperwork. As far as it being retro-active to the past policies, that would be a question for Dick.

Thanks!

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office  
(210) 363-2910 cell

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**From:** Bruce Collins [mailto:nostockmarketrisk@yahoo.com]  
**Sent:** Wednesday, September 23, 2009 1:33 PM  
**To:** Wendy Rogers

RVR018222

**Cc:** Dick Gray; Mike McDermott  
**Subject:** RE: RE: Transition to Trust mechanism

A licensee with a fair amount of money to invest asked me when the new mechanism is in place if the current clients are going to be transitioned into the trust. Also, is it one trust? Is there a separate trust created for each policy? Finally is it going to change our paperwork for the client or just the escrow agreement between K VLLC and K&P.

Bruce G. Collins  
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1510 Legendary Ct.  
Grand Prairie, TX 75050  
214/732-5422 1/800-410-5987  
FAX 972-602-6929

\*\*\*\*\*

--- On Sat, 9/19/09, Wendy Rogers <[wrogers@retirementvalue.com](mailto:wrogers@retirementvalue.com)> wrote:

From: Wendy Rogers <[wrogers@retirementvalue.com](mailto:wrogers@retirementvalue.com)>  
Subject: RE: RE: Transition to Trust mechanism  
To: "Bruce Collins" <[nostockmarketrisk@yahoo.com](mailto:nostockmarketrisk@yahoo.com)>  
Date: Saturday, September 19, 2009, 1:48 PM

You're welcome. Hopefully I'll have something to send you before the end of this week.

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office  
(210) 363-2910 cell

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**From:** Bruce Collins [<mailto:nostockmarketrisk@yahoo.com>]  
**Sent:** Saturday, September 19, 2009 1:47 PM  
**To:** Wendy Rogers  
**Subject:** RE: RE: Transition to Trust mechanism

Thanks for the update.

Bruce G. Collins  
Certified Estate Planner  
1510 Legendary Ct.  
Grand Prairie, TX 75050  
214/732-5422 1/800-410-5987

RVR018223

FAX 972-602-6929

\*\*\*\*\*

--- On Sat, 9/19/09, Wendy Rogers <wrogers@retirementvalue.com> wrote:

From: Wendy Rogers <wrogers@retirementvalue.com>  
Subject: RE: RE: Transition to Trust mechanism  
To: "Bruce Collins" <nostockmarketrisk@yahoo.com>  
Date: Saturday, September 19, 2009, 1:19 PM

We actually had a meeting with Kiesling on Thursday morning and addressed the trust. We've clarified some details and believe we should hopefully have something drafted this week. I'll let you know when we get a targeted date.

Thanks!

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office  
(210) 363-2910 cell

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**From:** Bruce Collins [mailto:nostockmarketrisk@yahoo.com]  
**Sent:** Saturday, September 19, 2009 8:11 AM  
**To:** Wendy Rogers  
**Subject:** Fw: RE: Transition to Trust mechanism

Are we making progress on this? I have a couple of larger investors that are on hold waiting for this to be completed.

Thanks in advance for the update.

Bruce G. Collins  
Certified Estate Planner  
1510 Legendary Ct.  
Grand Prairie, TX 75050  
214/732-5422 1-800-410-5987  
FAX 972-602-6929

\*\*\*\*\*

RVR018224

--- On Fri, 9/11/09, Wendy Rogers <wrogers@retirementvalue.com> wrote:

From: Wendy Rogers <wrogers@retirementvalue.com>  
Subject: RE: Transition to Trust mechanism  
To: "Bruce Collins" <nostockmarketrisk@yahoo.com>  
Date: Friday, September 11, 2009, 10:19 PM

I'm sorry...brain overload for me, I guess. I was thinking Trust in the sense of honesty and integrity...sorry about that. Dick has said, even in emails to Jack, that the trust is the first and foremost priority at this time. We'll keep you posted.

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office  
(210) 363-2910 cell

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**From:** Bruce Collins [mailto:nostockmarketrisk@yahoo.com]  
**Sent:** Friday, September 11, 2009 4:45 PM  
**To:** Wendy Rogers  
**Subject:** RE: Transition to Trust mechanism

I need to know when the Trust mechanism is implemented and the "business case" for making the change in the form of a general announcement.

Bruce G. Collins  
Certified Estate Planner  
1510 Legendary Ct.  
Grand Prairie, TX 75050  
214/732-5422 1/800-410-5987  
FAX 972-602-6929

\*\*\*\*\*

--- On Fri, 9/11/09, Wendy Rogers <wrogers@retirementvalue.com> wrote:

From: Wendy Rogers <wrogers@retirementvalue.com>  
Subject: RE: Transition to Trust mechanism  
To: "Bruce Collins" <nostockmarketrisk@yahoo.com>  
Date: Friday, September 11, 2009, 4:37 PM

What do you need from us to help them along the "trust transition"?

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office

(210) 363-2910 cell

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**From:** Bruce Collins [mailto:nostockmarketrisk@yahoo.com]  
**Sent:** Friday, September 11, 2009 8:42 AM  
**To:** Wendy Rogers  
**Subject:** Transition to Trust mechanism

Great meeting.

Now that the "cat's out of the bag" for the trust transition the sooner the better. I have a couple of licensees with six figure clients who will probably wait until that happens.  
Two of them queried LPI and did not get satisfactory answers.

Bruce G. Collins  
Certified Estate Planner  
1510 Legendary Ct.  
Grand Prairie, TX 75050  
214/732-5422 1/800-410-5987  
FAX 972-602-6929

\*\*\*\*\*



**From:** Dick Gray <rgray@retirementvalue.com>  
**Sent:** Sunday, August 23, 2009 6:03 AM  
**To:** michael@fellowshipfinancial.com; terry@fellowshipfinancial.com  
**Cc:** 'Liz Gray' <egray@retirementvalue.com>; tmoss@retirementvalue.com; 'Wendy Rogers' <wrogers@retirementvalue.com>; 'David Gray' <dgray@retirementvalue.com>; eddy@thesafeinvestment.com; damien@thesafeinvestment.com  
**Subject:** FW: Please review before e-mailing Eddie & Damien - Viaticals2

---

Michael and Terry:

This is more than asking for your help. This is asking for your crucial professional and personal in-put on the fundamental matter of the ability of RV to operate in Florida. It never matters how "clear" the regulators are (and in fairness to the State of Florida, their policies and pronouncements are more logical and more consistent than almost any other state!!) it is equally clear that WE are NOT doing precisely anything THEY define.

We are not buying or selling anything in Florida. As our Licensees you are inviting your clients to act, in effect, as "facilitators" - to enable us to conduct our business through relatively short-term business loans. They do not buy into anything and they are not made share-holders or owners of anything. We do not ever fractionalize the ownership side of any policy, etc.

Personally, I recently have come to see we ought not even to call them "irrevocable co-beneficiaries" because some states now even refer to "beneficiary of..." when defining a Settlement and calling it a Security. I am seeing more and more clearly we ought to call it exactly what it is - a business loan, for which lenders are made "assignees" like in any business transaction involving insurance. Except that Kiesling in their capacity as Escrow Agent administers the "Assignee" standing for each policy rather than having the actual assignees sent to the carrier home office (an admin nightmare). This process greatly would reduce any chance our NON-qualified clients (at maturity) would have for any gain or growth to be treated as a long-term capital gain (interest on loans is ordinary income) - but the IRS has moved in that direction anyway and I can see clients likely will pay ordinary income tax at maturity rather than capital gains at maturity - regardless of what WE call our clients or our products. In the long run the greatest good is done for the largest number by taking every available step to seeing that our product is NOT declared a security (since we firmly believe it is not) and THAT issue takes preeminence over even the net taxation method for client funds at maturity.

Naturally, we've come to expect regulators to cast the biggest possible nets with the smallest possible mesh - to catch even the smallest "fish". But the facts remain that we do not do what they describe. Period!

Your thoughts and comments - perhaps in a phone call rather than an e-mail (ideally prior to Wednesday's meeting at which this will be a major topic of discussion). Thanks!

Please see item below...

Dick

Shortcut to:  
<http://www.myfloridacfo.com/Consumers/Guides/Life/docs/Viaticals2.pdf>

**From:** Wendy Rogers <wrogers@retirementvalue.com>  
**Sent:** Thursday, September 24, 2009 7:31 PM  
**To:** 'Dick Gray' <rgray@retirementvalue.com>  
**Subject:** FW: Thoughts regarding RV business Model

---

This may be a missing link for you. I brought it to discuss on the way to and/or from Houston, and obviously we didn't. This would shed some more light on why Larry Harn NOW doesn't think the note/loan agreement route would be beneficial.

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office  
(210) 363-2910 cell

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**From:** Wendy Rogers [mailto:wrogers@retirementvalue.com]  
**Sent:** Thursday, September 17, 2009 8:45 PM  
**To:** 'jrrwlr@satx.rr.com'  
**Subject:** FW: Thoughts regarding RV business Model

Wendy Rogers  
Vice President, Administration & Services  
(830) 624-8858 office  
(210) 363-2910 cell

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**From:** Larry Harn [mailto:ljharn@comcast.net]  
**Sent:** Wednesday, September 16, 2009 7:36 PM  
**To:** wrogers@retirementvalue.com  
**Subject:** Thoughts regarding RV business Model

Hi Wendy-

Per your request I am writing a brief summary of our earlier conversation.

As I mentioned the other day, notes that are collateralized by business assets are not considered a security, if the collateralized assets are incidental to the operations of the business. (i.e. I loan RV money in a private transaction and RV buys computers or copiers with the proceeds).

My concern is that a regulator could claim that the notes issued by Retirement Value should be considered a security because they fund the essence of RV operations. One could claim that this is the same as a participant investing money in your operation and they take a bond or preferred stock which is collateralized by the beneficiary interest. If you boil

the transaction down, the participant is giving money to Retirement Value to fund the main function of Retirement Value. The main function of RV is the purchase and resale of Life Insurance Policies. Without these proceeds from the participants the operations of Retirement Value would cease. What further complicates the issue is that Retirement Value isn't really selling the policy since they retain ownership. What RV has been selling is a participation in the beneficiary/death benefit and that is only to the extent it is the collateral on the notes (Qualified Money transactions). At this time the Non Qualified participant actually owns the beneficiary position, as I understand it.

I'm not sure of a model that eliminates the note issue on qualified money but a thought to ponder is...the IRA can't own a life policy but can they own a beneficial interest. Is there some way to restructure the death benefit so that the IRA can take ownership without using the note transaction. As it stands right now the participant does not own the life policy. Would the IRA Trustee sign off on owning the beneficiary interest? Maybe we can restructure it and call it something else. This will take some thinking out of the box.

Now for what we discussed today. A model to consider is once the policies are fully purchased by participants, RV would transfer them into a Trust. Actual ownership would be transferred to the Trust. The Trustee could issue ownership certificates to the participants showing their percentage ownership of the policy. This would only be an administrative function of the Trust because the Trust would remain the only owner of record with the Life Insurance company. This would provide more security to the participant since the policy is now in a Trust, out of the reach of RV creditors and they perceive more of an ownership position even though it is not of record with the insurance company. The activities of the escrow agent would remain the same with no changes regarding the beneficiary position and reporting.

I believe this model would be more consistent with the true operation of RV, that being the purchase and resale of life insurance. In this model RV is actually buying and then selling with transfer of title on the policy. If RV can get ownership of the asset to the participant, then I believe RV is performing the same function as any other company selling cars, widgets or computers.

The transparency you have built into your operation and transaction allows creative thought to take place because you are not trying to hide something. My hope is that this will further stimulate your thinking and maybe give you some questions for your legal counsel. I am confident that you are on the right path.

Please forgive me for rambling. When my mind starts working on this I tend to think out loud in my writing. If you have any questions on anything I have written please do not hesitate to call me.

My thoughts will be with you as you meet on Friday. Needless to say I am very interested in what the attorney has to say.

Best regards.

*Larry J. Harn*

Office: 713-849-6699

Cell: 713-443-0150

Email: [LJHarn@comcast.net](mailto:LJHarn@comcast.net)

ORAL AND VIDEOTAPED DEPOSITION OF WENDY ROGERS

Page 1

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

STATE OF TEXAS, ) IN THE 126TH  
Plaintiff, )  
)  
VS. )  
)  
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 ) DISTRICT COURT OF  
Defendants, )  
)  
AND )  
)  
KIESLING, PORTER, KIESLING )  
& FREE, P.C., )  
Relief Defendant. ) TRAVIS COUNTY, TEXAS

\*\*\*\*\*  
ORAL AND VIDEOTAPED DEPOSITION OF  
WENDY ROGERS  
July 1, 2011  
\*\*\*\*\*

PLAINTIFF'S  
EXHIBIT

D

Sunbelt Reporting & Litigation Services

Houston Austin Corpus Christi Dallas/Fort Worth East Texas San Antonio Bryan/College Station

1 ORAL DEPOSITION of WENDY ROGERS, produced as a  
2 witness at the instance of the Plaintiff, and duly  
3 sworn, was taken in the above-styled and numbered cause  
4 on the 1st of July, 2011, from 9:37 a.m. to 4:04 p.m.  
5 before Veronica E. Cherry, CSR in and for the State of  
6 Texas, reported by machine shorthand, at the offices of  
7 K&L Gates, LLP, 111 Congress Avenue, Austin, Texas,  
8 pursuant to the Texas Rules of Civil Procedure.

ORAL AND VIDEOTAPED DEPOSITION OF WENDY ROGERS

Page 209

APPEARANCES

FOR THE PLAINTIFF:

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Assistant Attorney General  
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Austin, Texas 78701

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Dallas, Texas 75201-7342  
John W. Thomas  
George & Brothers  
114 West Seventh Street, Suite 1100  
Austin, Texas 78701

FOR THE RECEIVER FOR HILL COUNTRY FUNDING:

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Taylor Dunham  
301 Congress Avenue, Suite 1050  
Austin, Texas 78701

FOR THE INTERVENORS GARY CAIN, BARRY EDELSTEIN, AND  
QVEST MASTER FUND LII:

Geoffrey D. Weisbart  
Hance Scarborough  
111 Congress Avenue, Suite 500  
Austin, Texas 78701

FOR WENDY ROGERS:

Wendy Rogers  
Pro Se  
1312 Havenwood Boulevard  
New Braunfels, Texas 78132

Also Present:

Letha Sparks  
Alexis Goldate  
Al Rodriguez, Videographer

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ORAL AND VIDEOTAPED DEPOSITION OF WENDY ROGERS

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1 Q. The Texas Securities Act?

2 A. Yeah, I believe so. It's --

3 Q. Now, was -- let's -- I guess my question -- my  
4 question is: Was Retirement Value actually selling  
5 insurance policies?

6 A. Well, the clients did not become the owners,  
7 so I probably would not define that we did actually  
8 sell the policy to the clients.

9 Q. What you sold was an investment based on an  
10 insurance policy.

11 A. Correct.

12 Q. But not the policy itself. In fact, really  
13 wasn't -- really you were basically borrowing money  
14 from the investors, promising to pay them back when the  
15 policy matured with their money plus a fixed sum of  
16 money which you called a baseline expected gain?

17 A. Was that a question or a statement?

18 Q. Yes, ma'am. It was a -- do you agree with my  
19 statement?

20 A. Well, the qualified paperwork was certainly  
21 set up as a loan because that was what we were -- first  
22 of all, that's how Life Partners has it set up. Second  
23 of all, that is what the -- the qualified institutions  
24 that we used, like IRA Plus and Pacific Northwest --  
25 they've changed their names. I'm trying to -- my --

1 Q. Pacific Northwest was the escrow agent,  
2 correct?

3 A. I'm sorry. Yes. Okay. There was IRA Plus  
4 Southwest and then there was another -- another  
5 institution we used in Nevada for qualified money.  
6 Both of those entities stated that in order for a  
7 qualified plan or a retirement plan to be able to  
8 participate in our type of product, it would have to  
9 be -- the paperwork would have to be in the form of a  
10 loan. And like I said, that's how Life Partners has  
11 theirs set up as well.

12 Q. Now, but in terms of -- and I'm not intending  
13 to be pedantic about this. But in terms of how the  
14 nonqualified paperwork worked, economically, it was the  
15 same thing, correct? Money was provided. Retirement  
16 Value agreed to pay the investor back the baseline  
17 expected gain plus their original investment when the  
18 policy matured. And that was in exchange for the  
19 investor allowing Retirement Value to use the money,  
20 correct?

21 A. Correct.

22 Q. I mean, even though you didn't call it a loan,  
23 it is functionally like a loan, right?

24 A. Well, typically a loan has an end date. You  
25 know, there's a -- there's a specified -- not maturity

1 date, but a specified -- like a balloon payment is due  
2 at a specific period of time. So in that regards, it  
3 was a bit open-ended. But functionally, you are  
4 correct. The clients would participate with a specific  
5 dollar amount of money. Retirement Value had an  
6 agreement to pay back their participation amount plus  
7 any baseline expected gain plus return of any premiums  
8 that were left over in the premium escrow accounts.

9 Q. But there are, of course, loans that don't  
10 have a definite end date. For example, a credit card.  
11 Correct?

12 A. There is a payment due date.

13 Q. But you don't have to pay off -- you have to  
14 pay interest, but you don't actually have to pay off  
15 the debt at any particular time.

16 A. But you do have to make a payment.

17 Q. Eventually.

18 A. No. Every month.

19 Q. But you have to pay interest.

20 A. Yes.

21 Q. And you're aware -- and that's called a  
22 revolving line of credit, correct?

23 A. Okay. Yes, I think so. I'm not --

24 Q. I mean, these questions aren't necessarily  
25 traps. Some of them may be; some of them might not be,

1 in all fairness.

2 But you're also familiar with just demand  
3 notes, right?

4 A. A little bit. It's been awhile since I've  
5 been in that industry, so a little bit.

6 Q. But you have an MBA. I mean, it's not a  
7 completely foreign notion.

8 A. Right. That's correct.

9 Q. I mean, the demand -- I mean, I'm just saying,  
10 demand notes exist. There are lots of different kinds  
11 of loans that don't necessarily have a definite end  
12 date.

13 A. Okay.

14 Q. And in fact, the loan that Retirement Value  
15 received, it was due when the insured died, correct?

16 A. Yes.

17 Q. So when the insured dies, Retirement Value is  
18 obligated to pay the money back.

19 A. Yes.

20 Q. And so that's your end date of the loan.

21 A. Yes.

22 Q. So can you describe for me how the money  
23 flowed once it was received from an investor?

24 A. All money was sent or mailed to the escrow  
25 agent, Kiesling, Porter, Kiesling & Free. Kiesling

1 A. Correct.

2 Q. Now, going back to Mr. Cain's paperwork,  
3 Retirement Value received -- and you can look. It's  
4 32220 on Exhibit 52 -- but \$3,372.49.

5 A. Yes.

6 Q. And what did this money represent, this  
7 \$3,372?

8 A. Retirement Value's commission or profit margin  
9 on this transaction, I guess.

10 Q. So what did Retirement Value do to earn this  
11 commission or profit?

12 A. Well, we -- we had the contact with James  
13 Settlement Services in order to be able to get --  
14 obtain policies at a deep discount. We felt like we  
15 were getting very good prices out there in the market  
16 for these settled policies and so basically being the  
17 source or the creator or establishment of the program.  
18 We also processed all of the paperwork, all of the  
19 back-office work. We coordinated with Kiesling the  
20 payment of the premiums on the policies in the -- I  
21 guess the ongoing assurance that these policies would  
22 not lapse.

23 Q. So in your view, Retirement Value earned its  
24 \$3,372 on Mr. Cain's investment.

25 A. Yes.

1 A. That, I do not know.

2 Q. Is 10 million in the right ballpark?

3 A. Possibly.

4 Q. And it's your view, of course, that Retirement  
5 Value earned that 10 million dollars.

6 A. Yes.

7 Q. And it earned that 10 million dollars by  
8 providing a valuable service to the investors.

9 A. Correct.

10 Q. And the services it provided made it more  
11 likely that the investors would make money or that they  
12 would make more money, correct?

13 A. Correct.

14 Q. And so in your view at least, the investors  
15 were dependent upon Retirement Value's efforts to make  
16 this investment a success.

17 A. Yes.

18 Q. And one of the things that Retirement Value  
19 did in order to make it a success is you had to keep  
20 the policies in force, correct?

21 A. Well, we would instruct Kiesling on the  
22 payment of premiums in order to keep the policies in  
23 force.

24 Q. But it was important to keep the policies in  
25 force.

1 the optimal scenario would be that particular licensee  
2 could find another client that would be willing to take  
3 over the former client's participation in that policy  
4 and do an even swap-out. Therefore, Client A would get  
5 their \$10,000 back. Client B would then put in \$10,000  
6 plus the premium call and, however, a shorter  
7 timeline. So that would be one scenario.

8 I'm trying to think. That was basically  
9 what we were --

10 Q. I mean, if I'm one of the investors that made  
11 my premium call, I expect to get my money, correct?

12 A. If you made a premium call --

13 Q. If I responded to the premium call, sent my  
14 money in, I'm entitled to get paid when the insured  
15 passes.

16 A. Yes. Yes.

17 Q. And so you know, I'm a little bit -- as that  
18 investor, I'm hostage to the other investors, correct?

19 A. Right. If other investors decline to pay and  
20 let's say we couldn't switch out their participation,  
21 then that would be something that Retirement Value at  
22 that point would be able to step in and financially be  
23 able to handle.

24 Q. Right. But from my perspective, from the  
25 investors' perspective, the investors are sinking and

1 swimming together, correct? Either --

2 A. According to the paperwork, yes.

3 Q. Okay. And that's the functional reality of  
4 it.

5 A. Right. But I know you keep saying this isn't  
6 about Life Partners. That's in Life Partners'  
7 paperwork. However, they do have a way where they pay  
8 premiums for the investors and take it out of the  
9 matured proceeds of the policy for that investor.

10 Q. And in fact, they made -- they basically  
11 advance a loan to --

12 A. They advance a loan against the matured value  
13 of that investor's participation.

14 Q. Was that something that Retirement Value was  
15 considering?

16 A. Absolutely.

17 Q. Okay. But as an investor, in order for  
18 this -- for me to be protected, I'm relying on my other  
19 investors to respond to premium calls and I'm also  
20 relying on Retirement Value's ability to make other  
21 people respond to their premium calls, to resell those  
22 investments, or to somehow or other -- to somehow  
23 bridge that gap, correct?

24 A. Yes.

25 Q. Now, when the -- you told me Retirement Value



1 for different types and transactions than other states  
2 do.

3 A. Correct.

4 Q. And Retirement Value operated not just in  
5 Texas but in other states as well.

6 A. Yes.

7 Q. Do you know how many states you guys operated  
8 in?

9 A. Not off the top of my head, no.

10 Q. About how many licensees did you have?

11 A. About 1200.

12 Q. Of those 1200 licensees, not all of them were  
13 actually productive, correct?

14 A. Correct.

15 Q. How many licensees did you have that were  
16 actually productive?

17 A. Probably 20 -- the 80/20 rule. Probably about  
18 20 percent of the 1200.

19 Q. About 250?

20 A. Sounds like a good guess.

21 Q. I mean, that's 20 percent.

22 A. Yeah.

23 Q. And the licensees were selling based on  
24 materials that were either provided by or approved by  
25 Retirement Value, correct?

NO. D-1-GV-10-000454

STATE OF TEXAS,  
Plaintiff

IN THE DISTRICT COURT OF

VS.

RETIREMENT VALUE, LLC, ET AL,  
Defendants

TRAVIS COUNTY, TEXAS

AND

KIESLING, PORTER, KIESLING &  
FREE, P.C.,

Relief Defendant

126TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATION  
DEPOSITION OF WENDY ROGERS, VOLUME 2  
JULY 15, 2011

I, SHERRI SANTMAN FISHER, Certified Shorthand  
Reporter in and for the State of Texas, hereby certify  
to the following:

That the witness, WENDY ROGERS, was duly sworn  
by the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

That the deposition transcript was submitted  
or \_\_\_\_\_ to the witness or to the  
attorney for the witness for examination, signature,  
and return to me by \_\_\_\_\_;

1 That the amount of time used by each party at  
2 the deposition is as follows:

3 Jennifer S. Jackson - 13 minutes  
4 Michael D. Napoli - 3 hours, 21 minutes  
5 Isabelle M. Antongiorgi - 1 hour, 13 minutes  
6 Geoffrey D. Weisbart - 28 minutes  
7 Wendy Rogers - 5 minutes

8 That pursuant to information given to the  
9 deposition officer at the time said testimony was  
10 taken, the following includes counsel for all parties  
11 of record:

12 Jennifer S. Jackson, Attorney for Plaintiff  
13 (512/475-4866)  
14 Michael D. Napoli, Attorney for the Receiver  
15 for Retirement Value, LLC (214/939-5500)  
16 John W. Thomas, Attorney for the Receiver for  
17 Retirement Value, LLC (512/495-1400)  
18 Isabelle M. Antongiorgi, Attorney for the  
19 Receiver for Hill Country Funding (512/473-2257)  
20 Geoffrey D. Weisbart, Attorney for Intervenor  
21 Gary Cain, Barry Edelstein, and Qvest Master Fund III  
22 (512/479-8888)  
23 Wendy Rogers, Pro Se

24 I further certify that I am neither counsel  
25 for, related to, nor employed by any of the parties or  
attorneys in the action in which this proceeding was  
taken, and further that I am not financially or  
otherwise interested in the outcome of the action.

Further certification requirements pursuant to  
Rule 203 of TRCP will be certified to after they have

1 occurred.

2 Certified to by me this 18th day of July,  
3 2011.

4  
5  
6  
7  
8 SHERRI SANTMAN FISHER, Texas CSR 2336  
9 Expiration Date: 12-31-11  
10 Sunbelt Reporting & Litigation Services  
11 Firm Registration No. 07  
12 1016 La Posada Drive, Suite 294  
13 Austin, Texas 78752  
14 (512) 465-9100

15 FURTHER CERTIFICATION UNDER RULE 203 TRCP

16  
17 The original deposition/errata sheet  
18 was/was not returned to the deposition officer on

19 \_\_\_\_\_;

20 If returned, the attached Changes and  
21 Signature page contains any changes and the reasons  
22 therefor;

23 If returned, the original deposition was  
24 delivered to \_\_\_\_\_, Custodial

25 Attorney;

1 That \$ \_\_\_\_ is the deposition officer's  
2 charges to the \_\_\_\_\_ for preparing  
3 the original deposition transcript and any copies of  
4 exhibits;

5 That the deposition was delivered in  
6 accordance with Rule 203.3, and that a copy of this  
7 certificate was served on all parties shown herein on  
8 \_\_\_\_\_ and filed with the Clerk.

9 Certified to by me this \_\_\_\_ day of \_\_\_\_\_,  
10 \_\_\_\_\_.

11  
12  
13  
14  
15  
16 SHERRI SANTMAN FISHER, Texas CSR 2336  
17 Expiration Date: 12-31-11  
18 Sunbelt Reporting & Litigation Services  
19 Firm Registration No. 87  
20 1016 La Posada Drive, Suite 294  
21 Austin, Texas 78752  
22 (512) 465-9100  
23  
24

25 Job #94346

**Digital Recording 1**

**Rani Sabban ("Cody Walker"): Retirement Value LLC ~ Dick Gray  
03-19-10**

**00:00**

**M: Good Afternoon Retirement Value, this is Michelle**

**RS: Hi Michelle my name is Cody and I've been talking with Bruce Collins...**

**M: Yes**

**RS: ...about an investment and he said I might be able to catch ahhh Mr. Gray? (Inaudible)**

**M: (inaudible) He's not going to be in until Monday. Would you like to leave a voicemail?**

**RS: Sure**

**M: Okay, one moment please... (Transfers call)**

**1:00**

**DG: You have reached the voicemail of Dick Gray. Please leave your name, number and a brief message and he will return your call.**

**(Automated message)**

**RS: Hi Mr. Gray this is Cody I've been talking with Bruce Collins about making an investment with Retirement Value. He said that I might be able to talk with you for a few minutes. I just have a few questions about the program, when you can give me a call back its Cody Walker 512-391-1787. Thank you Sir.**

**1:39**

**PLAINTIFF'S  
EXHIBIT**

**E**

**EXHIBIT**

**B-16**

TSSB 050000

**Digital Recording 2**

**Rani Sabban ("Cody Walker"): Retirement Value LLC ~ Dick Gray  
03-22-10**

**00:00**

**J: Thank you for calling Retirement Value, this is Jennifer**

**RS: Hi, is Mr. Gray available?**

**J: Ummm...Let me transfer you over real quick**

**RS: Okay**

**J: (Transfers Call)**

**DG: You have reached the voicemail of Dick Gray please leave your name, number and a brief message and he will return your call.**

**1:04**

**Digital Recording 3**

**Rani Sabban ("Cody Walker"): Retirement Value LLC ~ Dick Gray  
03-22-10**

**RS: This is Cody**

**DG: Cody this is Dick Gray with Retirement Value in New Braunfels  
returning your call**

**RS: Hey how are you?**

**DG: Doing fine. What's up?**

**RS: Well, I've been talking with Bruce a little bit about possibly making an investment ummm... He sent me a few things and I was hoping to uhh to speak with you before I finally make an investment. Ahhh you know mostly to make sure I'm not sending my money off to you know some Nigerian county or something make sure everybody is the real deal, but ummm, you know, I was hoping if you could tell me a little bit about your program and what you're doing?**

**DG: Well, I'd be happy to do so, you're thinking of being a participant rather than a licensee actually marketing the product?**

**RS: Yes Sir**

**DG: Okay, Okay well it something that isn't new either in the market place or new to us ahhh...If you've worked with Bruce Collins then he's probably given you the background that this idea is old enough that the Supreme Court said it was legal ahhh to do this and they made that announcement back on December 4<sup>th</sup> of 1911. So, it's been around long enough that it went to the court. that long ago it's really coming up on a hundred years. So, it's perfectly proper, and legal and ethical and moral and uhhh basically, we're helping people uhhh...sell their policies rather than surrendering them to the insurance companies in order to receive the net cash surrender value. We buy the policies from these folks for far more than the insurance companies would give them so, ahhh when someone sells the policy to us they really have been blessed by the process and uhhh it's not that they're laughing all the way to the bank cause usually, some kinda reason that triggered their desire to sell their policy rather than keep it. Sometimes that represents some sorta financial crisis or the individual who is selling their policy, but ahh we give them very, very, more than fair price for it, but way more than the carrier would have paid them for the cash surrender value.**



RS: Sure

DG: That's really pretty cut and dry Cody. The difference between a death benefit and all of the costs associated with our transactions, the cost of the policy, the payments and commission and fees and the administrative costs, the allowance for paying the premiums on an ongoing bases until the person who is insured passes away. All of those expenses even after they're subtracted from the death benefit leave a pretty good spread...

RS: mmm-mmm

DG: ...and that accounts for why I'm sure Bruce has told you that your money would earn sixteen and half percent simple annual interest for the life expectancy. So, if it is a five year life expectancy on a certain policy it would be sixteen and a half times five so, you'd make your money would make eighty-three percent on that.

RS: Wow

DG: And it's...and it's...and it's not pro-rated uhhh because, the death benefit already exists because, the policies already are enforced and because we'll pay the premium to keep those policies enforced until the insured passes away...uhhh...we don't have to pro-rate the settlement. So, if you've participated on a certain policy and the insured passed away early you still would get your full settlement because, we're going to get the full death benefit.

RS: mmm-mmm

DG: and your settlement...your total ahhh return is all driven by the death benefit.

RS: Okay

DG: So, That's it in a nutshell I would of course in addition to getting back your money plus your earnings you do receive and this is based on a pro-rated base... if we collect some premiums we haven't used when the insured passes away you get back your share on that as well. Now the two ahh bits of fine print that I need to share will you so, that I'm not just trumpeting all the pluses I need to put some minuses in here.

RS: Sure

DG: It may not be a minus for you, but this is not liquid

RS: mmm-mmm

DG: Whatever funds we have the privilege of you placing with us, those funds will stay with us until the people insured by these policies pass away. There is no provision for an early settlement. There is no provision for you know reselling with someone else to bail out. So, it's very much not a liquid position.

RS: Right

4:57

DG: And then uhhh we believe that we have ahh very accurate underwriting. We believe the life expectancy numbers that we use are solid, but no one is going to die on time and no one is going to die when we expect them to. So, that's why we take the life expectancy for each insured and we add twenty-four months additional premiums and set that aside.

RS: On the life expectancy I got this brochure that Mr. Collins sent me in the mail....

DG: Right

RS: It's kinda the glossy one...ummm

DG: Yes

RS: And it says that ya'll use ...I hold on one second let me have it in front of me...uhhh it says ya'll use like three independent ahhh companies to ahhh...

DG: Yes, yes that's true

RS: Get the LE what does that mean...I mean I not really ahhh..

DG: Okay, Okay. Each, each of us has a life expectancy based on our current age and our medical condition and to uhhh to determine what that life expectancy is uhhh is a...is ahhh fascinating statistical process and uhh it's the combination of ahhh art, of science ahh statistics and just plain darn luck. Ahhh really, I mean it's not like being ahhh...it's not like being in a chemistry lab and knowing that if you mix a certain amount hydrochloric acid with a certain other chemical you can predict with certainty the reaction that you're going to get and how long it's going to take and even what color the smoke is going to be in the lab, but it's not that way with predicting ahhh someone's passing...

RS: mmm-mmm

DG: ...or someone's death. So, the underwriting companies use the best data available, they use the most accurate photo detail medical history that they can obtain and they uhhh say through this interesting combination of art, science, magic and statistics they would say something like ahhh this particular seventy-eight year old female with the following medical conditions ahhh has a life expectancy of thirty-nine months or forty, seven months or fifty-two months.

RS: Yeah, yeah one of the things that I saw that Bruce sent me ummm is like a value participant and I think it might be some sorta valued participant ahhh it's just a packet of documents and one of them had something like what your talking about umm a life expectancy certificate.

DG: Yes or a report, but as I say it's a evaluation of the medical history with a prej...prediction or projection is to...you know based on these medical conditions how long do you expect this person to live.

RS: Sure

DG: What is their judgment, now to protect you and the timelines involved ahhh we're not using just one company or even two we use three different companies and ahhh this is...this is new to us we were using one company and then we expanded to two and now we just expanded to three and we think it's best way to serve ahhh someone like yourself as a client and it's the best way to cushion your risk.

RS: Sure

DG: So, every policy we ever going forward will have three life expectancy reports. Each of them from a different company each of the companies being independent and let's just use an example what if the three reports on this hypothetical you know seventy-eight year old woman were you know forty-two months, forty-three months or forty....lets say forty-two, forty-seven and fifty-one.

RS: mmm-mm-mm.

DG: Let's say we had that kinda of spread

RS: Okay

DG: Then just arbitrarily with out doing any averaging or hand picking we would simply use the longest of the three reports.

RS: Okay

DG: So, we would share with you what all three were, but then we would tell you that we've selected fifty-one months as the bases for our acquiring this policy.

RS: Okay

DG: But, then we will still collect enough premiums to last an additional twenty-four months.

RS: Okay

DG: So, in this instance ahh again, you would have three separate life expectancy reports each from solid, reputable companies. We would have picked fifty-one months cause that was the longest of the three, but then we would have set aside premiums to last seventy-five months.

RS: Okay

DG: Because we are going to take fifty-one plus another twenty-four. Now this leads us to what could be the second of the two negatives here: one is that it's not a liquid the other one is on this particular policy if we... if the person lives longer than expected and we run out of money even after using that two year cushion then our paperwork states very clearly that each participant has to help pay the premium until the person dies.

10:08

RS: Okay

DG: But, we think that... well that is certainly going to happen in a few instances we think the operative word is a few instances. Where is if you participated in all ten of our current policies and you could do that with as little as fifty thousand dollars you would have five files in on each of the ten policies uhhh participation. So, if one of them were to go long we think several others would have paid out already ahhh would have matured and you would have received your money and your gain and you would have received back unspent premiums cause those particular policies would have not gone long.

RS: Sure

DG: So, uh taking it a step further if you were my client personally and I was having the privilege of assisting you I would point out to you what I just did and say that was likely to happen. Please be wise enough to be your own escrow agent please, set aside some of the premiums you get back as a refund and save it for the premium call that you're almost certainly going to get on couple of the policies.

RS: Right, now ummm you know the paperwork that I got sent and I'm guessing that this isn't a final document and you know from ERM the company it has listed as like Midwest Medical Review...

DG: Right, right

RS: So, there would be two other companies that I would receive?

DG: Right

RS: Is, is that what that company does?

DG: Yes, Midwest Medical is one of the three companies that we use and they've been independent...independently evaluated by a company in Princeton, uhhh New Jersey that specializes with these statistical measures and uhh we are waiting for the final report now, but the preliminary word is that it showed that Midwest Medical is accurate ninety-two percent of the time.

RS: Okay

DG: and that is pretty staggering numbers so...

RS: Wow

DG: Yes, there would be ahhh...in fact, in fact ahhh when I visited them in ahhh May last year they offered to do my life expectancy and I politely declined (laughs) I really...

RS: (laughs)

DG: (laughs) I really don't want to know what they think my life expectancy is.

RS: (laughs) there's just some stuff you don't really want to know

DG: I just don't want to go there I was happy to go home with a base line. Knowing that a sixty-five year old, male, non – smoker has a baseline of about nineteen point two years.

RS: (laughs)

DG: That worked for me I didn't need to know what the debits were for the medical conditions, but that's, that's an overview if you have specific questions of course I'll be happy to answer them for you.

RS: Sure, Sure and umm you know I'm trying to due whatever due diligence that I can do ummm for me and my wife we were looking at going in and making an investment fairly soon and umm you know and Bruce is on Vacation and stuff...

DG: Right

RS: I'm really excited to uhhh be able to talk to you and ask you some of these questions. Ummm one of these things that I didn't understand necessarily is uhhh in this glossy thing to is anhh I'll receive an irrevocable co-beneficiary?

DG: Well actually...

RS: And what is...

DG: Yes you...yes, you will, but that is strengthens as of this afternoon. We just finished about 2:30 we finished a meeting with our attorney's who assist us as our escrow agents. They handle the money and if we have the privilege of helping you and your wife with this whether it's regular investment funds or whether it's qualified money that comes out of a Traditional IRA or a Roth IRA it doesn't matter where your funds come from.

RS: Okay

DG: Ahhh. we don't touch those monies ever you would send them to the law firm that functions as the escrow agent your check actually would be made out to them. If it was qualified money excuse me non-qualified money, if it's money from a IRA or a retirement account then we would probably would need to pull it from you current custodian, but even then it goes in the name of the law firm not Retirement Value.

RS: Okay

DG: So, but as soon as the funds are received ahhh by Keisling then they deposit them at Wells Fargo Bank and they keep the money in an separate escrow account for each policy ahhh it's just ahhh they just pay the policy purchase price per our instructions, they pay the premiums at our instructions and so, it has a...it's just a clean process very transparent.

RS: Sure

DG: You'll always know where the money is going and how it's being spent.

RS: Sure, now ummm like with... you know I was thinking about doing twenty-five thousand to start off or...or...

DG: Sure

RS: ...or something in that ball park what exactly am I getting? Like am I getting a specific interest in one of these insurance policies? Will I know how much interest I have? I mean how...

15:01

DG: Yes, you will...yes, you will and I realized I didn't ask your question as to how the uhhh...right now it's structured so it's a loan. Basically the way we have it's structured on the advice of our attorney's is, we ...we are the investor we are the buy the policies at Retirement Value and we do so, with funds provided by participants like yourself who are making us loans to operate our company...

RS: mmm-mmm

DG: ...and in exchange for the use of your funds, because it is a very profitable undertaking. We can pay you sixteen and half percent simple annual interest for the use of your funds. Now, the way we protect you and your funds is to collateralize the loan by attaching you to the policy.

RS: Okay

DG: We and so, the fancy language by means by which the way that we do that and is that we make you an irrevocable co-beneficiary...

RS: mmm-mmm

DG: ...and that's...that's ahhh very...if you've not...if you've not been in the insurance business Cody that's a very specific legal phrase. It means that Retirement Value as the owner has surrendered the right to change the standing to change your status to undue you being a beneficiary and you're made a beneficiary in the amount equal to your original bases and all your projected returns. So, again if you were to do hundred thousand and you had ten thousand dollars on each of the ten policies and uhhh so, then you would have ten thousand dollars that would be protected and your interest on the ten thousand would be protected by an irrevocable do-beneficiary standing that we can't change, we can't tamper with. Now as of 2:30 this afternoon we finished a meeting with the law firm that serves as our escrow agent we've strengthened that further for you as a client. We've actually...we're... ahhh... establishing several...ahh...irrevocable...ahhh... beneficial trusts and so, now instead of Keisling being the beneficiary and receiving the money to pass on to you. The money would actually come into a beneficial trust with Keisling as the trustee and then the trust will disperse funds according to the monies that have commanded the shares that everybody has.

RS: Okay

DG: But, that is all pre-determined in other words if you had...for simplicity sake if it was a million dollar policy and that was the death benefit that would be paid out when this person passes away and you had ten thousand plus another nine thousand in interest you own nineteen thousand dollars. That, that gives you a very specific fractional share of that death benefit and that's what's protected by Keisling on your behalf and that's what you would get if death occurs or when death occurs on that policy.

RS: Right, okay, ummmm another question it's also in this glossy thing is ummm there's ahhh page that talks about financing entity?

DG: Right

RS: and ummm you never...I don't ever see in here who that is?

DG: Well, and that's proprietary information...

RS: Okay



DG: ...to tell you...except to tell you that we are privileged to have our policies source to be the largest aggregator of these kind of policies in North America. Uhhhh he's been in business for about fifteen years uhhh in two thousand and eight for example when the uhhh entire industry...the entire secondary market was valued at twelve and half billion dollars. His volume alone was one point five billion. So, he's really one of the tails that wags the dog he's ahhh he, he reviews you know hundreds of millions of dollars of face amount or death benefits every week and very carefully, cherry picks the policies that meet our specs.

RS: mmm-mmm

DG: But, he is also is our financial backer because, well when he proposed that we set this company up a year and half ago he also brought to the table an interest free loan to help facilitate that. So, he's a pretty important person in our lives. A very careful, close advisor. I talk to him several times a day even on the weekend we are very grateful for his support, but he likes to stay in the background and simply be identified as a financial entity or warehousing operation or an aggregator and that's what he does for us.

20:05

RS: Okay, I can understand that. Hmm, well ummm, kinda at this point...I mean...I gotta tell ya...Bruce seems like a nice guy, but I can't get a hold...I mean...I haven't been able to get documents from him and me and my wife are pretty excited and we're wanting to...to...to make an investment and...

DG: right

RS: Is there a way you can...what do I do from here if I wanna go ahead and invest?

DG: Well, ahhh we can certainly work it out with you. Bruce is uhhh pretty busy guy he's also a pretty responsible guy. Right now he's enjoying a uhhh cruise out of Galveston for a week with his wife a much deserved break. So...

RS: Yes Sir

DG: If you were ready to you know move ahead then we would have one of our other associates uhhh I even could have one of the other officers or partners of the company provide you with paperwork and walk you through it and Bruce would certainly still get credit for that.

RS: Sure, Sure

DG: We don't...we're happy to help each other out; we don't need to you know steal from each other uhhhh...

RS: Good

DG: that would be fair, but I guess if you...if you have...you know after you kinda think about it, sleep on it, ahhh visit with your wife further uhhh you're certainly welcome to contact me again and I can arrange for you to get the paperwork and we can proceed from there.

RS: Okay, well great maybe ummm... maybe if it's okay ummm...I could give you a call back tomorrow?

DG: Yes, as long as it's late in the day. I'm on my way to the airport in Austin right now to pick up a couple of consultants who are coming in. We have meetings...ahhh we have a series meetings scheduled with them that will start at breakfast at 8:30 am and run till about 3:00 that afternoon but, after that I should be available.

RS: Okay, what I'll do is I'll give you a call and if you're not there I'll just leave you a message.

DG: Well, I'd rather give you my cell phone. That way you have a better way of getting through to me.

RS: Sure

DG: Yeah, that's (210) 392 – 3550 and it's Dick Gray- G-R-A-Y and I'm the principal owner of the company and the founder and the president.

RS: Yeah, I just looked...looks like uhhh...I...when I first went to ya'lls website I couldn't get on there...uhhh there was like...it was password protected or something?

DG: Right, it's password protected. Yeah

RS: I went to ummm to a website today I just Googled Retirement Value and ummm you came....your kinda information came up there so, ummm...anyways it looked like it might have changed or something...

DG: Well, that's probably to bad but, I'm glad to know that (Laughs)

RS: (laughs)

DG: Or maybe that one of our licensees is being a little open. We have just have...you know our website is pretty sparked by the way you know don't hold your breath for waiting for exciting things.

RS: (laughs)

DG: It's really like a fighter pilots cockpit. It's all utilitarian and uhhh all the buttons you push are going to have a specific purpose and we are probably going to pretty it up here. We're in the process of a transition right now where our...even our licensees are now going to RetirementVoice.net. Rather, than .com cause, it's being rebuilt, but ta it's just uhhh it's just what it is a utilitarian location and what licensees can obtain data and print paperwork and so forth, but we can certainly get it to you as an email attachment or fax it to you and make it easy for you to participate.

RS: Awesome. Uh, what is kinda your background in life settlements and...

DG: Oh, I've been at it for about four and half years. I helped my first retail client with a case back on the first of November in two thousand and five. So, and Wendy Rogers who is also an owner and uhhh I think in the literature you may have she is listed as Vice President, but as of April first she will become the CEO and my wife Karen and I have worked with Wendy for five years now. So, she's been a part of every decision we've made and we've helped many, many clients with many millions of dollars worth of money to safe guard their funds. As I say I've been at for about four and half years so, ahhh it's a good asset class. It's not the right place for all of anybody's money, but we're persuaded that it's the right place for some of everybody's money.

RS: Well Mr. Gray I appreciate your time today and ahhh I'll look forward to talking with you again. I'll probably call you tomorrow afternoon.

DG: That'll work

RS: Alright

DG: Please do call anytime. Thanks.

RS: Thank you, Bye-bye

DG: Bye-bye

24.50

**Digital Recording 4**

**Rani Sabban ("Cody Walker"): Retirement Value LLC ~ Dick Gray  
03-23-10**

**00:00**

**00:30**

**DG: (Voicemail) Hi, this is Dick Gray, and I'm sorry that I missed your call. Please leave a message, and I'll get back to you as quickly as possible. Thanks and have a profitable day.**

**RS: Mr. Gray, this is Cody. When you get a chance, call me back. 512-391-1787. Thank you.**

**01:00**

Unofficial copy Travis Co. District Clerk Velda L. Price

STATE OF TEXAS

COUNTY OF TRAVIS

§  
§  
§

**AFFIDAVIT OF RANI SABBAN**

BEFORE ME, the undersigned authority, personally appeared Rani Sabban, who after being duly sworn, stated as follows:

1. My name is Rani Sabban. I am over 18 years of age, of sound mind and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I am employed as a Financial Examiner in the Austin office of the Texas State Securities Board (hereinafter referred to as the "TSSB"). I am in the Enforcement Division. I have been so employed from June 11, 2007, to the present. My job duties include conducting investigations that will prevent or detect violations of the Texas Securities Act, TEX. REV. STAT. ANN. art. 581-1 et seq. (Vernon 1964 & Supp. 2010).
3. I am conducting an investigation of suspected violations of the Texas Securities Act by Retirement Value, LLC (hereinafter referred to as "Retirement Value"), Richard Gray (hereinafter referred to as "Gray"), and Bruce Collins (hereinafter referred to as "Collins"). These suspected violations are based upon its offer and sale of investments in a program referred to as the Re-Sale Life Insurance Policy Program.
4. I am aware that the Texas Securities Act provides that persons and entities that offer for sale and sell securities in Texas must generally be first registered as dealers or agents with the Securities Commissioner. Retirement Value, Gray, and Collins are not, however, currently registered with the Securities Commissioner as dealers or agents and they have not been registered in said capacities at any time material hereto. *See Exhibit B-1 and B-2.*
5. I am also aware that all securities that are offered for sale and sold in Texas must generally first be registered with the Securities Commissioner or issued a permit for sale in Texas. The Re-Sale Life Insurance Policy Program has not, however, been registered by qualification, notification or coordination at any time material hereto, and no permit has been granted for sale in Texas at any time material hereto. *See Exhibit B-3.*
6. I am aware that Gray and affiliated entities have previously been involved in law enforcement and regulatory proceedings based upon the sale of investments. For example:



- A. I am aware that on or about June 25, 2009, the Texas Department of Insurance filed a Notice of Hearing with the State Office of Administrative Hearings in Docket No. 454-09-4867C. I have reviewed a copy of this Notice of Hearing, which named Defendant Gray and sought the revocation of his insurance license based in part upon his conduct as an agent of Secure Investment Services, Inc. (hereinafter referred to as SIS"). The Notice of Hearing filed by the Texas Department of Insurance specifically alleged that Defendant Gray committed fraudulent or dishonest acts or practices and issued bonds without holding the required General Property and Casualty License. I have attached a true and accurate copy of this Notice of Hearing to this Affidavit as **Exhibit B-4**.
- B. I am also aware that on or about August 23, 2007, the United States Securities and Exchange Commission filed a complaint against SIS and others in Cause No. 2:07-cv-01724-LEW-CMK, in the United States District Court for the Eastern District of California, Sacramento Division. The complaint alleged, among other things, that SIS orchestrated a Ponzi scheme and misled investors by providing them life expectancy estimates certified by a physician from Amscot Medical Labs, Inc., and Midwest Medical Review, LLC (hereinafter referred to as "Midwest Medical"). I have attached a true and accurate copy of this complaint to this Affidavit as **Exhibit B-5**.
- C. I have reviewed investigatory records that indicate that Gray served as the Managing Member of Hill Country Funding, LLC (hereinafter referred to as "Hill Country Funding"). Gray, acting in this capacity, purportedly offered for sale and sold investments in bonded life settlement contracts purportedly issued by American Settlement Associates, LLC (hereinafter referred to as "ASA"). These bonded life settlement contracts were also purportedly secured by a bond issued by Provident Capital Indemnity, Ltd.
- D. At the time that Gray, Hill Country Funding, and ASA offered for sale and sold the bonded life settlement contracts, the Texas Department of Insurance and the Texas State Securities Board had already taken actions against Provident Capital Indemnity, Ltd. I have attached true and accurate copies of Emergency Cease and Desist Orders entered against Provident Capital Indemnity, Ltd., by both the Insurance Commissioner and the Securities Commissioner as **Exhibit B-6** and **B-7**.
- E. I know that, on or about September 8, 2008, Gray, both individually and in his capacity as Managing Member of Hill Country Funding, LLC, filed an Undertaking with the Securities Commissioner. I have attached a true and accurate copy of this Undertaking to this Affidavit as **Exhibit B-8**.
7. I have reviewed records related to Midwest Medical and its purported owner, George Kindness. These records indicated that in or around November 2003, George Kindness was indicted for twenty-one counts involving conspiracy and fraud in the introduction of misbranded and adulterated drugs into commerce in United States of America v. George

Kindness et al., CR. No. 03-20433BV, in the United States District Court for the Western District of Tennessee, Western Division. The indictment also alleged that George Kindness falsely represented himself to be a medical doctor. He later pleaded to one count of the indictment and is a convicted felon. I have attached true and accurate copies of these records hereto as **Exhibit B-9**.

8. On March 11, 2010, I observed Retirement Value's website at [www.retirementvalue.com](http://www.retirementvalue.com) (hereinafter referred to as the "Retirement Value Website"). The Retirement Value Website indicated that Retirement Value could be contacted by telephone at (800) 624-8858. See **Exhibit B-10**.
9. Acting in an undercover capacity, thereafter I called (830) 624-8858 from the TSSB undercover telephone line. When acting in this capacity, I do not indicate that I am employed by the TSSB and I use a pseudonym instead of my real name. I use this technique because I am aware that persons and entities engaged in suspected violations of the Texas Securities Act often do not provide true and accurate information to regulatory or law enforcement personnel.
10. A female answered my call and said, "Retirement Value, this is Michelle." (hereinafter referred to as "Michelle"). I told Michelle I received a flyer and was calling to hear about what they had available. Michelle asked me to identify the person who provided me with the flyer. I said I met an individual on the golf course named "Brian." Michelle said she believed "Brian" was "Brian Servanka" (phonetic) and then transferred my call to Collins. Before transferring my telephone call, however, she identified Collins as the Chief Operating Officer of Retirement Value.
11. Collins answered the phone and confirmed he was the Chief Operating Officer. He specifically stated that I was "talking with the Chief Operating Officer of the company" and that I "got to the top right away." I have attached true and accurate transcripts of this digital recording as **Exhibit B-11**.
12. I explained to him I received a flyer on the golf course and was interested in hearing a little bit about the investment. Collins asked if I was in the area. I told him I lived in Pflugerville. Collins asked for my name, home address, email address, and telephone number. I provided this information to Collins, but I did not provide him with the mailing address of the TSSB, the Agency's telephone number or any information that could be used to identify me as being associated with law enforcement. See **Exhibit 11**.
13. Collins asked what I knew about the product. I told him I knew just a little bit about life settlements based on what the guy told me at the golf course. Collins promised to send me documents by email and send me a priority package in the mail. He told me we could talk on the telephone on Monday or get together after I receive the information. We agreed to talk again on Monday after I received the information. See **Exhibit B-11**.

14. Later on March 11, 2010, I received an email notification from UPS that indicated a package was sent from Michelle and Retirement Value at the address of 707 N Walnut Ave Ste 101, New Braunfels, TX 78130-7951.
15. During the course of my investigation I received numerous electronic mail messages from Collins. These electronic mail messages were sent from bcollins@retirementvalue.com and nostockmarketrisk@yahoo.com. The body of the electronic mail messages received from bcollins@retirementvalue.com identified Collins as the Chief Operating Officer for Retirement Value, LLC, identified his address as 707 N. Walnut St., New Braunfels, TX 78130, identified his telephone numbers as (830) 624-8850 and (214) 732-5422. The body of the electronic mail messages received from nostockmarketrisk@yahoo.com identified Collins as a Certified Estate Planner, identified his address as 1500 Legendary Ct., Grand Prairie, TX 75050, and identified his telephone numbers as (214) 732-5422, (800) 410 5987 and (972) 602 6929.
16. On March 13, 2010, I received the package referenced in paragraph 14 via UPS at the mailing address that I previously provided to Collins. This mailing address is in Travis County, Texas. The package contained materials and information relating to the Re-Sale Life Insurance Policy Program. I have attached true and accurate reproductions of these materials and information to this Affidavit as **Exhibit B-12**.
17. Based upon the Retirement Value Website, my conversation with Collins, the electronic mail correspondences, the electronic documents that I received via electronic mail and the materials and information that I received via UPS, I learned that Retirement Value and Collins were offering for sale and selling investments in the death benefits of life insurance policies. Retirement Value and Collins were marketing and referring to the investments as Retirement Value's Re-Sale Life Insurance Policy Program.
18. The Re-Sale Life Insurance Policy Program was described in significant detail in two Power Point presentations further identified as "An Introduction to Re-Sale Life Policies for Individual Participants Presented by Bruce G. Collins, Chief Operating Officer" (hereinafter referred to as the "Collins Power Point") and "Resale Life Insurance Policies" (hereinafter referred to as the "RV Client Power Point Presentation") and each were attached in two of the aforesaid electronic mail correspondences. I accessed both the Collins Power Point and the RV Client Power Point Presentation using Microsoft Power Point, and I have attached true and accurate copies of the reproductions to this affidavit in **Exhibits B-13 and Exhibit 14**.
19. The Collins Power Point contained the following representations regarding Retirement Value and the Re-Sale Life Insurance Policy Program:
- A. Retirement Value policies are "Targeted to Yield **16.5%** per year" for investors. See **Exhibit B-13**.
  - B. Retirement Value uses "Independent LE [life expectancy] evaluations from three



- companies per insured... [and they use] the longest life expectancy report time." See **Exhibit B-13**.
- C. Retirement Value purports "90% of policies **mature at or before**" projected life expectancy. See **Exhibit B-13**.
  - D. "95% of policies **mature at or before LE** [life expectancy] **plus 12 months**." See **Exhibit B-13**.
  - E. Retirement Value "**Escrows** Maintenance Costs to LE [life expectancy] **plus 24 months**." See **Exhibit B-13**.
  - F. Participants in the program will become "**IRREVOCABLE Co-Beneficiaries**" to the re-sale life insurance policies. See **Exhibit B-13**.
20. The RV Client Power Point Presentation contained the following representations regarding Retirement Value and the Re-Sale Life Insurance Policy Program:
- A. The insureds of the policies "typically are well advanced in years and have a LE [life expectancies] of 3 to 10 years." See **Exhibit B-14**.
  - B. That based on 14,700 cases written and based on a random sample of 5,000 cases written, Midwest [Midwest Medical] is accurate **95%** of the time. See **Exhibit B-14**.
  - C. Midwest Medical is "one of the two largest active life expectancy firms." See **Exhibit B-14**.
  - D. "Retirement Value is the only model that sets aside premium payments for [**LE + 24 MONTHS**]" ensuring that Retirement Value's projections missing the target life expectancy is less than 2%. See **Exhibit B-14**.
  - E. Midwest Medical is **98.5%** accurate within 12 months after expected LE [life expectancy]. See **Exhibit B-14**.
21. On March 15, 2010, I contacted Collins via telephone at (214) 732-5422, a telephone number he previously provided to me. I told Collins I received the package in the mail and confirmed that I received the aforesaid email correspondence. See **Exhibit 11**.
22. During this conversation, Collins told me that Gray was the President of Retirement Value. I was able to confirm this representation, in part, through my review of materials that Collins had previously provided to me and through my review of the Retirement Value Website. See **Exhibit 11**.
23. During this telephone conversation, Collins also described the Re-Sale Life Insurance Policy Program as an investment in a fractional portion of a death benefit of a life insurance

policy, which has been sold by the original owner into the investment market. Collins said that, by any objective measure, this investment was an extremely safe investment. He also described the life insurance carriers used by Retirement Value as being A+ rated. See **Exhibit 11**.

24. Collins told me that I would make my check payable to "Kiesling Porter," an entity that he described as a licensed bonded escrow agent. Collins represented that "Kiesling Porter" would receive my funds and then apportion my funds into different accounts held at Wells Fargo. See **Exhibit 11**.
25. Collins and I discussed the possibility of meeting in person before we concluded the conversation. He also promised to send me additional investment materials via electronic mail. See **Exhibit B-11**.
26. I later confirmed "Kiesling Porter" to be Kiesling, Porter, Kiesling & Free, P.C., a law firm located in New Braunfels, Texas (hereinafter referred to as "Kiesling Porter"). I reviewed the firm's website at [www.kieslinglaw.com](http://www.kieslinglaw.com) and noted that the firm represented therein that it provided escrow services for Retirement Value.
27. On March 17, 2010, I received an electronic message from [nostockmarketrisk@yahoo.com](mailto:nostockmarketrisk@yahoo.com). The "From" field of the message showed it was sent by "Bruce Collins" at [nostockmarketrisk@yahoo.com](mailto:nostockmarketrisk@yahoo.com). Attached to this electronic mail message were six files, including documents describing the Re-Sale Life Insurance Policy Program. I have attached true and accurate reproductions of the electronic message and some of the documents to this Affidavit as **Exhibit B-15**.
28. At a later date, I sent an electronic mail message to Collins at an electronic mail address identified within this Affidavit. I represented therein that I wanted to talk to Gray regarding the investment.
29. On March 19, 2010, Collins responded via electronic mail and directed me to contact Gray by telephone at (830) 624-8858. The "CC" field of that electronic mail indicated that Gray at [rgray@retirementvalue.com](mailto:rgray@retirementvalue.com) was also a recipient of the email.
30. On March 19, 2010, I contacted (830) 624-8858 via telephone on the TSSB undercover line. When my call was answered, I asked to speak with Gray. I was transferred to a voice message system, and I left a message requesting he return my phone call. I provided my pseudonym and the telephone number for the TSSB undercover phone. At no time did I identify myself by my real name or indicate that I was employed by a law enforcement agency.
31. On March 22, 2010, Gray contacted me via telephone at the telephone number for the TSSB undercover phone. This telephone call was digitally recorded using a digital recording device attached to the TSSB undercover telephone. I have attached true and accurate transcripts of this digital recording as **Exhibit B-16**.

32. As reflected within the transcripts, Gray made the following representations during this telephone call:
- A. Gray is the principal owner, the founder, and the president of the company. *See Exhibit B-16.*
  - B. The difference between the death benefit and all of the expenses associated with the transaction accounts for how investors' money would earn an annual rate of 16.5%. *See Exhibit B-16.*
  - C. Retirement Value currently uses three different independent companies to calculate the life expectancies. Retirement Value then uses the longest life expectancy from the three companies. *See Exhibit B-16.*
  - D. Identified Midwest Medical as one of the three companies used to calculate life expectancies. Also that Midwest Medical has been independently evaluated and a preliminary report shows Midwest Medical life expectancies to be accurate 92% of the time. *See Exhibit B-16.*
  - E. Investors' funds are directed to Kiesling Porter, the escrow agent previously described by Collins. Kiesling Porter then deposits the funds at Wells Fargo Bank. The funds at Wells Fargo Bank are then held in separate escrow accounts for each life insurance policy. *See Exhibit B-16.*
  - F. The identity of Retirement Value's financing entity is proprietary information, but he has been in the business for fifteen years and is the largest aggregator of these policies in North America. Additionally, he reviews hundreds of millions of dollars in face amounts of death benefit policies every week and carefully "cherry picks" the policies for Retirement Value. *See Exhibit B-16.*
  - G. Investors would become irrevocable co-beneficiaries. *See Exhibit B-16.*
33. On March 23, 2010, Gray contacted me again through the TSSB undercover telephone number that I previously provided to him on his voice message system. During this conversation, I asked Gray how many people had invested with Retirement Value. Gray told me that Retirement Value had between 750 and 800 investors and that Retirement Value expected to have received \$100 million by April 30, 2010. *See Exhibit B-16.*
34. I told Gray I was ready to make an investment and asked what I needed to do next. Gray agreed to send me, via email, an agreement for me to complete. *See Exhibit B-16.*
35. Later on March 23, 2010, I received an electronic message from [mskasik@retirementvalue.com](mailto:mskasik@retirementvalue.com). The "From" field of the message showed it was sent by "Melissa Skasik" at [mskasik@retirementvalue.com](mailto:mskasik@retirementvalue.com). The "CC" field of this message

indicated it was also sent to a person identified as "DeAnne Lewis" at [dlewis@retirementvalue.com](mailto:dlewis@retirementvalue.com), a person identified as "Wendy Rogers" at [wrogers@retirementvalue.com](mailto:wrogers@retirementvalue.com), and a person identified as "Bruce Collins" at [bcollins@retirementvalue.com](mailto:bcollins@retirementvalue.com). See **Exhibit B-17**.

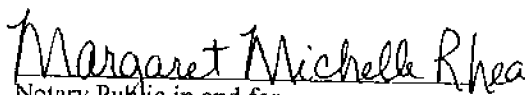
36. Attached to this electronic mail message was an electronic document styled "2010-3-16 Non Qualified Paperwork.pdf." I reviewed this document and determined that it was an agreement that investors would complete to invest in the Re-Sale Life Insurance Policy Program. I have reproduced this document and attached a true and accurate copy of it to this Affidavit as **Exhibit B-17**.
37. On March 25, 2010, I contacted Gray (210) 392-3550, which he previously identified as his cellular telephone number. I told Gray I was doing some due diligence and asked him about George Kindness (hereinafter referred to as "Kindness"). Gray identified Kindness as the owner of Midwest Medical which is the company that prepares the Life Expectancy reports Retirement Value provides to investors.
38. I told Gray I did a Google search for Midwest and found a Securities and Exchange Commission (hereinafter referred to as the "SEC") document that indicated he was a convicted felon. Gray said I had "stumbled on something that we have all known about all along, something that routinely comes up, and [me] probably should have brought it up to [me] but we are way beyond it." He also described it as being "bullshit." Gray described Kindness as a brilliant man who has made some mistakes. See **Exhibit B-16**.
39. Gray said the SEC in their effort to close down a rather small brokerage operation in California "threw the kitchen sink at everybody involved." Gray said Kindness was indicted on 21 "points" by the Food and Drug Administration several years ago. He pled guilty to one of the 21 offenses, paid a \$1,000 fine, and was on probation for a year. Gray further said Kindness has a PhD and is a trained physician from Edinburgh, Scotland. I told Gray it says in the SEC complaint that Kindness is not a medical doctor. Gray agreed Kindness was not a medical doctor, but represented that he has a legitimate practicing doctor, Glenn Chapman, sign all paperwork related to Midwest. See **Exhibit B-16**.
40. Gray said this issue has continued to come up, so he and Retirement Value's Policy Source each put up \$10,000 to have an independent audit done of the results produced by Kindness over the years. Gray said the audit was performed by the Hess Company (hereinafter referred to as "Hess") in Princeton, New Jersey, and it was given 18,000 life expectancy reports produced by Kindness over the years. Gray told me that Hess concluded that Midwest was accurate 92% of the time. Gray said he thinks it is safe to say, by the middle of June, every policy that appears in Retirement Value's portfolio will be accompanied by three different independent life expectancy reports, and Retirement Value will always choose the longest of the three reports. **Exhibit B-16**.
41. I told Gray I was looking at a life expectancy certificate previously provided to me, and the life expectancy certificate contains a section that is whitened out. Gray confirmed my

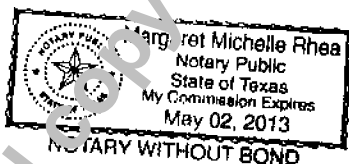
suspicion and represented that the section is, in fact, whitened out. He explained that this was because the redacted section identified Retirement Value's Policy Source, which was the largest aggregator in North America. **Exhibit B-16.**

42. Gray then identified the company as James Settlement Services and Ron James (collectively hereinafter referred to as "James"). Gray further stated James has been in the business for 15 years and previously ran one of the largest financial planning offices on the West coast. James and his son purportedly review policies that are predicated on as much as \$205 million in death benefits a week and cherry pick the best policies. *See Exhibit B-16.*
43. I have reviewed a preliminary report received by the Enforcement Division and purportedly executed by James L. Hess of HessMorganHouse, LLC (hereinafter referred to as "HMH Consulting.") The preliminary report dated February 22, 2010, concludes that on the surface there seems to be clear evidence that [Midwest Medical]'s Life Expectancy Estimates have not been accurate and there is a strong tendency for [Midwest Medical]'s Median Life Expectancy Estimates to be too short.
44. HMH Consulting qualified its finding by noting that it uncovered a large number of data issues during the audit and analysis and that these data issues precluded a fully reliable statistical analysis.
45. As of April 13, 2010, there has been no additional correspondence between Retirement Value or any of its representatives and me.

  
AFFIANT

Sworn to and subscribed before me on the 4th day of May, 2010, by Rani Sabban.

  
Notary Public in and for  
the State of Texas  
My commission expires on 5-2-2013.





## Re-Sale Life Insurance Policies

Retirement Value, LLC  
707 North Walnut Avenue  
New Braunfels, TX 78130

PO Box 31063S  
New Braunfels, TX 78131

Phone: 830-624-8858

Fax: 830-609-6063

RV@retirementvalue.com  
www.retirementvalue.com

The information contained in this handout does not  
constitute investment advice, and is not an offer to sell or a  
solicitation to buy any security or any insurance product.

PLAINTIFF'S  
EXHIBIT

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Δ π EXHIBIT 4

Deponent Rogers

Date 7/1/12 Rpt. WEL

www.66010101x.com



Thank you for the privilege of allowing us to share our proprietary re-sale life insurance policy program with you. We believe both prospective Licensees and prospective Client-participants will want to know:

- All Client-participant funds are deposited in escrow accounts at **Wells Fargo Bank, NA** with a rich, storied, near-mythic legacy dating back to 1852. Naturally, their agreement to accept our deposits cannot be interpreted as and is not an endorsement of our program.
- All Client-participant funds are managed by **Kiesling, Porter, Kiesling & Free, P.C.**, a 60+ year-old law firm in New Braunfels, Texas, functioning as Escrow Agent. Retirement Value, LLC never handles any Client-participant funds at any stage of this program.
- Premium payments will be escrowed to cover **Life Expectancy ("LE") plus 24 months**. This means if an insured has an LE of 60 months, premiums will be escrowed for 84 months - and upon the death of the Insured, all un-used premiums will be distributed on a pro-rata basis to all Client-participants in addition to the return of their Initial basis plus expected gains.
- The fundamental data required in any Life Expectancy Report is thoroughly underwritten by and provided to us by as many as three (3) independent and totally objective LE sources. We always select the longest.
- The re-sale policies exhibited by Retirement Value, LLC are immediately available for Client-participant selection are exactly that - they are available immediately. Each case in our "portfolio" has been sourced from a policy aggregator who has been buying policies in the life insurance Secondary Market for over 15 years. On average, he and his staff review \$500 million in face amount / death benefit each week to make their selections; then execute formal policy purchase agreements to take ownership of each case; finally re-sell some of those policies to us after completion of their thorough due diligence.
- For potential Licensees reading this summary sheet - our policy source promises us up to \$30 million in face amount each week if needed, thus assuring your ability to meet the demands of even your very largest individual and institutional Client-participants.
- Our high policy purchase volume assures Retirement Value, LLC exceptionally low policy purchase prices - thereby increasing the margin or "spread". We pass through to Client-participants outstanding base-line targeted gains as a result of this lower overhead.

We welcome this special opportunity to introduce you to a true "win-win" program and look forward to the privilege of serving you. Thank you for allowing us to "visit" with you this way!

Dick Gray  
President / CEO  
Retirement Value, LLC

## Re-Sale Life Insurance Policies

## An Overview

There really are no mysteries about or any complicated moving parts with re-sale life insurance policies owned by **Retirement Value, LLC**. We buy the death benefit of a life insurance policy at a deep-discount from the full "face amount". This "spread" or leveraging of our funds generates significant gains upon the passing of the insured - in which you participate on a pro-rata basis. This decades-old idea is just that straight-forward. Nothing more; nothing less!

Simply put, for almost twenty years "retail" or individual financial decision-makers have been able to enjoy the same spectacularly high gains previously realized for decades by only the very wealthy or by "institutional" / "wholesale" players in the secondary market for life insurance. These profit levels from the "spread" in such cases have been realized ever since selling the "death benefit" within a life insurance policy to an assignee was declared "legal" by the U. S. Supreme Court in 1911.

Client-participants in our re-sale life insurance policy program are "irrevocable co-beneficiaries". As an irrevocable co-beneficiary, upon maturity of the policy due to the death of the insured, you receive a pro-rata distribution of the death benefit. All policies in which you participate have been sold by individuals or companies who no longer wanted or needed the policy. The specific amount you receive at maturity is determined by your original participation amount plus your base-line targeted gain.

**HERE'S THE BOTTOM-LINE:** When an insured passes away, you are re-paid your original participation amount plus a gain, which we call your "base-line targeted gain". Your total at maturity could be higher if there are any un-used premiums to be refunded. These payments are made to you by **Kiesling, Porter, Kiesling & Free, P.C.**, our Escrow Agent — a 40+ year-old Texas law firm that independently manages all monies used for your participation.

## Re-Sale Life Insurance Policies

## Legal Foundation

One of the questions most frequently asked by someone considering participation in a re-sale life insurance policy is: *"Is this legal?"* Justice Oliver Wendell Holmes, Jr. (b. 1841 d. 1935) of the U.S. Supreme Court [appointed December 8, 1902, by President Theodore Roosevelt] answered 'Yes' when he penned the majority opinion for **GRIGSBY V. RUSSELL**, 222 U.S. 142 (1911) December 4, 1911. Justice Holmes stated with clarity on behalf of the entire high bench:

*"... it is desirable to give life policies the ordinary characteristics of property; to deny the right to sell... is to diminish appreciably the value of the contract in the owner's hands. It has been decided that a valid policy is not avoided by the cessation of the insurable interest..."*

**FOR 2008 THE RE-SALE LIFE INSURANCE MARKET WAS VALUED AT OVER \$12 BILLION.**



## Re-Sale Life Insurance Policies

## Financing Entity

Retirement Value ("RV") was selected by their exclusive Policy Financing entity to penetrate the re-sale market for reasons of integrity, professionalism, an unyielding pursuit for compliance, and an unsurpassed focus on detail.

RV's Financing Entity is one of the earliest participants in the Life Settlement market and has been one of the most consistent and largest private partakers since 1995. They were one of the leading estate planners and producers for the most prominent Life Insurance Issuers in the US throughout the 1980s and 1990s and their entry into Life Settlements was by pure accident (as is the case with most of history's innovations). No one "created" Life Settlements; they just happened.

Their entry was a result of one of his estate planning clients wanting to let a policy lapse due to money constraints. Concerned about his client's plight, he went and met with her. She conveyed her financial situation and he offered her a substantial sum of money on the spot. The client was ecstatic as this was an option not previously open to her or anyone at that time. Leaving with the policy he'd just bought and wondering aloud "what have I just done?" - this may have been the first "Life Settlement" ever transacted.

Since that date, they became active planners in developing the first wave of policies for secondary harvest. This came about as the result of many years as a prominent estate planner and seeing and analyzing the various life products on the market for the benefit of his prominent and wealthy clientele. The policies that were first presented (after contestability) were from life insurers that had been strategically selected for several characteristics, one of them being the lowest cost of Insurance ("COI" charge). This led to a rapid increase in policies being written across a wide spectrum of elderly in the US as they went on road-shows across America to present the Life Settlement option for increasing life insurance sales.

Since then the Financing Entity has been selected to consult, underwrite, and perform the warehousing function for numerous funds involved in the management of public employee pensions and other international investment banking engagements. They never have been a target of any regulatory inquiry or litigation.

RV's Financing Entity has provided prefunded, policy warehousing at 0% interest for the re-sale life insurance policies we offer to clients.



## Re-Sale Life Insurance Policies

## Escrow Agent

Safeguarding and preserving both a Client-participant's basis and targeted income in a re-sale life insurance policy are essential components of our program. **Retirement Value, LLC** assures the total safeguarding and preserving of your basis and targeted income by using an independent Escrow Agent, **Kiesling, Porter, Kiesling & Free, P.C.**

### OUR ESCROW AGENT AS THIRD-PARTY FIDUCIARY

**Retirement Value, LLC** assures the total safeguarding and preserving of your money by using **Kiesling, Porter, Kiesling & Free, P.C.** in New Braunfels, Texas, a 40+ year-old law firm that functions as Escrow Agent to receive and process all funds for our re-sale life insurance policy cases.

The Escrow Agent also pays all premiums due on all policies and refunds to you on a pro-rata basis any un-used premiums remaining in escrow when the Insured passes away.

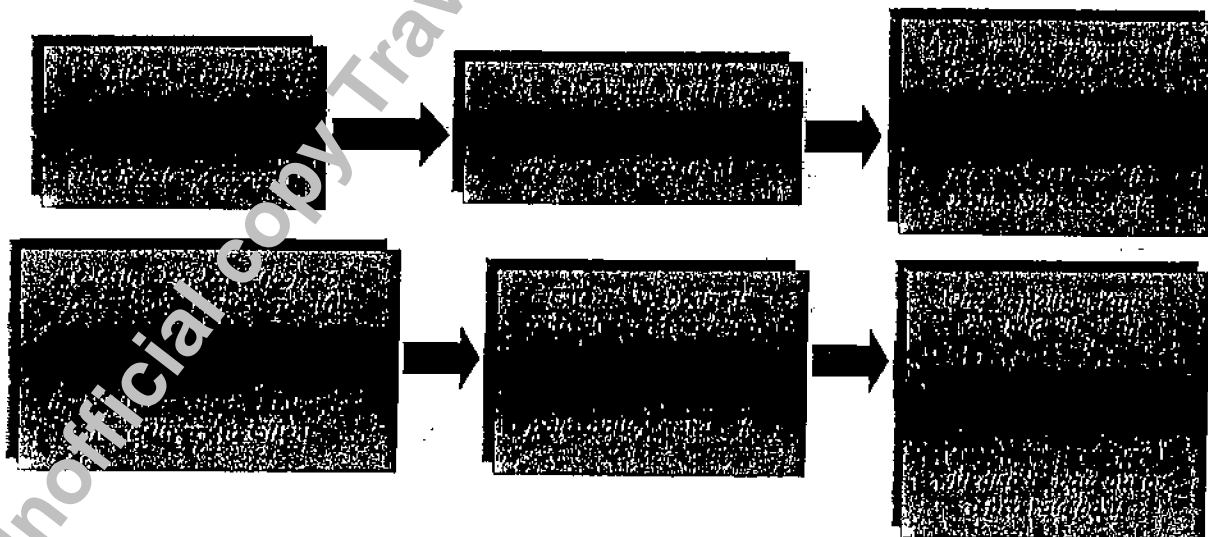
All monies processed by **Kiesling, Porter, Kiesling & Free, P.C.** are deposited in escrow accounts held at **Wells Fargo Bank, N.A.** in New Braunfels, Texas. Kiesling as Escrow Agent is independently bonded by a licensed bond carrier.

At no time do any Client-participant funds come to, pass through, or get handled by anyone at **Retirement Value, LLC**. Also, participants in our re-sale life insurance policy program receive reports on a regular basis from **Retirement Value, LLC** and the Escrow Agent to verify that the proper premiums have been paid and the policies remain in-force.

## Re-Sale Life Insurance Policies

## What Happens Next?

Once the paperwork is mailed in, what can your Clients expect?



## Re-Sale Life Insurance Policies

### "The Spread"

#### TOP OF "THE SPREAD" = INCOME

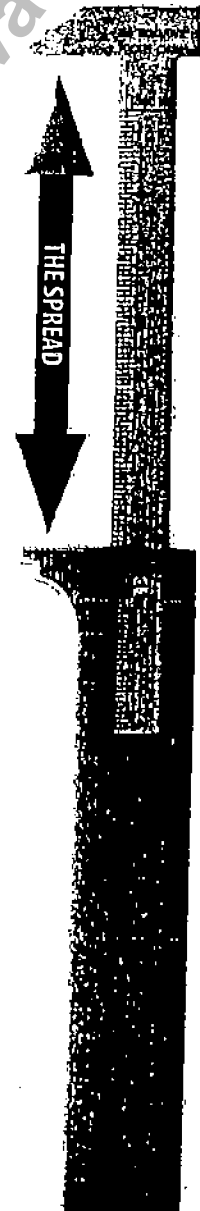
All death benefit pay-outs from the re-sale policies are paid only to *Kiesling, Porter, Kiesling & Free, P.C.* as beneficiary to protect you.

#### BOTTOM OF "THE SPREAD" = EXPENSES

- Cost of buying the policy
- Ongoing premium payments to maintain the policy
- Application fees for qualified funds accounts
- Escrow Agent fees and bank costs
- Administrative and referral fees

*Re-sale life insurance policies* have few "moving parts". Client-participants are paid back all of their basis plus their pro-rata portion of "The Spread", or the difference between costs and the final pay-out when an insured dies.

Your funds allow *Retirement Value, LLC* to purchase and to own re-sale life insurance policies that already have been sold to a policy aggregator by the original policy owner(s) or the original insured(s). "The Spread" shows graphically how *Retirement Value, LLC* is able to pay you such a high income on your funds. Pay-back of all monies in a re-sale life insurance program occurs when the insured passes away. All un-used premiums held in escrow by *Kiesling, Porter, Kiesling & Free, P.C.* are refunded to Client-participants.





## Re-Sale Life Insurance Policies

## Life Expectancies

All life expectancy (LE) underwriting reports are a well-informed combination of art, science, and statistics. All life expectancy reports are carefully crafted, deliberate estimates, driven by the medical records provided. Therefore, it should not be surprising that there can be significant variations even when similar statistical methodologies are employed. What follows is a specific example:

For the same 79-year old male, based on the same medical history, **Retirement Value, LLC** received three evaluations, and each was different. One was for 47 months; another for 49 months; and a third report was for 67 months.

The important point is that **Retirement Value, LLC** selected the 67-month evaluation and added an additional 24 months of premium in the escrow account to protect our clients. How did this protect our clients? By choosing the longest available LE timeline and still adding 24 additional months of premium to the premium escrow account, **Retirement Value, LLC** reduced as much as reasonable the future risk of a premium call.

LE Source #1

### Life Expectancy Certificate

Subject: [REDACTED]

D.O.B: 12/31/1930

Evaluation date: 02/12/2010

Smoking Status: Former smoker

Age: 79

S.S. #: [REDACTED]

Gender: Male

Life Expectancy 67 Months

LE Source #2

### LIFE EXPECTANCY CERTIFICATE

Case: 25012

Certificate Date: 2/12/2010  
Insured: [REDACTED]

Requested By: Client 1  
Date of Birth: 12/31/1930  
Age: 79 Gender: M  
Life Style: Non Smoker  
SSN: Not Available

Median Life Expectancy for this Patient is 47 Months, 3.9 years  
(The above Median Life Expectancy is based on information provided and is an ESTIMATION of longevity only!)

LE Source #3

### Life Expectancy Certificate

DATE: 10/26/2009

PATIENT: [REDACTED]

SSN: [REDACTED]

D.O.B.: 12/31/1930

AGE: 79

SEX: MALE

Given the Age of the Subject and his Medical Management with

Compliance, his projected LE would be 49 Months on available information. This does not mean that Mr. [REDACTED] will not die sooner nor live longer than the time frame indicated. Clearly the factors outlined above have mortality implications.

TSSB 060008



# RETIREMENT VALUE, LLC

Last updated: 02-26-2010

## FOR REFERENCE ONLY:

Current 10-case Portfolio available for client participation



POLICY CODE	POLICY DEATH BENEFIT FACE AMOUNT	ISSUING INSURANCE CARRIER	INSURED GENDER	INSURED AGE IN YEARS	PROJECTED LIFE EXPECTANCY	LE REPORT DATE	AVAILABLE FOR PARTICIPATION AS OF 02-26-2010	Participating Interest Gain or Loss	Total Participating Interest
LFG081-021710-RG	\$1,250,000	Lincoln Financial	FEMALE	80	64 months	12/23/2009	\$1,327,631	16.50%	\$1,327,631
LBL381-021710-SW	\$2,085,000	Lincoln Benefit	MALE	77	60 months	1/27/2010	\$1,870,202	16.50%	\$1,870,202
LBL918-022410-RW	\$1,000,000	Lincoln Benefit	MALE	73	51 months	2/11/2010	\$1,452,546	16.50%	\$1,452,546
AXA335-022410-PB	\$3,000,000	AXA Equitable	MALE	74	7 months	2/19/2010	\$1,655,357	16.50%	\$1,655,357
LFG117-021710-HW	\$2,000,000	Lincoln Financial	FEMALE	81	52 months	1/19/2010	\$1,600,701	16.50%	\$1,600,701
LFG248-012810-HM	\$3,000,000	Lincoln Financial	FEMALE	76	52 months	1/20/2010	\$1,600,701	16.50%	\$1,600,701
AXA091-012110-PC	\$5,000,000	AXA Equitable	FEMALE	81	45 months	12/18/2009	\$1,600,701	16.50%	\$1,600,701
LFG183-111109-MR	\$5,000,000	Lincoln National	FEMALE	82	40 months	10/30/2009	\$1,600,701	16.50%	\$1,600,701
PLI140-111109-DM	\$10,000,000	Pacific Life	MALE	83	38 months	11/11/2009	\$1,600,701	16.50%	\$1,600,701
AGL130-012110-PM	\$2,000,000	American General	MALE	88	33 months	1/11/2010	\$1,600,701	16.50%	\$1,600,701
	<b>\$34,335,000</b>						<b>\$10,447,381</b>	*16.5% annually x total LE in years	

Sample of a recent portfolio.

NOT FDIC/NCUA INSURED • NO BANK/CREDIT UNION GUARANTEE • NOT A DEPOSIT • NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY • MAY REQUIRE ADDITIONAL CONTRIBUTIONS

RETIREMENT VALUE - 1. CLIENT PARTICIPATION EXAMPLE AND BASE-LINE TARGETED INCOME DURING TEN YEARS									
CASE: UFG061-021710-RC (age 69) / 64 month Life Expectancy w/ 16.5% simple annual income		face amount and annual premiums of \$18,730 collected through month 68		base-line targeted income - extended and adjusted for a period of ten years		base-line targeted income - extended and adjusted for a period of ten years		base-line targeted income - extended and adjusted for a period of ten years	
BASE: CLIENT BASE-LINE TARGETED INCOME - SIMPLE AND 16.5% LIFE EXPECTANCY OF 64 MONTHS - PLUS 25% PER MONTHLY INCREASE (UNIQUE PRO-RATA PREMIUM PAYMENT)		total return at maturity = 1.5049%		share of the face amount = \$286.74 annual pro-rata premium share > 68 months		share of the face amount = \$286.74 annual pro-rata premium share > 68 months		share of the face amount = \$286.74 annual pro-rata premium share > 68 months	
ASSUMPTIONS: \$10,000 participation x 1.88%		LE Based on 64 month Life Expectancy		LE Based on 64 month Life Expectancy		LE Based on 64 month Life Expectancy		LE Based on 64 month Life Expectancy	
At the end of Year 1	At the end of Year 2	At the end of Year 3	At the end of Year 4	At the end of Year 5	At the end of Year 6	At the end of Year 7	At the end of Year 8	At the end of Year 9	At the end of Year 10
106.79%	103.81%	100.84%	97.86%	94.87%	91.88%	88.89%	85.90%	82.91%	79.92%
\$20,479	\$20,383	\$20,287	\$20,191	\$20,095	\$19,999	\$19,903	\$19,807	\$19,711	\$19,615
Client Income is higher than the "Base-Line Targeted Income" of 16.5% at the end of each year because of the 25% monthly increase in the "Base-Line Targeted Income" of 16.5%.									
\$1,915	\$20,383	\$21,298	\$22,213	\$23,128	\$24,043	\$24,958	\$25,873	\$26,788	\$27,703
31.67%	31.67%	31.67%	31.67%	31.67%	31.67%	31.67%	31.67%	31.67%	31.67%
\$1,915	\$20,383	\$21,298	\$22,213	\$23,128	\$24,043	\$24,958	\$25,873	\$26,788	\$27,703
Percentages of income based on "Base-Line Targeted Income" of 16.5% at the end of each year. As percentages of "Base-Line Targeted Income" of 16.5% at the end of each year, the "Base-Line Targeted Income" of 16.5% at the end of each year is 16.5% of the "Base-Line Targeted Income" of 16.5% at the end of each year.									





## Re-Sale Life Insurance Policies      Our Management Team

### **Dick Gray – Founder / President / CEO**

Mr. Gray has held these positions since company start-up and remains very active in guiding the public presentation of the proprietary re-sale life insurance policy model he helped pioneer. Dick has helped clients make wise money decisions in hard financial times for the past 35 years and has been a licensed insurance agent for over 18 years. Personal participation in the re-sale life insurance policies for his own retirement planning reinforces his credibility when assisting numerous clients in doing the same. After earning an A. B. degree in political science and a Master of Divinity degree — and prior to the start of his business career — Dick proudly completed four years of U.S. Army active duty as a Chaplain, which included 13 months of decorated field duty in Viet Nam.

### **Wendy Rogers – Vice President, Administration and Services**

Mrs. Rogers supervises our Client Services Department while contributing personally to the development, design and implementation of all marketing and print materials; she also coordinates all computer and information technology needs. Wendy manages the massive data accumulation an operation like ours generates and assures client privacy, while providing timely on-line access for licensees and clients alike to all information needed for a satisfying business relationship with us. She combines 10 years of service in the insurance, financial planning, and banking industries with several years of re-sale policy sales experience. Wendy's B.S. in Agribusiness was earned at Texas A&M University – College Station, and she also has earned a Masters of Business Administration.

### **Bruce Collins – Chief Operating Officer**

Mr. Collins brings to this crucial position many years of success and achievement in the general financial services industry, including work as a registered rep, and over five years of directly-relevant success within our re-sale / life settlement industry as a Master Licensee and top-level player for our product line with another company. Mr. Collins coordinates all Licensee administration, policy-making decisions, and implementing execution for all "field" activities. He currently holds a Series 62, 6, and 7 licensing. Mr. Collins resides in Grand Prairie, TX, placing him at the financial epicenter of so much of the explosive growth and success at Retirement Value, LLC.

### **Katie Hensley – Director of Finance**

Mrs. Hensley is the primary point of contact for all Licensee commission matters at Retirement Value, LLC. Ongoing administration of all commissions and invoicing of all commission payments to the Escrow Agent; coordinating development of sales hierarchies; placing client funds on the specific policies your Clients select; recommending new policies to be placed on the bouquet -- these are just a few of the duties she performs efficiently and accurately. Katie holds a Bachelor of Business Administration from Texas A&M University-Kingsville.

### **Jeremy Gray – Director of Policy Administration**

Mr. Gray coordinates all policy acquisition and is the point of contact between our policy supplier and Klesling, Porter, Klesling & Free, P.C. He also maintains constant communication with all life insurance carriers that have issued policies that Retirement Value currently owns. He continually negotiates premium payments to cover the cost of insurance with these carriers for each policy and invoices the premium payments through our Escrow Agent to be paid to the appropriate insurance carriers.

### **DeAnne Lewis – Manager of Client Services**

Mrs. Lewis and her expanding staff "scrubs" all in-bound client paperwork sent to us by the Escrow Agent. She coordinates the flow of all applications with the Licensees, Escrow Agent, and the selected Custodian for all qualified funds. Mrs. Lewis joined our team with over 6 years of experience in the legal field with the two largest law firms in Austin, Texas, both as a Word Processing Supervisor and as a Legal Secretary in Insurance Defense Litigation.



## FRANKLIN TEMPLETON FIXED INCOME INVESTMENT INSIGHT

## An Introduction to the Life Settlements Asset Class

## KEY HIGHLIGHTS

- Life settlements may offer investors the potential for diversification and attractive returns
- The asset class offers investors the opportunity to allocate capital to an asset class with historically low correlation to traditional equity and fixed income
- The market has grown in potential to an estimated \$240 to \$600 billion

Life settlements represent the rapidly developing secondary market for life insurance policies issued in the United States.

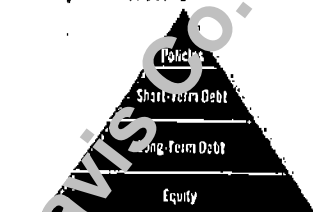
## INVESTMENT CHARACTERISTICS

Investors are attracted to the market due to the following primary investment characteristics:

**Attractive Expected Returns**—The asset class offers the potential for attractive returns relative to investment grade fixed income assets, due in part to it being a new and developing capital marketplace. Projected returns may be similar to those that investors can expect to achieve in other higher-risk asset classes, including equity markets.

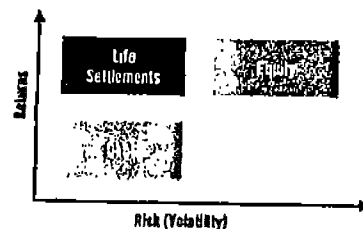
**High Credit Quality**—Life policies typically sit at the top of the capital structure of investment grade insurance companies. This makes them attractive to investors with high credit quality constraints in their investment guidelines.

Chart 1: Policies are Typically at the Top of the Capital Structure



**Low Correlation of Return**—Historically, the asset class returns have lower exposure to economic and financial market cycles. Thus, life settlements may provide portfolio diversification benefits relative to a traditional asset mix.

Chart 2: Life Settlements May Offer Attractive Returns with Lower Risk than Traditional Asset Classes



1. Source: Bloomberg, Franklin Templeton Investments, 9/30/06.

## THE DEVELOPING MARKET

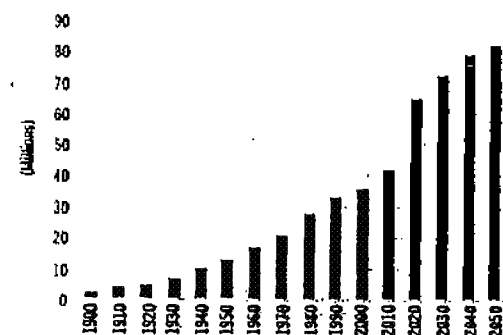
Processes and technology came together in the late 1990s, allowing for more efficient transfer of life policies. At the same time, a growing, older segment of Americans found themselves holding life insurance policies that they no longer needed. The life settlements market developed and began to provide liquidity to the broader population. Though individuals have many reasons for exiting their policies, few are aware of the life settlements marketplace and either accept the cash surrender value from the insurance company (often between a quarter and a half of what can be found in the life settlement market) or let the policy lapse. The fundamental reason for the rapid growth of the life settlements market is consumer value. The life settlements investor can pay more than cash surrender value and still expect a competitive internal rate of return (IRR) on their investment.

In recent years, the life settlements market has developed to give competitive market pricing, rather than just the cash surrender value, to policyholders for insurance policies they may no longer want or need. In the life settlement transaction, a policyholder sells a life insurance policy to an investor. The investor pays the subsequent premiums and is entitled to receive the policy's benefit upon the demise of the insured.

We believe that regulation, demographics and a low national savings rate will drive the expansion of supply to the life settlement market. The demographic wave of the baby boomer generation—those born in the U.S. between 1945 and 1965—is well known. This generation is now moving towards retirement with minimal savings relative to expected post-retirement expenditures. The cohort of those 65 or older is expected to grow at a rate of three times that of the general population. As this cohort grows, those wanting or needing to sell life insurance will grow as well.

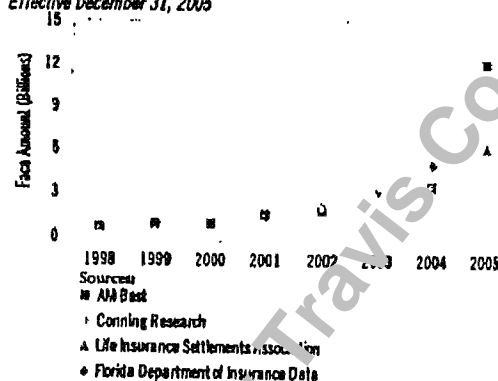
According to the 2005 American Council of Life Insurers Fact Book, there is about \$16 trillion worth of face value of life insurance in the United States. While the United States life insurance market accounts for almost 30% of the worldwide market, only a portion of the total \$16 trillion of outstanding life insurance in the United States is suitable for a life settlement transaction. Estimates place the U.S. life settlement market potential between \$240 and \$600 billion.

**Chart 3: The Market of Policies Available for Sale Is Increasing Due to Demographic Trends**  
65-Plus Population by Year



Sources: U.S. Census Bureau, 1996; Dychiwal, Trencher Purnam Publishing, 1999

**Chart 4: The Estimated Size of the Life Settlement Marketplace Is Growing**  
Effective December 31, 2005



## ASSET CLASS RISK AND THE INVESTMENT PROCESS

An effective life settlement investment process integrates several key investment and risk management functions. These include maximizing the opportunity set of available investments through a policy acquisition network. Life settlements investment research should include the analysis of complex instruments with uncertain cash flows, insurance company credit risk, health care trends and biotechnology industry developments. Finally, robust portfolio and risk management systems tailored specifically to the life settlement asset class are required to monitor and effectively manage life settlement portfolios. Failure to properly manage the cash flow, insurance company credit

and healthcare/biotechnology risks will potentially result in permanent loss of capital.

### Inputs into the Life Settlement Valuation Process

- Actuarial tables derived from life settlement population
- Minimum cost of insurance
- Mortality debits
- Policy structure
- Credit spreads
- Conditional credit default frequency specific to policy obligations
- Recovery rates adjusted for state guaranty levels
- Life settlement risk premiums

### Opportunity Set and Asset Acquisition

Investment managers use a network of life settlement brokers and providers to intermediate the sale of life insurance policies for policyholders wishing to sell them to investors wishing to buy them. Successful managers will continue to expand relationships across this developing industry to remain informed when suitable policies are being brought to market. As a part of its initial review, the investment manager considers available policies, associated policy illustrations, medical records and life expectancy underwriting reports relating to the underlying insureds in order to arrive at a valuation. In the asset acquisition phase of the program, the investment manager relies on internally developed pricing and valuation models.

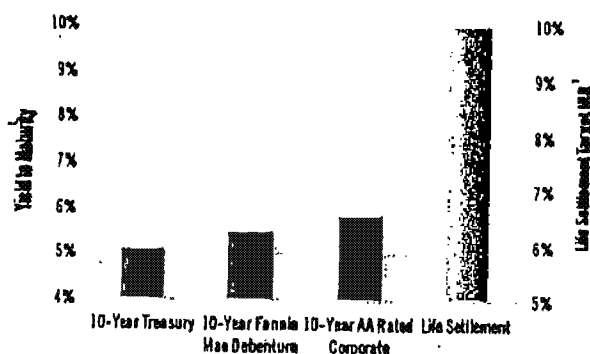
### Portfolio and Risk Management

As the portfolio is assembled, risk is monitored and managed on the existing investments. At the same time, selected assets are segregated and set aside in a premium reserve with the aim of maintaining sufficient cash flow to meet ongoing expected premium payments on the portfolio of policies. The investment manager seeks to minimize the premiums paid to an insurance company, while returning the most money back to investors as it flows in, without jeopardizing the premium reserve required to keep un-matured policies in force.

The cost of premiums due on the life settlements is minimized because of a particular feature of universal life policies that allows policyholders to set the premium level to achieve their desired level of cash value accumulation. By obtaining policy illustrations from the insurance company that issues each life settlement, the manager can "reverse engineer" the policy illustration to calculate the projected minimum amount of premium required. The investment manager repeats this process on an annual basis, since cash flows are typically subject to change based on changes in the interest rate environment.

The premium reserve level for each year is estimated by matching the net present value of future premiums to a desired confidence level, with a certain portion assumed to come from future death benefits. As policy benefits come in, the premium reserve is filled to the stated level and the surplus passed back to the investor. The premium reserve is invested principally in high quality, short-term debt.

**Chart 5: Relative to Other U.S. Fixed Income Investments, Life Settlements May Offer Attractive Target IRRs Over a Long-Term Horizon  
As of May 31, 2006**



The successful manager will construct a diversified portfolio of life settlements. In particular, these investment opportunities have the potential to capture life insurance policies primarily issued by highly-rated insurance companies. Investments should be diversified across key industry impairment classifications, credit counterparties, and demographic profiles. The developing market for life settlements offers investors the opportunity to allocate capital to a high quality, attractive return asset class that has low historical correlations to traditional equity and fixed income financial markets.

1. Source: Bloomberg, Franklin Templeton Investments, 9/30/06. Market information on life settlements provided by Milestone Managers and Providers, LLC and Berkshire Settlements, Inc., and assumes a 10% discount rate.

#### Important Information

This article reflects the analysis and opinions of Franklin Templeton's Fixed Income Group, an affiliate of Franklin Templeton Institutional, as of November 2006. Because market and economic conditions are often subject to rapid change, the analysis and opinions provided may change without notice. The analysis and opinions may not be relied upon as investment advice.

Statements of fact are from sources considered reliable, but no representation or warranty is made as to their completeness or accuracy. There is no assurance that the employment of this strategy would result in the intended target IRR being achieved.

This material is intended for the use of investment consultants and other institutional/professional investors only, and is not directed at private individuals.

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Financial, Company Licensing & Registration, Mail Code 305-2C  
333 Guadalupe • P. O. Box 149104, Austin, Texas 78714-9104  
512-322-3507 telephone • 512-322-3550 fax • www.tdi.state.tx.us

STATE OF TEXAS

§  
§

COUNTY OF TRAVIS §

### OFFICIAL NEGATIVE CERTIFICATION

I, Jeff Hunt, am the Admissions Officer of the Company Licensing & Registration Division of the Texas Department of Insurance, and hereby certify that after a diligent search of the records maintained by the Company Licensing & Registration Division of the Texas Department of Insurance, no records could be located to indicate RETIREMENT VALUE, LLC, possesses or has ever possessed a Certificate of Authority to conduct the business of insurance in the State of Texas, or is otherwise under the supervision and control of the Texas Department of Insurance as contemplated by Section 4.A of the Texas Securities Act.

IN TESTIMONY WHEREOF, witness my hand and seal of the Texas Department of Insurance at Austin, Texas, this 25<sup>th</sup> day of March 2010.

BY:

Jeff Hunt, Admissions Officer

Company Licensing & Registration Division

PLAINTIFF'S  
EXHIBIT

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## **Texas Department of Insurance**

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333 Guadalupe • P. O. Box 149104, Austin, Texas 78714-9104

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### **THIS IS TO CERTIFY THAT:**

AS THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE TEXAS DEPARTMENT OF INSURANCE, THE COMMISSIONER OF INSURANCE IS THE OFFICIAL CUSTODIAN OF THE RECORDS OF THE AGENCY. TEX. INS. CODE ANN. ART. 1.09(A), TEXAS PUBLIC INFORMATION ACT TEX. GOV'T. CODE ANN §§552.001.353. PURSUANT TO THE POWER VESTED IN THE COMMISSIONER UNDER ARTICLE 1.09(F), THE COMMISSIONER AUTHORIZES DEPUTIES, AND/OR ASSISTANTS OR OTHER PERSONNEL AS ARE NECESSARY TO CARRY OUT THE PROVISIONS OF THE OPEN RECORDS ACT.

AS DULY AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OF INSURANCE FOR COMPANY LICENSING AND REGISTRATION OF THE TEXAS DEPARTMENT OF INSURANCE, I HEREBY CERTIFY THAT A DILIGENT SEARCH OF THE RECORDS OF COMPANY LICENSING AND REGISTRATION DISCLOSES THAT THE ENTITY SHOWN BELOW IS NOT NOR HAS EVER BEEN REGISTERED TO ACT AS A VIATICAL AND LIFE SETTLEMENT PROVIDER UNDER CHAPTER 1111 AND 28, TEXAS INSURANCE CODE, OR IS OTHERWISE UNDER THE SUPERVISION AND CONTROL OF THE TEXAS DEPARTMENT OF INSURANCE AS CONTEMPLATED BY SECTION 4.A OF THE TEXAS SECURITIES ACT.

RETIREMENT VALUE, LLC

IN TESTIMONY WHEREOF, WITNESS MY HAND AND  
SEAL OF OFFICE AT AUSTIN, TEXAS,

THIS 25<sup>TH</sup> DAY OF MARCH 2010

**MIKE GEESLIN**

COMMISSIONER OF INSURANCE

BY

  
KATHY A. WILCOX

REGISTRATION OFFICER, COMPANY LICENSING  
AND REGISTRATION



## **Texas Department of Insurance**

**Financial, Company Licensing & Registration, Mail Code 305-2C**

333 Guadalupe • P. O. Box 149104, Austin, Texas 78714-9104

512-322-3507 telephone • 512-322-3550 fax • www.tdi.state.tx.us

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AS THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE TEXAS DEPARTMENT OF INSURANCE, THE COMMISSIONER OF INSURANCE IS THE OFFICIAL CUSTODIAN OF THE RECORDS OF THE AGENCY. TEX. INS. CODE ANN. ART. 1.09(A), TEXAS PUBLIC INFORMATION ACT TEX. GOV'T. CODE ANN §§552.001.353. PURSUANT TO THE POWER VESTED IN THE COMMISSIONER UNDER ARTICLE 1.09(F), THE COMMISSIONER AUTHORIZES DEPUTIES, AND/OR ASSISTANTS OR OTHER PERSONNEL AS ARE NECESSARY TO CARRY OUT THE PROVISIONS OF THE OPEN RECORDS ACT.

AS DULY AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER OF INSURANCE FOR COMPANY LICENSING AND REGISTRATION OF THE TEXAS DEPARTMENT OF INSURANCE, I HEREBY CERTIFY THAT A DILIGENT SEARCH OF THE RECORDS OF COMPANY LICENSING AND REGISTRATION DISCLOSES THAT THE ENTITY SHOWN BELOW IS NOT NOR HAS EVER BEEN REGISTERED TO ACT AS A VIATICAL AND LIFE SETTLEMENT BROKER UNDER CHAPTER 1111 AND 28, TEXAS INSURANCE CODE, OR IS OTHERWISE UNDER THE SUPERVISION AND CONTROL OF THE TEXAS DEPARTMENT OF INSURANCE AS CONTEMPLATED BY SECTION 4.A OF THE TEXAS SECURITIES ACT.

**RETIREMENT VALUE, LLC**

IN TESTIMONY WHEREOF, WITNESS MY HAND AND SEAL OF OFFICE AT AUSTIN, TEXAS,

THIS 25<sup>TH</sup> DAY OF MARCH 2010

**MIKE GEESLIN**

COMMISSIONER OF INSURANCE

BY

*Kathy A. Wilcox*  
KATHY A. WILCOX

REGISTRATION OFFICER, COMPANY LICENSING  
AND REGISTRATION



## Texas Department of Insurance

Life/Health Division – Life, Annuity & Credit Section, Mail Code 106-1E  
333 Guadalupe • P. O. Box 149104, Austin, Texas 78714-9104  
512-322-3406 telephone • 512-322-3506 or 512-322-3552 fax • www.tdi.state.tx.us

STATE OF TEXAS           §  
   §  
COUNTY OF TRAVIS   §

The Commissioner of Insurance, as the chief administrative and executive officer and custodian of records of the Texas Department of Insurance, has delegated to the undersigned the authority to certify the authenticity of documents filed with or maintained by or within the custodial authority of the Life/Health Division, of the Texas Department of Insurance. The undersigned has likewise been delegated the authority to attest to the inability to locate records after a diligent search (i.e., a negative certification).

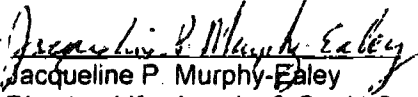
I hereby attest that I have made a diligent search of the records filed with or maintained by or within the custodial authority of the Life/Health Division of the Texas Department of Insurance and the records described below have *not* been located.

(1) Any record that Retirement Value, LLC has filed in the form of any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contract, including but not limited to, any Re-Sale Life Insurance Policy Participation Agreement, Re-Sale Life Settlement Agreement, Re-Sale Life Insurance Loan Agreement, IRA Owner's Loan Agreement, IRA Owner's Policy Participation Agreement, and Life Settlement Agreement; and (2) that any insurance policy, endowment policy, annuity contract, optional annuity contract, or any contract or agreement in relation to and in consequence of any such policy or contracts, including but not limited to, any Re-Sale Life Insurance Policy Participation Agreement, Re-Sale Life Settlement Agreement, Re-Sale Life Insurance Loan Agreement, IRA Owner's Loan Agreement, IRA Owner's Policy Participation Agreement, and Life Settlement Agreement was approved by the Texas Department of Insurance.

I further attest that to the best of my knowledge the records described herein are the type of records that would normally be filed with or maintained by or within the custodial authority of the Life/Health Division of the Texas Department of Insurance.

IN TESTIMONY WHEREOF, witness my hand and seal of office at Austin, Texas, this 25<sup>th</sup> day of March, 2010.

MIKE GEESLIN  
COMMISSIONER OF INSURANCE

BY:   
Jacqueline P. Murphy-Ealey  
Director, Life, Annuity & Credit Section  
Life/Health Division