

Robin & Peter on LIFE SETTLEMENTS



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Life Settlements and Your Fiduciary Responsibility

Dictionary.com defines a fiduciary as "a person to whom property or power is entrusted for the benefit of another" and the thesaurus uses words such as guardian, trustee, aboveboard, trustworthy and straight as interchangeable words for fiduciary. Insurance agents may not be fiduciaries yet, but aren't they being positioned by their companies as trusted advisors who are supposed to be doing the right thing for their clients? However, at the same time many insurance companies and broker-dealers still object to their producers helping clients to explore a life settlement before a policy gets lapsed or surrendered.

Hard as it is to believe, each year \$57 billion of face amount of life insurance lapses on insureds over age 65 (this number excludes smaller face amount whole life policies). This massive amount of death benefit represents about 250,000 policies with an average face amount of \$225,000. Realistically, only a small percentage of these policies would likely qualify for a life settlement. But if you were a client with a policy that could have been settled, and your agent did not advise you of that option, wouldn't you feel that the agent you count on to give you the best possible advice has violated your trust and has committed an act of malpractice?

As the new DOL Fiduciary Rule is phased-in next year, it seems more than likely that the best interest principle will ultimately carry over into all aspects of a producer's business, including life insurance and, consequently, life settlements. If your company prohibits you from facilitating a life settlement, you are being prevented from acting in your client's best interest. Aren't you setting yourself up for a lawsuit by a client who was damaged financially by missing out on a life settlement and receiving only the surrender value for a policy which they terminated?

For those of you who took the CLU Pledge and are not making life settlements a part of your practice, aren't you in violation of your own ethical standard?

"In all my professional relationships, I pledge myself to the following rule of ethical conduct: I shall, in light of all conditions surrounding those I serve, which I shall

make every conscientious effort to ascertain and understand, render that service which in the same circumstances, I would apply to myself."

Recently, we helped:

- an 88 year old male client sell a \$2,500,000 John Hancock UL policy, which netted him \$500,000 (cash surrender value was \$0),
- an 88 year old male client sell a \$2,000,000 Accordia UL policy, for which he received \$1,110,000 (cash surrender value was \$218,000),
- a 64 year old female client sell a \$200,000 Prudential term policy, for which she received \$20,100 (the term policy face was \$250,000; she converted \$50,000 and kept that for her beneficiary),
- a 72 year old male sell a \$896,450 Transamerica UL policy, for which he received \$196,476 (cash surrender value was \$94,647),
- a 61 year old male sell a \$400,000 MassMutual term policy, for which he received \$220,400.

If these five folks had cashed in or surrendered their policies, \$1,724,329 would have been lost for things like health care, living expenses and debt reduction. If you were their agent and did not bring up the life settlement option, and this money was foregone, shouldn't you have been sued? Have you acted as someone whose conduct has been entrusted by another?

All too often, we hear from producers who say things like, "my company won't let me do life settlements" or "I will get fired for discussing settlements." If you furnish us with the name and number of who is putting you in such an untenable situation, we promise to give them a call to begin the process of getting them to change their mind. If we sit back and do nothing but listen to these comments, then we are not acting in your or your clients best interest either. The time for change is now - it's time for the best interest of your clients to take center stage.

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