



### Re: Chapter 7 Bankruptcy Cases

A life settlement is a relatively new and interesting addition to the life insurance marketplace. A life settlement is the sale of a life insurance policy to another person or company in return for a lump-sum cash payment of less than the full amount of the death benefit but greater than the cash value. Generally, the insured (the individual whose life is covered by the policy) must be over the age of 65, the insurance policy must have a face value of over \$250,000.00, and the insured's health must have changed since the time the policy was purchased. The types of life insurance policies that may be sold include Universal Life, Term Life (must be convertible), Whole Life and Variable Life. Group Life and Survivorship Life insurance policies are also saleable.

Life insurance policies may be owned by individuals, corporation or trusts. For nearly 100 years, owners of life insurance policies have had the legal right to sell their policies on the open market. *Grigsby v Russell*, 22 US 149 (1911). Despite this legal right, a life settlement may not take place without the cooperation of the insured. This is because the insured must authorize the release of his or her current medical records.

As the trustee in a Chapter 7 case, you are in a unique position to identify a life settlement candidate, seek court assistance should the insured not cooperate in the transaction, and bring significantly more revenue into the bankruptcy estate. In addition, you will increase your fees because the life settlement proceeds exceed the cash surrender value of the life insurance policy. See 11 USC 326(a).

Consider the following hypothetical. A large corporation files for protection under Chapter 7. You are appointed the trustee. The bankruptcy schedules that this corporation owns several life insurance policies covering the lives of key people in the organization. One of these people is a 73-year old executive. The \$1,000,000.00 policy covering this executive was purchased five years before the petition was filed and has a cash surrender value of \$40,000.00. As a result of you purchasing a life settlement, this policy is sold for \$250,000.00. The net result to the bankruptcy estate is therefore \$210,000.00, less your fee, as opposed to \$40,000.00, less your fee. Had you simply surrendered the policy, you would have earned a maximum fee of \$4,750.00. But, as a result of the life settlement, your maximum fee was increased to \$15,750.00.

To receive more information about how life settlements can benefit your practice, please contact TRG.

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