Life Settlement
INSTITUTE

Founding Members:
Coventry First, LLC
Life Capital, BV
Life Equity, LLC
Life Settlement Corporation
Living Benefits Financial Services, LLC
Stone Street Financial, Inc.

Written Statement
Of David M. Lewis
Representing the Life Settlement Institute
Before the
U.S. House Of Representatives
Committee on Financial Services
Oversight and Investigations Subcommittee
February 26, 2002

Good afternoon. My name is David M. Lewis and I am appearing before the subcommittee today in my capacity as President of the Life Settlement Institute. By way of background I have been a practicing attorney for 31 years, including four (4) years as a staff attorney in the Division of Enforcement of the Securities and Exchange Commission ("SEC").

The Life Settlement Institute is a trade association whose members are institutionally funded life settlement providers and financing entities. A primary purpose of the Life Settlement Institute is to encourage regulation of viatical and life settlement transactions. Life Settlement Institute members do not use private investor funds to purchase policies, but instead use financing provided by banks, insurance companies and other institutional sources of capital. As an aside, Life Settlement Institute members have worked with the trustee in the Liberte case to purchase policies from the bankruptcy estate. These funds will be used to cover at least some of the investor losses.

The Life Settlement Institute and its members strongly support strict regulation by state insurance and securities regulators of the viatical and life settlement marketplace.

Viatical and life settlements provide meaningful alternatives to persons facing terminal illnesses, or who have life insurance policies they no longer want or can afford. A life settlement transaction is different from a traditional viatical settlement. In a viatical settlement, the insured has a terminal illness and their life expectancy is normally estimated to be two years or less. The transaction is designed to provide needed funds to assist persons with short life expectancies in improving the quality of their life.

In a life settlement, the insured is a senior citizen who is over the age of 65, does not have a terminal illness and has an estimated life expectancy of up to twelve (12) years. A life settlement gives policyholders a new option to consider in their financial planning. Typically, a person who has a life insurance policy they no longer want or need can do one of two things, 1) stop paying the premium and let the policy lapse or 2) surrender the policy to the issuing insurance company for the cash surrender value. As you may know, a majority of life insurance policies held by persons over the age of 65 merely lapse with no value to the insured. A life settlement allows the senior citizen owner of the policy to obtain more value for their policy than they could receive from the issuing insurance company.

I would like to share with you some examples of the benefits of a life settlement transaction to seniors who have insurance policies that they no longer want or need:

One of our members recently closed on a transaction with a 69-year-old male from Pennsylvania who had a $500,000 term life policy where he could not afford the renewal premiums. He had an estimated life expectancy of approximately seven (7) years. The policy had no cash value. The Life Settlement Institute member was able to pay the senior $100,000 for his policy and the senior used the proceeds to pay for his long-term care needs.

In another recent transaction a member purchased a $750,000 Universal Life policy from a 72-year-old female from New Jersey who had an estimated life expectancy of 6 years. The policy had a cash surrender value of $40,000. The member was able to pay the senior $165,000, and the funds enabled her and her husband to stay in their family home.

These examples, and many others that we could provide, demonstrate the value to seniors of the availability of this new financial option.

At the present time approximately 35 states regulate through their insurance regulators traditional viatical transactions, and, of that group, approximately 13 also regulate life settlements. Only approximately 20 states regulate the sale of viatical or life settlements to private investors. This regulation is through their securities regulators.

Last year the National Association of Insurance Commissioners promulgated its revised Viatical Settlements Model Act (the "Model Act"). The Model Act regulates both traditional viatical settlements and Life Settlements. The Life Settlement Institute and its members have worked closely with the NAIC Viatical Working Group that developed the Model Act. We commend Commissioner Dunlap of Louisiana, the Chair, and the other Working Group members for their diligent efforts.

The alleged fraud resulting in the Liberte Capital Group case and others like it around the country were not caused by anything inherently wrong in a viatical or life settlement transaction, but were caused by persons taking advantage of a regulatory vacuum that allowed them to practice their scheme on an unsuspecting public. If Ohio had the viatical settlement law it now has, we doubt whether the Liberte fraud would have occurred.

There is nothing new about the fraud in the Liberte case: When I was a young lawyer working at the Securities and Exchange Commission in the 1970's the

“Enron” of its day was Equity Funding, a large public company that "cooked its books" by creating phony life insurance polices that it resold to reinsurance companies

We applaud the efforts of Ohio regulators and those elsewhere who are cracking down on fraudulent activities. Increased regulation and the enforcement thereof will minimize, if not eliminate, these abusive activities.

The abuses highlighted by the Liberte case are (1) fraud in the sale of viatical policies to private investors, and (2) fraud with respect to obtaining life insurance policies. The following initiatives would strengthen the regulatory environment and help prevent future cases like Liberte:

First, on the Federal level, the amendment of the Federal Securities Act of 1933 so that the packaging and sale of interests in life insurance policies to private investors are deemed to be “securities” under that Act and are regulated by the Securities and Exchange Commission. This legislation is needed to correct the current Federal case law on the subject. The Federal Securities Laws have served the public and the nation's businesses well over the years and there is no reason to believe that they would not work just as well at regulating the sale of viatical or life settlements to private investors.

Second, on the state level, we urge the passage in every state of legislation patterned after the NAIC Model Act[1]. The NAIC Model Act provides for strong regulation of the viatical settlement industry to be conducted by the Department of Insurance in each state. Importantly, the NAIC Model Act also includes many provisions that strongly support the use of institutional funds for the purchase of life insurance policies. We believe that the use of institutional funds, with the stringent due diligence requirements that are attendant to its use, is the best way

[1] The Life Settlement Institute does intend to offer or suggest certain amendments to the Model Act as it is introduced around the country. These amendments are largely technical in nature and are designed to correct drafting errors in the Model Act.

to promote an industry that provides a valuable service to seniors and to protect such potentially vulnerable individuals from fraudulent business practices.

Thank you for allowing me to appear before you today. I would be pleased to answer any questions that the sub-committee members have.

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Biography
David M. Lewis, Esq.

David M. Lewis is a Sr. V. President and the General Counsel of Stone Street Financial, Inc. of Bethesda, Maryland. Prior to Stone Street, he was a Principal with the law firm of Lewis, Goldberg & Ball, P.C. in McLean, Virginia.

From 1971 to 1974 he was a staff attorney at the United States Securities and Exchange Commission, Division of Enforcement.

Mr. Lewis has been a lecturer on securities law issues for the Maryland Institute of Certified Public Accountants, and the NASD Advanced Arbitration Training program.

Mr. Lewis earned his BS at Philadelphia University, and his JD at Temple University. He is a member of the District of Columbia bar.

Currently, he serves as President and Director of the Life Settlement Institute.

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FACT SHEET

The **Life Settlement Institute** was formed in response to the need to promote public awareness of the benefits of Life Settlements and to present the viewpoint of institutionally funded Life Settlement providers and financing entities to policy owners, state regulators and organizations such as the National Association of Insurance Commissioners.

Life Settlements involve the purchase of life insurance policies from persons generally over the age of 65 who have policies they no longer want or need. These transactions permit the owners of such policies to obtain more than the cash surrender value of the policy.

Members of the **Life Settlement Institute** are committed to strict regulation of the Life Settlement market and to the elimination of inappropriate practices.

Founding members of the **Life Settlement Institute** include:

- Coventry First, LLC; Fort Washington, PA
- Life Capital, BV; San Diego, CA
- Life Equity, LLC; Hudson, OH
- Life Settlement Corporation d/b/a Peachtree Life Settlements; Boca Raton, FL
- Living Benefits Financial Services, LLC; Minnetonka, MN
- Stone Street Financial, Inc.; Bethesda, MD

General Members must either be institutionally funded Life Settlement providers who are licensed as such in at least one state, or an institutionally funded financing entity of Life Settlement providers with such activity being the financing entity's primary business. Each General Member must have a financing commitment of at least $50 million dollars.