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'Provider direct' life settlements: What you should know

By circumventing the broker's role, providers eliminate competition from other providers, who might be willing to pay a higher amount (e.g. the fair market value) to acquire that policy.

BY SCOTT THOMAS

Insurance advisors should meet with clients who may be struggling with premium payments to explore their options for at-risk life insurance policies. (Photo: Thinkstock)

The life settlement industry is maturing. Growing consumer interest and demand for the product is helping to drive the market's momentum, according to speakers at the industry's recent fall conference.

Based on our experience as life settlement brokers, we concur. Over the past year, an increased number of advisors have contacted us on behalf of senior clients who own policies they no longer want or need. Many advisors are convinced that in some situations a life settlement is the most suitable, sensible, and favorable solution for the client.

But some advisors are also expressing confusion over the marketplace. Some tell us they are puzzled by the mixed signals regarding the broker's role and the provider's (funder's) role.

SCOTT THOMAS

Life settlement brokers have played a key role in creating the secondary market arbitrage where multiple providers compete over each policy's purchasing price.

Advisors say they are approached directly by providers, who suggest by-passing brokers. And the advisors want to know what the provider's objective is by suggesting that agents go "provider direct."

Here's the short answer: Providers have a duty to their *institutional funding sources* to purchase policies at as great a discount as possible. However, brokers have a duty to the *policy seller* to obtain the highest possible value by negotiating with multiple providers for competing offers.

By circumventing the broker's role, providers are better able to control the purchasing price for the policy. They can also eliminate competition from other providers, who might be willing to pay a higher amount (e.g. the fair market value) to acquire that policy.

So producers and advisors need to weigh this knowledge when representing the best interests of their clients.

Clients want to feel confident that "no stone was left unturned" in the pursuit of the highest possible value for their policies. (Photo: Thinkstock)

In addition to representing the policy seller before multiple providers in pursuit of the highest offer, the broker's involvement signifies a competitive rivalry for the policy's purchase. (Photo: Thinkstock)

Experienced agents "leave no stone unturned"

In any financial services transaction, consumers want to be assured that those involved have *their* best interests at heart. And advisors are committed to giving that assurance.

Based on our observations, insurance producers and financial advisors who facilitate life settlement transactions for clients take their responsibility seriously. Their clients want to feel confident that *"no stone was left unturned"* in the pursuit of the highest possible value for their policies.

Advisors will want to evaluate whether the "provider direct" approach (versus using a life settlement broker) runs contrary to the agent's goal to "leave no stone unturned" when pursuing the highest value for their client's policy.

In an era of increased consumer protection laws and more stringent fiduciary standards for financial professionals, the above question is both timely and relevant to the life settlement marketplace.

As noted by speakers at the 22nd Annual Fall Life Settlement Conference, *"Consumers will have confidence in a market where transparency and disclosure are a core part of transactional behavior."*

Tapping into that mindset, advisors seek the expertise of life settlement brokers and trust them to:

- negotiate with *multiple* providers in pursuit of the highest offer for their client's policy;
- maximize the client's offer by minimizing the provider's margins;
- operate with transparency by disclosing the amount received on the transaction.

Consumers ask, "Stone? What stone?"

What some agents may not realize is that Internet-savvy seniors (some of whom are likely their clients) are now going "provider direct" without knowing much about the marketplace. Some policy owners feel so burdened by expensive premiums for unwanted policies that they turn to the Internet in search of answers. Organic search engine results and paid digital ads make it easy for those seniors to simply reach out to a life settlement company without fully understanding the esoteric nature of the secondary market.

For seniors looking for immediate solutions, phrases like "provider direct" and "leaving no stone unturned" have little context or relevance for them, because they do not understand the functional roles of brokers and providers. They believe they have

nothing to lose by following up on promotional ads from life settlement providers offering free policy evaluations and preliminary quotes over the phone. Some consumers may be told that involving their agent or a life settlement broker isn't necessary.

However, the life settlement broker *does* play a critical role. In addition to representing the policy seller before multiple providers in pursuit of the highest offer, the broker's mere involvement signifies a competitive rivalry for the purchase of the policy, which often motivates providers to strike a more favorable ratio between the policy's purchase price and the provider's margin on the transaction. The policy seller obviously benefits when providers can offer as high a price as possible with margins as low as possible.

That's why we encourage agents and consumers to do their research, ask questions, and make an informed decision. (To learn more about secondary market bidding wars, please read our previous LifeHealthPro article, "**What Producers Should Know About Fair Market Value**.")

Case study: merits of a skilled broker

The most compelling argument for using an experienced life settlement broker is best presented as a success story. In the case summary below, it's clear that the outcome would have been much different had the policy owner decided to go "provider direct," instead of engaging a broker to represent him.

This case involved Mr. Jones, (not his real name), an 85-year old business owner who owned seven life insurance policies valued at $28 million. The policies were purchased more than 12 years ago for estate planning purposes to provide creditor protection for his beneficiaries.

Not long after the policies were purchased, the premium payments became an issue. The first sign of trouble occurred following the economic crash in 2008. Mr. Jones's business holdings were negatively impacted and he lost one business enterprise to bankruptcy.

Asset Life Settlements' goal was to convince selected providers that the life settlement transaction aligned with their purchasing parameters and their investors' portfolio objectives. The strategy worked. (Photo: Thinkstock)

Mr. Jones struggled to make annual gifts to the trust to maintain the premiums for his trust-owned life insurance policies. As a result, the policies became under-funded and were in danger of lapsing, putting his estate at risk.

After weighing the tax consequences and the continued need for asset protection, Mr. Jones's team of advisors — a CPA, estate attorney, and corporate lawyer — met with us to discuss the case. They all agreed that selling the seven policies in the secondary market, with a retained death benefit, was the most advantageous solution for Mr. Jones.

Murphy's Law asserts itself

Following receipt of Mr. Jones's life settlement application in the fall of 2015, Asset Life Settlements submitted the case to more than a dozen providers. We were pleased to receive initial bids from eight providers and the bidding activity to sell the policies was progressing smoothly. The case was nearing a successful outcome when the bottom fell out.

In the midst of our negotiations to obtain the highest settlement offers for the policies, the insurance carrier notified Mr. Jones of a substantial cost of insurance increase (92%) that would impact his annual premiums. As a result, his premiums would nearly double to approximately $2.5 million a year.

Upon receiving the new policy illustrations reflecting the premium increases, all eight providers pulled their offers off the table.

Expertise, tenacity and timing paid off

Mr. Jones's life settlement transaction appeared doomed, but we were determined to "leave no stone unturned." Our strategy involved re-engaging the interest of several providers whose policy acquisition goals appeared more aggressive than those of other providers.

In order to resubmit the case to the providers, we were required to "re-underwrite" the transaction. That involved obtaining updated medical records, purchasing new life expectancy reports, and addressing credit background issues to thwart potential tax liens.

Our goal: to convince the selected providers that the transaction aligned with their purchasing parameters and their investors' portfolio objectives. The strategy worked.

After nearly a year of working through all the challenges and nuances of this extremely complex transaction, we were successful in obtaining for Mr. Jones a cash offer of $5 million, along with $8 million in retained death benefit coverage. Mr. Jones and his team of professional advisors, delighted with the outcome, agreed that the transaction was the best solution to keep his estate intact.

Imagine what might have happened had Mr. Jones, or one of his professional advisors, approached just one or two providers directly. Given the complexity of the case, which required a skilled broker with unique knowledge of each provider's funding requirements, it's highly unlikely that the outcome would have been the same.

Guidance for advisors and consumers

It's clear that consumer demand for life settlements is on the rise. Greater awareness among senior policy holders, the involvement of conscientious insurance advisors, and enhanced regulatory oversight by the states are all helping to drive the market forward.

We encourage insurance advisors to sit down with clients who may be struggling with premium payments to explore their options for at-risk policies.

As the above case example illustrates, it's to the client's advantage that insurance advisors help facilitate a transactions through a skilled life settlement broker who will "leave no stone unturned — and where transparency and disclosure are a core part of transactional behavior."

Scott Thomas *is co-founder and managing partner of Asset Life Settlements, LLC. As one of the industry's most experienced life settlement professionals, Scott is known throughout the industry for his tenacity in negotiating with funders to achieve the highest possible offer for each client's policy. He can be reached by email at sthomas@alsettlements.com .*

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