

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
ST. JOHNS COUNTY, FLORIDA

CASE NO. CA02-1598  
DIVISION 55

STATE OF FLORIDA  
DEPARTMENT OF INSURANCE,  
Petitioner,

vs.

FUTURE FIRST FINANCIAL GROUP, INC., and LIFE  
SETTLEMENT SERVICES CORP.,  
Respondent.

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#### ORDER APPOINTING CONSERVATOR

THIS MATTER came to be heard by the Court upon the Emergency Petition for Appointment of Conservator filed by the Petitioner, State of Florida, Department of Insurance (hereinafter "DEPARTMENT") against the Respondents, Future First Financial Group, Inc. (hereinafter "FUTURE FIRST") and Life Settlement Services Corp. (hereinafter "LIFE SETTLEMENT"). At the hearing on the 6<sup>th</sup> and the 7<sup>th</sup> day of August, 2002, the Petitioner was represented by Michael H. Davidson, Esquire and the Respondents were represented by Christopher A. White, Esquire. The Court heard and considered the testimony of Janice S. Davis a Regulator and Field Examiner with the Florida Department of Insurance. The Court also received and reviewed all the documentary evidence and heard and considered argument of counsel.

The Department is an agency of the State of Florida charged with licensing and regulating viatical settlement providers in the State of Florida. The Department has the authority to regulate viatical settlement providers pursuant to Florida Statute Chapter 626.99285, Florida Statutes Chapter 624.310, Florida Statutes Chapter 626.901 and Florida Statutes Chapter 626.989. The Respondent, Future First, is a Florida corporation located and doing business in St. Johns County, Florida and is a revoked viatical settlement provider. It's license was revoked by order of the Department entered on May 17, 2002. Section 626.9915(1) Florida Statutes provides and requires

that a revoked viatical insurance provider conclude its operations and cease and desist its business affairs at the time of the revocation. Because of the revocation, Future First can no longer legally solicit, negotiate, advertise or effectuate new viatical contracts and has to immediately proceed to conclude its affairs and the business it was transacting at the time of the revocation. The Department, pursuant to Florida Statute 626.9915, retains continuing jurisdiction over Future First until all its viatical contracts have been fulfilled, or canceled or have expired and its continued maintenance and service of those viatical policies is subject to the Department's approval.

According to the testimony and exhibits offered through Ms. Davis, Future First records revealed that Future First: (1) has continued to operate as usual since its license revocation rather than cease business and conclude its affairs as required pursuant to the Florida law and (2) has insufficient funds in its disclosed accounts to continue to maintain the premiums for the policies purchased by its investors. Additionally, Ms. Davis testified that a review of the records provided to her from Future First show that Future First collected approximately \$400 million in capital from approximately 9400 investors and purchased approximately \$318 million worth of insurance with approximately 2600 policies.

Future First's records reveal that a small number of these policies are what the industry terms as "paid up policies", the others require premiums to be paid on a monthly or other regular basis in order for them to remain in force.

The Final Order issued by the Department on May 17, 2002 revoking Future First's license stated as follows:

Respondent's, Future First Financial Group, Inc., license shall be revoked pursuant to Section 626.9914, Florida Statutes immediately upon entrance of this Final Order. As a condition of said revocation, Respondent must proceed immediately following effective date of the revocation, to conclude the affairs it is transacting under its license. The provider may not solicit, negotiate, advertise, or effectuate new contracts. The Department retains jurisdiction over the provider until all contracts have been fulfilled or canceled or have expired. Respondent may continue to maintain and service viatical policies subject to the approval of the Department.

The purchase agreement between Future First Financial Group, Inc. and each investor provided in pertinent part as follows: "Purchaser is not required to make any payment other than the purchase price" and " Trustee will pay insurance policy(ies) premiums until actual maturity(ies) out of Fidelity Viatical Special Trust Account." Ms. Davis testified that her review of the bank records show that there were insufficient funds in the Fidelity Viatical Special Trust Account to continue payment of the required premiums on all of the policies purchased by investors.

Subsequent to the Order of the Department revoking its license, Future First, entered into a service agreement with Life Settlement Service Corp to service the policies of Future First investors without the permission of the Department. This agreement was entered into by Future First on the 21<sup>st</sup> day of June, 2002 and provided that Life Settlements would, among other things, review policies, monitor viators, conduct mailings, advertising, trustee provisions, legal referrals, file storage, medical life expectancy, and office space, all relative to the policies and investor activities for viatical settlement policy of Future First. This is in clear contradiction of and an attempt to circumvent the Department's Order Revocation of May 17<sup>th</sup> provisions of Florida Statutes Chapter 626.

In addition, the documents provided by Future First and Life Settlements to the Department included two (2) pieces of correspondence, one dated July 8, 2002 and the other dated July 18, 2002.

In the July 8, 2002 letter, forwarded by Life Settlements Service Corporation to investors of Future First Financial Group, the letter provided in pertinent part,

"The Fidelity Trust has advised Service Corp the Premium Escrow account has insufficient funds to make future premium payments on insurance policies. Premium payments must be made according to policy requirements in order to insure the policy stays in force and in good standing. Service Corp. management and staff has six years of experience in servicing over 9000 investors monthly.

These circumstances have a solution, but there is a very time sensitive deadline. You must act now or your policy investment will lapse, resulting in an unnecessary loss. The Trust account that disburses premium payments is prepared to facilitate all payments.

Please provide a check payable to the Fidelity Trust Special Account for premium payments, and a check payable to Life Settlement Service Corp for servicing and monitoring. See enclosed invoice."

The July 18, 2002 letter, forwarded by Life Settlements Service Corporation to investors of Future

“Enclosed please find an invoice that requires your prompt attention. We understand that you may or may not have already received an invoice regarding this investment. We urge that you carefully review the enclosed statement regarding this investment only.

This may be one of several investments you have, which will result in several invoices for individual policies. If you have several policies that you have investments on, you will receive a statement for each of those as we find premiums due. Based on our current research, these premiums are due immediately in order to keep this policy active.

PLEASE BE ADVISED THAT TIME IS OF THE ESSENCE IN ORDER TO KEEP THE INSURANCE POLICY ACTIVE.”

These letters clearly show that Future First was attempting to continue its viatical settlement obligations through a third party, namely Life Settlements, and was not concluding its affairs as ordered, but was soliciting additional funds through a third party from investors in contradiction of its agreement with those investors. The relationship between Future First and Life Settlement is not at an arm’s length, and the agreement was not approved by the Department.

From the testimony before this Court it is clear that (1) Future First had its license revoked for its failure to follow the laws and regulations regarding viatical insurance settlements by the Florida Department of Insurance on May 17, 2002; (2) the Order of revocation specifically provided that the “Respondent must proceed immediately.....to conclude the affairs it is transacting under its license” and that the “Department retains jurisdiction over the provider until all contracts have been fulfilled or canceled or have expired”; (3) the documents provided by Future First reveal and the testimony of Ms. Davis confirms that Future First did not attempt to “immediately” conclude the affairs it was transacting; (4) there are insufficient funds to insure payments for policy premiums for which Future First was responsible. (Parenthetically, in the event there are other funds available to Future First, those funds and the sources of those funds, were not disclosed in the documents provided to the Department.); (5) subsequent to the revocation of the license of Future First, Future First negotiated and executed a servicing contract with the Respondent, Life Settlement, and that members of the management of Future First positioned themselves in management positions for Life Settlement Services Corp; and (6) Life Settlement has solicited funds from Future First investors.

• First investors.

It is clear from the testimony presented by Ms. Davis and the documents and other evidence presented to the Court, that the investors of Future First are in jeopardy of losing their entire investment if Future First is allowed through Life Settlement to control the investments and the payment of the policy premiums. This Court will not allow Future First and its management team, who were responsible for putting its investors in a perilous financial situation, to again subject these same investors to possible further financial peril and losses by assuming control and soliciting funds through a newly formed corporation. Accordingly, this Court finds that it is evident under the circumstances of this case, considering all of the evidence presented, that a Conservator should be appointed for Future First Financial Group, Inc. in order to prevent irreparable loss, damage, or injury to investors in viatical and/or life settlement contracts effectuated by Future First Financial Group, Inc.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that David Levine, of Tew Cardenas Rebak Kellogg Lehman DeMaria Tague Raymond & Levine, L.L.P. (Conservator), is hereby appointed Conservator of Future First and of its assets and property as follows and with the following powers and authority:

1. The Conservator is hereby authorized and empowered to take immediate possession of all property and assets belonging to Future First of every kind whatsoever and wherever located including, but not limited to:

(a) All life insurance policies and the proceeds therefrom (including death benefits) owned or held beneficially, directly or indirectly, by or for the benefit of Future First, The Fidelity Trust, and/or Investors, or any successors or assigns of the foregoing entities, that were purchased from the date of inception of Future First through the present date (Policies.)

(b) all assets of Future First including, but not limited to: computer hardware, databases, software, Investor and viator files relating to the Policies, all accounting and financial records including those pertaining to

premium payments and receipt and distribution of proceeds on the Policies, any deposits of cash, bonds or guarantees, filing cabinets, office supplies, any leases of office space, and telephone systems;

(c) all premium reserve accounts, bank accounts, and any other depository accounts, wherever situated, into which Future First Investor funds or proceeds from Future First Policies have been deposited;

(d) any trust, including The Fidelity Trust, and the assets thereof, as well as any predecessor or successor trust, or any affiliated trust set up pertaining to the business of Future First;

(e) all rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures, and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of Future First, wherever situated; and

(f) all other assets and property acquired with the proceeds of funds or assets of Future First, including The Fidelity Trust (Paragraphs 1(a)-(f) collectively referred to as Conservatorship Assets).

**IT IS FURTHER ORDERED** that the Conservator is given directions and authority to accomplish the following:

2. To manage all Conservatorship Assets pending further action by this Court including, but not limited to, the evaluation of the Policies, and to take the necessary steps to protect the Investors' interests including, but not limited to, the liquidation, sale, or financing of the Policies to institutional buyers and/or financiers, and the assessment to Investors of future premium payments;

3. to receive and collect any and all sums of money due or owing on the Policies to Future First or its agents whether the same are due or shall hereinafter become due and payable;

4. to seek the return of any cash, bond, or guarantee on deposit with any regulatory agency or other entity on behalf of Future First or its agents;

5. to make such payments and disbursements as may be necessary and advisable for the preservation of the Conservatorship Assets and as may be necessary and advisable in discharging his duties as

Conservator including, but not limited to, the timely payment from available funds or proceeds of financing of all premiums for Policies that have not yet matured;

6. to monitor the viators of the Policies by tracking the location of the viators and periodically checking the health of the viators;

7. to receive notice of the death of viators, file death claims on the viators, and collect the proceeds paid on the Policies as such mature;

8. subject to further order of the Court, to disburse to Investors and other creditors of Future First the proceeds paid on matured Policies, and the proceeds of other Conservatorship Assets collected by the Conservator;

9. to give notice to Investors, at their last-known mailing address, of this Conservatorship Order within thirty (30) days of the entry of this Order and to establish a method by which Investors may obtain periodic updates;

10. to retain or discharge attorneys, accountants, computer consultants, trustees, and other persons as may be advisable or necessary to the exercise of the duties of the Conservator subject to application to and approval by the Court;

11. to employ, compensate, or discharge office staff;

12. to open and inspect any and all mail and/or deliveries, and to notify any insurance company or third party administrator and the United States Postal Service to effect the forward delivery of any mail related to the Conservatorship Assets to a mail depository under the control of the Conservator;

13. to investigate the manner in which the affairs of Future First were conducted and institute such legal actions and legal proceedings, for the benefit and on behalf of Future First and Investors and other creditors, as the Conservator deems necessary against those individuals, corporations, partnerships, associations, and/or unincorporated organizations, which the Conservator may claim to have wrongfully, illegally, or otherwise improperly misappropriated or transferred monies or other proceeds directly or indirectly traceable from Investors

in Future First including against Future First and the officers, directors, shareholders, employees, affiliates, and any persons acting in concert or participation with them, or against any transferees of monies or other proceeds directly or indirectly traceable from Investors to Future First; provided such actions may include, but not be limited to, seeking imposition of constructive trusts, disgorgement of profits, recovery and/or avoidance of fraudulent transfers under Florida Statute sections 726.101, et seq., or otherwise, rescission and restitution, the collection of debts, and such orders from this Court as may be necessary to enforce this Order;

14. to pursue any and all causes of action belonging to Future First;

15. to present to this Court, within thirty (30) days of the date of this Order, a preliminary report reflecting the status of the Conservatorship, upon receipt of which the Court may institute such further proceedings as the Court deems advisable. Thereafter, unless otherwise ordered by the Court, commencing on January 15, 2003, the Conservator shall file quarterly reports with the Court apprising the Court of its progress;

16. to defend, compromise, or settle legal actions, including the instant proceeding, wherein Future First or the Conservator is a party, commenced either prior to or subsequent to this Order, with authorization of this Court; except, however, in actions where Future First is a nominal party, as in certain foreclosure actions where the action does not effect a claim against or adversely affect the assets of Future First, the Conservator may file appropriate pleadings in his discretion. The Conservator may waive any attorney-client, accountant-client, or any other privilege held by Future First;

17. to assume control of, and be named as authorized signatory for, all accounts in any bank, brokerage firm, financial institution, or other depository which has possession, custody, or control of any assets or funds, or the proceeds, wherever situated, of Future First and, upon order of this Court, of any other entities;

18. to make or authorize such payments and disbursements for customary operating expenses from the funds and assets taken into control or thereafter received by the Conservator, and incur, or authorize the incurrance of, such expenses and make, or authorize the making of, such agreements as may be reasonable, necessary, and advisable in discharging his duties as Conservator;

19. to sell assets or property including Conservatorship Assets, with the approval of the Court;
20. to accept, continue, reject, cancel or negotiate modifications to executory contracts and unexpired leases as allowed by the terms thereof or with Court approval;
21. to exercise those other powers necessary to implement this Conservatorship pursuant to the orders and directives of the Court.

**IT IS FURTHER ORDERED** as follows:

22. Future First and its directors, officers, shareholders, agents, and other persons who are in custody or control of Conservatorship Assets, including The Fidelity Trust and Life Settlement Services Corp. (Life Settlement), shall immediately execute such documents as may be necessary and take any other action as necessary to immediately transfer the ownership and beneficial rights to the Conservatorship Assets to the Conservatorship.

23. All banks, brokerage firms, financial institutions, and other business entities and individuals which have possession, custody, or control of any assets, funds, or accounts, in the name of, or for the benefit of, Future First shall cooperate expeditiously in the granting of control and authorization as a necessary signatory as to said assets and accounts to the Conservator and in turning over and transferring to the Conservator any and all funds in such accounts and copies of all records and statements concerning such accounts. Such banks, brokerage firms, financial institutions, and other business entities and individuals shall also identify to the Conservator whether any additional accounts exist that appear to be related to or associated with Future First; and, if such accounts do exist, such banks, brokerage firms, financial institutions, and other business entities and individuals shall cooperate expeditiously in the granting of control and authorization as a necessary signatory as to said assets and accounts to the Conservator and in turning over and transferring to the Conservator any and all funds in such accounts and copies of all records and statements concerning such accounts.

24. Unless and as authorized by the Conservator, no person or entity, including Future First and

its principals, shall take any action, nor purport to take any action, in the name of or on behalf of Future First.

25. Future First, Life Settlement and The Fidelity Trust and their principals, officers, agents, employees, attorneys, and attorneys-in-fact, shall cooperate with and assist the Conservator including, if deemed necessary by the Conservator, appearing for deposition testimony and producing documents, upon five (5) business days notice (which may be sent by facsimile), and shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the Conservator in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the Conservator of the funds, assets, premises, and choses in action described above.

26. All persons and entities, including Life Settlement, The Fidelity Trust, Future First, and their subsidiaries, affiliates, officers, directors, trustees, agents, servants, employees, attorneys, and all persons acting on their behalf, under their direction and control, and/or in concert or participation with them, and further including any banks or financial institutions, wherever chartered or located, life insurance companies, federal or state agencies, viators, viatical settlement providers, and viatical settlement brokers who receive actual notice of this Conservatorship Order, by personal service, facsimile transmission or otherwise, shall promptly deliver and surrender to the Conservator:

- (a) all Conservatorship Assets in the possession of or under the control of any one or more of them;
- and
- (b) all books and records of any kind pertaining to the Conservatorship Assets, to the Investors, or to the viators whose lives are insured by the Policies.

27. All persons and entities, including Life Settlement, The Fidelity Trust, Future First, and their subsidiaries, affiliates, officers, directors, trustees, agents, servants, employees, attorneys, and all persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, and further including any banks or financial institutions, wherever chartered or located, life insurance companies, federal and state agencies, viators, viatical settlement providers, and viatical settlement brokers who receive actual notice of

this Conservatorship Order, by personal service, facsimile transmission or otherwise, fully cooperate with and assist the Conservator and that they take no action, directly or indirectly, to hinder or obstruct the Conservator in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession, or control exercised by said Conservator.

28. The Conservator is authorized, without breaching the peace, to enter and secure any premises under the control of Future First or its agents, wherever located or situated, in order to take possession, custody or control of, or identify the location or existence of, any Conservatorship Assets.

29. The Conservator and his professionals and consultants may apply to the Court for compensation, from time to time, in a reasonable sum to be determined by the Court and from such sources as approved by the Court and for reimbursement for reasonable expenses incurred by them in connection with their duties. The fees and expenses of the Conservator and for professionals and consultants shall have priority over any other claims made against Future First.

30. Except by leave of Court during the pendency of this Conservatorship, all creditors and other persons or entities seeking money, damages or other relief from Future First or its agents, and all others acting on behalf of any such creditors or other persons or entities, including sheriffs, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees, are hereby stayed and restrained from doing any act or thing whatsoever to interfere with Future First or its agents, in an orderly transfer of the Conservatorship Assets or the Conservator or to the possession of or management by the Conservator of the Conservatorship Assets, or to interfere in any manner during the pendency of this proceeding with the exclusive jurisdiction of this Court over Future First. This Conservatorship Order shall not stay or restrain any pending or future action whatsoever by any government agency or any representative on behalf of any government. All sheriffs, marshals, police officers and other law enforcement officials shall assist the Conservatorship in enforcement of this court's orders.

31. With the Court's prior approval, the Conservator is solely and fully authorized to proceed with

any filing he may deem appropriate under the United States Bankruptcy Code as to Future First.

32. Title to all property, real or personal, all contracts, rights of action and all books and records of Future First, wherever located within or without this state, is vested by operation of law in the Conservator until further order of the Court.

33. Upon request by the Conservator, any company providing telephonic services to Future First shall provide a reference of calls from the number presently assigned to Future First to any such number designated by the Conservator or perform any other charges necessary to the conduct of the Conservatorship.

34. Any entity furnishing water, electric, telephone, sewage, garbage or trash removal services to Future First shall maintain such service and transfer any such accounts to the Conservator unless instructed to the contrary by the Conservator.

35. The United States Postal Service is directed to provide any information requested by the Conservator regarding Future First, and to handle future deliveries of Future First's mail as directed by the Conservator.

36. No bank, savings and loan association, other financial institution, or any other person or entity shall exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets of Future First to the Conservator's control without the permission of this Court.

37. No bond shall be required in connection with the appointment of the Conservator and persons employed or retained by the Conservator. Except for any act of gross negligence, the Conservator and his retained professionals and consultants shall not be liable for any loss or damage incurred by Future First or by the Conservator's officers, agents, or employees, or any other person, by reason of any act performed or omitted to be performed by them in conjunction with the discharge of their duties and responsibilities hereunder.

38. Service of this Order shall be sufficient if made upon Future First's attorneys or principals by facsimile, hand-delivery, overnight courier, or United States mail.

39. In the event that the Conservator discovers that funds of Future First or of its Investors have

been transferred to other persons or entities, the Conservator may apply to this Court for an Order giving the Conservator possession of such funds and, if the Conservator deems it advisable, extending this Conservatorship over any person or entity holding such funds.

40. Immediately upon entry of this Order, the Conservator may take depositions upon oral examination of, and obtain the production documents from, parties and non-parties subject to five (5) business days notice. In addition, immediately upon entry of this Order, the Conservator shall be entitled to serve interrogatories and requests for admission, which shall be responded to within twenty (20) calendar days of service. Service of discovery requests shall be sufficient if made by facsimile or overnight courier; depositions may be taken by telephone or other remote electronic means.

41. Life Settlement and The Fidelity Trust shall immediately provide the following information to the Conservator:

(a) An accounting (including receipt and disbursement) of all funds received from Future First Investors, Future First, The Fidelity Trust, or Life Settlement, and all financial information and records pertinent thereto.

(b) All records regarding the Policies, including servicing of or collections on the Policies.

42. Until notified in writing by the Conservator, or until it properly exercises any contractual option to terminate servicing, Life Settlement shall continue servicing the Policies and provide daily written reports to the Conservator regarding that servicing. All fees collected and to be collected for such servicing of the Policies shall be immediately deposited in a separate suspense account under the control of the Conservator pending further order of the Court.

43. Any and all death benefit payments on the Policies received by Life Settlement, The Fidelity Trust, or their successors or assigns shall be immediately deposited in a separate suspense account under the control of the Conservator pending further order of the Court.

44. Because of their solititation of funds from Future First Investors and Future First until notified

otherwise in writing by the Conservator, Life Settlement, The Fidelity Trust, Future First, and/or Charles R. Sussman shall remit any monies from Investors, received pursuant to solicitation for premium payments, to the applicable insurer, and provide a daily written report thereof to the Conservator. Absent other agreement between the Conservator and Mr. Sussman/ Fidelity Trust, the Conservator shall assume premium payment responsibilities currently being discharged by Mr. Sussman/ Fidelity Trust by a date no later than twenty (20) days of the date of this Order. During this transition period Mr. Sussman/ Fidelity Trust will continue to be reasonably compensated for their services.

45. Life Settlements shall deliver to the Conservator all Policies and Policy account and payment information relative to the Policies, including identification of all investors, their addresses and other information necessary for the Conservator to determine the payment history, any current payments due, the name of the investors associated with each Policy of Future First.

46. Life Settlement, Future First, The Fidelity Trust, and Charles R. Sussman, shall immediately provide to the Conservator a copy of any notice, in their possession, custody, or control, from any insurer, of lapse, cancellation, or other indication of Policy termination, or of any notice suggesting an insurer's intent to terminate Policy coverage by reason of lapse, cancellation, or otherwise. For purposes of this Paragraph, immediate shall mean no later than twenty-four (24) hours after execution of this Order or receipt of such notice by the foregoing person or entities.

47. This Court retains jurisdiction over the parties and subject matter of this action to amend or modify this Order to either enlarge or restrict the activities of the Conservator and for all other purposes.

**DONE AND ORDERED** this 9<sup>th</sup> day of August, 2002, at St. Augustine, St. Johns County, Florida.

*/s/ J. MICHAEL TRAYNOR*

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**J. MICHAEL TRAYNOR  
CIRCUIT COURT JUDGE**

Copies to:  
Michael H. Davidson, Esq.  
Christopher A. White, Esq.