

STATE OF FLORIDA
DEPARTMENT OF INSURANCE
Petitioner

v.

Case No. *CA.02-1598*

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

DEPARTMENT'S EMERGENCY PETITION FOR APPOINTMENT OF CONSERVATOR

Comes now Petitioner State of Florida, Department of Insurance (the Department), by and through undersigned counsel, and moves this court for entry of an order appointing a conservator to take charge of, manage, and control the business affairs of Respondents Future First Financial Group, Inc, and/or Life Settlement Services Corp., showing:

1. Respondent Future First Financial group, Inc. (Future First) is a Florida corporation located and doing business in Ponte Vedra, Florida. Life Settlement Services Corp. (Life Settlements), is a Georgia corporation authorized to do business in Florida, and is doing business in Ponte Vedra Florida. This court has jurisdiction over Future First and Life Settlements, and venue is appropriate in this forum.

2. Future First is a revoked viatical settlement provider, revocation having been ordered by the Department on May 17, 2002. That revocation was on appeal to the District Court, Fifth District of Florida, which on June 20, 2002, denied a stay requested by Future First. On July 22, 2002, Future First dismissed its appeal, ensuring

the finality of the Department's revocation. See Exhibit Book, incorporated by reference herein.

3. Because of the revocation, Future First can no longer legally solicit, negotiate, advertise, or effectuate new viatical contracts, and had to immediately proceed to conclude the affairs it was transacting at the time of the revocation. Section 626.9915(1), Florida Statutes

4. The Department retains a continuing jurisdiction over Future First until all its viatical contracts have been fulfilled, or cancelled, or have expired, and its continued maintenance and service of those viaticated policies is subject to the department's approval. Section 626.9915(1), Florida Statutes.

5. The bases for the Department's revocation were that Future First sold contestable policies to investors who had specifically required non-contestable policies, and that it failed to report evident fraudulent insurance practices to the department relative to policies sold to investors. See Recommended Order, and Final Order in the Exhibit Book incorporated by reference herein.

6. The Department successfully opposed Future First's request for a stay based on continued deception and misrepresentations Future First perpetrated on its investors. See Department's Petition In Opposition To Supersedeas, and Supplement To Department's Petition In Opposition To Supersedeas in the Exhibit Book incorporated by reference herein.

7. During the period between revocation and the time stay was denied (May 17th to June 20th) Future First's bank records show that it continued to transact business as usual, even though revocation was in full force and effect during that time. That is

contrary to the requirements of Section 626.9915(1), Florida Statutes, which requires the immediate cessation of such business.

8. Even though Future First's contracts with its investors obligate Future First to pay all premiums necessary to keep all subject life insurance policies in force and effect until the actual death of the viators (see exemplar contracts in Exhibit Book), Future First now refuses to do so citing a lack of reserves.

9. According to Future First, it has over 9,500 investors who have purchased interests in approximately 2,500 life insurance policies, which require a monthly average premium of \$350,000 to be kept in force and effect.

10. Rather than continue maintaining and servicing its policies as contractually and statutorily required, Future First has, without seeking or receiving the department's approval, essentially abandoned those policies and transferred the maintenance and servicing responsibilities to Respondent Life Settlement Services Corp., a Georgia corporation authorized to do business in Florida. (See relevant corporate documentation and transfer contract in Exhibit Book.) Interestingly, the president of Life Settlements is Mr. Randy Stelk, who was at all pertinent times president of Future First. He resigned from Future First in July of 2002, shortly after he became president of Life Settlements. Life Settlements' treasurer is Future first's former treasurer, and the bulk of Life Settlement's employees are former Future First employees. Life Settlements is in the same office space occupied by Future First until early in July when Future First re-located literally across the hall from Life Settlements.

11. Life Settlements has sent out letters to Future First investors stating that Future First has no money to pay the required premiums, and demanding payment of

six months premiums on their respective policies plus an exorbitant tracking and service fee to Life Settlements, stating that unless the investors do so the policies will lapse and cost the investor the entire investment. (See true copy of exemplar letter in Exhibit Book). This letter has been sent despite the fact that Future First's contracts require it to pay those premiums, and, even more egregiously, the fact that those investors have already paid Future First for those same services!

12. Future First and its former executive vice president, William Sweeney, who is still a significant shareholder in Future First, are under indictment and awaiting a November, 2002 trial on 81 counts of fraud alleged by the Statewide Prosecutor. See copy of indictment in Exhibit Book.

13. Future First's course of conduct relative to its contractual and statutory responsibility to maintain and service the life insurance policies in question certainly does not meet with the department's approval.

14. Further, the presence of any of past or present Future First officers, directors, owners, or managers within any entity that has assumed or will assume responsibility for maintaining and servicing those policies does not meet and will never meet with the department's approval.

15. However, simply removing those persons from those responsibilities is an inadequate remedy because then no one would be responsible for the performance of those tasks, and all extant policies would lapse for non-payment of premium. (Insurance carriers will not accept payment from investors because they are neither owners nor listed beneficiaries. Future First arranged to have its required trustee, the Fidelity Trust,

become both owner and beneficiary, despite contractual obligations to list the investor as a beneficiary. Thus, the investors are denied access to the carriers.)

16. The appointment of a conservator by this court, responsible to the department and this court for his/her actions, and given total authority over the business affairs of both respondents relative to maintaining and servicing extant policies, including the authority to identify, locate, and exert control over all Future First assets, including those it has transferred to Life Settlement and/or any other person or entity, so that those assets may be utilized to pay premiums on the policies as Future First's contracts obligate it to do, is the only remedy which can reasonably protect the interests of the many investors, and thus meet with the department's approval.

17. Further need for a conservator is evidenced by the increasing number of recent instances where it has been found that contrary to express representations made to its investors, a number of life insurance policies have matured without payment to the investor, or have lapsed without notice to the investor, or cannot be verified to even exist, now or in the past.

18. On May 24, 2002, the department directed Future First to articulate a plan for the continued servicing and maintenance of the extant policies. (See true copy of letter in Exhibit Book) Future First has yet to reply to that directive. Instead, Future First has defaulted on its obligation to service and maintain those policies by transferring that responsibility to its surrogate, Life Settlements, without even seeking, let alone receiving, the department's statutorily required approval.

19. In short, Future First continues to ignore the regulatory authority of the department, and now is doing all it can to extort further monies from its investors through its surrogate, Life Settlements.

20. In the event Future First files for and is granted bankruptcy protection, the Department urges that the relief sought herein relative to protection of Future First's investors be obtained through appointment of a conservator over Life Settlements, who has now undertaken to fulfill the same responsibilities and duties Future First owes to its investors.

21. Invocation of the equitable powers of this court to assist the department in the exercise of its continuing jurisdiction over Future First and its surrogate, Life Settlements, is justified under the attendant circumstances, and is expressly contemplated by Section 624.310(2), Florida Statutes, which expressly provides that the department "may institute such suits or other legal proceedings as may be required to enforce any provision of this code". Because no other remedy will adequately protect the interests of the imperiled investors, and thus meet with the department's statutorily required approval, appointment of an independent conservator is warranted.

WHEREFORE, it is respectfully prayed that this court appoint a conservator with full authority to manage the business affairs of Future First and/or Life Settlements Corp. relative to the maintenance and servicing of the existing policies and investors, with full authority to locate and execute upon Future First/Life Settlement assets (the proceeds of which are to be used to maintain and service the policies in question), with full authority to substitute as a signatory on any and all accounts held in Future First's/Life Settlements name in any institution, and with full authority to determine,

compromise, factor, or otherwise settle any indebtedness owed by Future First/Life Settlements to Future First's investors, and such other relief as the law allows.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael N. Davidson", written over a horizontal line.

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