

Written Statement to :
The Oversight and Investigations Subcommittee of the
Financial Services Committee

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and

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Ladies and Gentlemen:

Unfortunately the situation Mr. Lazar has described to you is not unique. More than two thousand seven hundred individuals for across the United States find themselves in a very similar predicament. Many of the people are senior citizens that invested their life savings and this number applies to just the Liberte Capital group of investors. There are undoubtedly many more. Hence, the need for uniform regulation.

The viatical industry can be briefly described: An individual who owns a life insurance policy finds him or herself in financial need. There are viatical companies such as Liberte that will purchase the insurance policy at a discount from the death benefit. The amount of discount is often determined by the life expectancy of the insured. The longer the life expectancy, the deeper the discount as some funds are required to pay premiums on the policy until the insured expires.

After purchasing the policy the viatical company sells fractionalized interests in the death benefit to investors such as Mr. Lazar and the other members of the Liberte Class of investors. The money they pay the viatical company refunds its purchase price, is used to continue premium payments and is profit to the company. Upon death of the insured (viator) the death benefit is paid to the investors pro rata to their investment.

Handled properly and honestly the industry can be beneficial to a number of people. An individual who learns they are terminal may have an immediate need of funds for medical treatment. The payment they receive can help with that. Also, investors can realize an attractive rate of return on their investment.

The problem, of course arises when unscrupulous individuals get involved. In our case the Dept. Of Justice has determined that of the approximately one thousand policies in the Liberte portfolio nearly two thirds were obtained by fraud. This is accomplished when a viator knows he or she is terminal and then purchases a number of small insurance policies that do not require medical examinations. They simply lie about their medical condition on the policy application and then immediately sell the policies to a viatical company. If and when the insurer learns of the fraud the policy is often rescinded leaving the investor with nothing. In the Liberte case we have seen viators with as many as twenty policies.

We certainly believe the viatical company should at a minimum be suspicious when offered numerous small policies that have only recently been purchased. If suspicious, management at Liberte Capital was not driven to action as these policies were actively marketed to the public and most are worthless.

An additional area of concern is how the investors funds are handled once the investment is made. All policies require regular premium payments to remain in force. It is therefor, necessary that the viatical company maintain sufficient funds to maintain the portfolio.

Typically, the viatical company forwards funds to an escrow agent who then keeps the policies in force by making the required payments. That was done in the case of Liberte Capital. When trouble appeared the government became involved and lawsuits were filed. The Court has preliminarily found that the escrow agent mishandled in excess of Fifty Million dollars of money from Liberte investors and those of another viatical company. Hence, there has been very little available to maintain even the non fraud policies. As policies lapse for nonpayment individuals like Mr. Lazar lose their investment. The escrow agent is the subject of a multi-count indictment.

There also have been allegations that the viatical company did not forward sufficient funds to the escrow agent in the first instance and other indictments have recently been handed down.

In all, approximately One hundred Million dollars were invested with the Liberte Capital Group. About ten percent is presently accounted for.

It is important to point out that there has been very little regulation of this industry. Some states require that the investment be registered as a security as Ohio has recently done. Others do not. Being unregistered and unregulated all sorts of individuals marketed these investments in a variety of fashions. They were often described as safer than certificates of deposit and it appears older citizens were targeted.

We believe uniform regulation is required including registration, licensing those marketing the investments and regular reporting. Handled properly this industry can be a beneficial one. Left on its own we fear more stories like Mr. Lazar's.

Thank you

