

# BEST PRACTICES FOR LIFE SETTLEMENT BROKERS

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The emergence of a secondary market for life insurance policies (commonly referred to as “life settlements”) has created an exciting new option for unneeded or unwanted policies. To capitalize upon that opportunity, however, most people will need professional help. The underlying asset (life insurance) is inherently complex, as is the process of putting a policy “up for sale” and maximizing the value; successfully completing a life settlement is not a “do it yourself” project.

Generally, the first step in the process is a conversation with a life insurance agent or other professional financial advisor to determine whether or not a life settlement is even a possibility. Equally important is an objective evaluation of suitability; life insurance is a valuable asset, and a policy which is an excellent candidate for life settlement may well be essential to an individual’s overall financial plan. The more valuable the policy is likely to be as a settlement, the more important it becomes to make certain that the policy is truly not needed and/or that the beneficiary or other close relatives are unwilling or unable to take over the premiums.

Once it is determined that a life settlement could be advantageous and suitable, most advisors will seek help from a “wholesale” life settlement broker. While an advisor should be licensed to operate in the life settlement arena (indeed, they must be if they are to share in any compensation generated by the transaction in regulated states), most recognize that the process of maximizing the value of the transaction requires specialized expertise and experience.

A wholesale life settlement broker is “in the market” every day and has developed the expertise, relationships and infrastructure required to successfully complete the transaction plus comply with all applicable laws and regulations. A professional life settlement broker will also make certain that all confidential records are handled appropriately and that only qualified buyers have access to information about the policy and the insured.

While it might appear on the surface that contracting with several life settlement brokers would be a good

idea, doing so is often not in the client’s best interest. A policy being presented to the same buyers from multiple sources is automatically suspect, and a broker’s ability to negotiate a final price is compromised if the buyer cannot determine who is actually representing the seller. While finding the “right” life settlement broker is important, the best course is to evaluate the candidates and then pick one to exclusively represent the seller.

There are many factors in choosing the “right” life settlement broker, including professional credentials, experience and membership in professional associations such as the Life Insurance Settlement Association (LISA). One key in the selection process is evaluating the degree to which “best practices” are followed. While all life settlement brokers are charged with a fiduciary duty to represent the seller’s best interest, not everyone takes the same approach.

While what constitutes best practice is somewhat in the eye of the beholder, there are some general principals which can be the basis of an objective evaluation. Among these:

- A culture of compliance. Life settlements are a complex transaction, and fall under the purview of state regulation. While all states do not yet regulate life settlements, a life settlement broker that operates within a culture of compliance follows procedures that meets the highest standards required in regulated states—even in jurisdictions where no regulation currently exists.
- Due diligence. A professional life settlement broker will have an extensive due diligence process for both potential buyers and for representatives. This process will include a written questionnaire kept on file for each provider which details their licensing status, funding sources, and procedures — especially their approach to maintaining the integrity of confidential data. Due diligence should also be undertaken for all advisors submitting policies, including experience and licensing status.
- Written Agreements. Good contracts make for good business partners. Written agreements between

producers and providers should be kept on file and available upon request for potential clients. There should also be a written agreement between the life settlement broker and the seller, detailing the terms and conditions

under which the life settlement broker will represent the client; typically this agreement will include the services the broker will provide plus the method and amount of compensation to be paid to the broker upon successful



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completion of a transaction.

- **Comprehensive Documents.** A life settlement is a very information-intensive undertaking. The life settlement broker should have forms, materials and check-lists to capture all required information at the beginning of the process. Most regulated states require that these materials be submitted and approved before they are used.

While the process of offering a policy for sale can begin with as little as a HIPPA form, a list of doctors and an illustration to maturity, successfully completing a transaction requires

extensive documentation; the more complete the file, the better. Ordering a Verification of Coverage form from the carrier at the beginning of the process, for example, often avoids nasty surprises later on, such as a few missed premiums or a policy loan long since forgotten, for example, can materially change the pricing.

Establishing the ownership of the policy early in the process can also be critical. In most insurance transactions, the applicable jurisdiction is determined by where the contract is signed. Life settlement regulation, however, generally depends upon

the "residency" of the policy's owner. Establishing residency can be a daunting task, especially when the policy is owned by a trust or a corporation; trust documents (where applicable) should be included in all submissions, and establishing the "residency" of a corporation can be difficult at best.

Even where the policy owner is an individual, it is not uncommon for high net worth senior to have multiple residences in several locations and the establishment of "primary" residency can be difficult. Getting it wrong can be painful, however. Getting to the end of the process only to discover that the

winning bidder is not licensed in that state and therefore unable to complete the transaction is obviously a bad outcome.

- **Extensive Disclosure.** Although life settlements are complicated and complex, a professional life settlement broker will be dedicated to making the process as transparent as possible. In addition to a written agreement between the broker and the seller, an extensive disclosure document should be provided to the seller at the very beginning of the process.

This disclosure document should deal objectively with both the positives and negatives associated with life settlements, the fact that settlement proceeds may be taxable, eligibility for certain benefits may be impacted and that future insurability may be curtailed. There should also be a clear description of who may receive compensation upon successful completion of a transaction, and the amount and method by which such compensation will be determined.

The broker should keep the client (or his designated representative) apprised of progress and status promptly

deliver all offers as they are received. Some states require a report on "all offers, counter offers, acceptances and declines." Even where such a statement is not required, that information should be readily available upon request.

- **Written policies for Privacy Protection.** Much of the information collected in the process of arranging a life settlement is highly confidential, and because of regulatory requirements, the life settlement broker must maintain complete files and records on every transaction for several years. Accordingly, it is vital that the life settlement broker take every reasonable effort to protect the privacy of each and every client.

Given the importance of privacy, every life settlement broker should have a written policy for the protection of confidential information, and that document should be available upon request. Among the key requirements would be maintaining a secure environment for physical files and policies and procedures for access. Equally important is maintaining a secure systems environment, with provisions not only for system access but also maintaining data integrity, regular back-ups, off-site storage, and disaster recovery.

Best practices are just that — practices. Even the most carefully crafted policies are meaningless unless they are followed. While requesting and reviewing the policies of a potential life settlement broker is worthwhile, the real test of best practices is a reputation for integrity and effectiveness in the marketplace. A request for references and a list of satisfied clients from a reputable life settlement broker is "best practice" for a potential life settlement client.

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