The New York Times

August 10, 2012

Are You Worth More Dead Than Alive?

By JAMES VLAHOS

‘Do you see lights?” Ruben Robles asked his brother, Mark, in 2007. Bright, star-shaped and white, they flashed before Ruben’s eyes while he was driving, shopping at Costco, feeding the cats. Mark didn’t see anything, so Robles went to a doctor, who thought that the visions might be stress-induced. Robles ran a collection agency in Los Angeles, and the hours were long, the debtors argumentative. Several weeks later, Ruben began suffering seizures. He went to see another doctor, and this one ordered an M.R.I., which revealed a ghostly white orb on his left frontal lobe. The diagnosis was brain cancer. Only 36 years old, Ruben was told that he might not live to see his 38th birthday.

Horrified, Robles says he thought constantly about God. But his crisis was practical as well as existential. Over the next year and a half, surgeons operated on his brain three times, excising as much of the cancer as they safely could. The side effects of the operations left Robles barely able to walk and unable to speak more than a word or two at a time. He shuttered the collection agency. His wife left him, and Robles, needing daily help, squeezed into his mother’s Chihuahua-filled apartment. The medical bills were mounting, and Robles was worried: though he believed God would provide for him in the afterlife, what he desperately needed until then was money.

Ron Escobar, a close friend of Robles’s, went to Carole Fiedler, an insurance expert, for help. Fiedler saw that there was no vacation home or Google stock to unload. But Robles did have a life-insurance policy for half a million dollars. Life insurance is designed to benefit the living, a spouse or heirs, not those who perish. But Fiedler, who owns a firm called Innovative Settlements, knew that a life-insurance policy is an asset that can be resold to a friend or stranger just as a car, boat or house can. In a transaction known as a viatical settlement (for terminally ill patients) or a life settlement (for everyone else), the person selling his insurance gets an immediate cash payment. The buyer, in exchange, is named as the beneficiary and pays the premiums until the insured person dies. Life no longer afforded Robles a traditional way to make money, but to the right investor, Fiedler advised, his imminent death was worth a great deal.

OPEN
MORE IN M
The Ex
of Chri
Read More

Selling your life and selling a house have more in common than you’d think. Tl listing on the market. Prospective buyers do research and get inspections; ther counteroffers until the seller accepts a bid. The seller doesn’t literally peddle hi

course, but his life-insurance policy. The distinction is in many ways moot, however, as the sales value is inextricably linked to a cold-eyed estimation of how much longer the seller has to live. In the case of Robles's policy, a life-settlement company in Georgia, Habersham Funding, expressed interest. Escobar shipped off six boxes' worth of Robles's medical records, thousands of pages in all, to Habersham. The firm, in turn, analyzed the records and also had them scrutinized by an external company specializing in life-expectancy analysis. Fiedler's recollection is that the reports confirmed the grim prognosis and that Robles had less than two years left to live.

Fiedler, for her part, tried to convince Habersham that Robles was knocking on death's door. The sooner Robles died, the fewer premiums the buyer would have to pay and the greater the potential value of his policy. "I would never lie, but my job is to make my clients look as bad as possible," Fiedler says. Habersham opened its bidding at $250,000. "You've got to give us more money than that," Fiedler recalls yelling during a phone negotiation. "This guy is really sick!" The company bumped its offer to $305,000. Fiedler accepted, and the stakes were set. The buyer's profit would be the $500,000 insurance payout upon Robles's death minus the $305,000 settlement and whatever the company had paid in premiums. Escobar, meanwhile, was hoping that his friend could beat the grim odds. "I told Ruben, 'Look, they're betting that you're going to die,' " Escobar says. " 'You're betting that you'll live.' "

Betting on when somebody will die seems so creepy that it's hard to believe the practice is legal. Sure, people pay good money to buy life-insurance policies, so perhaps that should confer the right to sell them as well. But the freedoms of ownership are not unlimited, especially when it comes to anything related to life and limb. Possession of and control over what happens to your own body is a fundamental human right. Nonetheless, that hasn't stopped cultures from banning prostitution, organ sales or for-profit surrogate parenthood. The justification for such infringements upon bodily sovereignty is that people should be protected from financial incentives to harm themselves, and you could argue that a life settlement creates just such an incentive. A potential recipient, for instance, could try to win a larger settlement by offering a guarantee — if I'm not dead in, say, five years, I promise to kill myself so that you can collect the insurance money. That situation is admittedly far-fetched, but history has shown that when there's a payday offered for someone's demise, unscrupulous people will step in to hurry death along. In 16th- and 17th-century England, for example, it was legal to take out a life-insurance policy on a complete stranger, and as the historian Sharon Ann Murphy wrote, "these speculative life policies too often resulted in the murder of the insured."

There are no known cases of murder to collect a life settlement-linked insurance payout. The financial practice originated not as a criminal scheme but as a way to help the terminally ill. In the late 1980s, people infected with AIDS often had little time to live and a great need for

money. In response, financial planners established the viatical business. Flyers went up at gay bars and clubs encouraging people to sell their life-insurance policies for quick cash. Some financial planners even trolled hospital wards to find customers.

As the 1990s drew to a close, brokers realized that their thinking had been too limited. “The investors who had started this whole industry realized that the customer doesn’t just have to be someone who is terminally ill with H.I.V.,” says John Kraemer, a life-settlement broker in Southern California. “They could be anyone with an age or other health consideration that shortens life expectancy.”

Rebranded and redefined, the life-settlements business grew swiftly, reaching $12 billion in transactions by 2007. The recession has since walloped the industry, as have well-publicized cases of fraud, in which unscrupulous brokers persuaded people to take out life-insurance policies expressly for the purpose of reselling them a couple of years later. Only $3.8 billion worth of policies changed hands in 2010, but insiders hope that the business will ultimately surpass its previous high. There are $18 trillion worth of active life-insurance policies in the United States alone, and very few people even know that they can sell their policies. “The public awareness is next to nil,” says Clark Hogan, the managing director of Opulen Capital, a life-settlements brokerage in Southern California. “The industry is in its infancy.”

Advocates of life settlements say that they offer fiscal relief in hard times, especially to seniors whose retirement portfolios have tanked. “We need to be singing at the tops of our voices that selling your life insurance is an option,” says Scott Page, president of the Lifeline Program, a large settlement company. For potential investors, meanwhile, the pitch is that settlements offer a safe harbor. Let the Dow rise, let the Dow fall; a death payout is an uncorrelated asset whose timing bears almost no connection to the mood swings of the market. In addition, both sides participating in settlement transactions are winners: the policy seller is paid upfront, and the buyer is paid even more later. Both parties are playing with house money — that of the insurance company — and the only question is how it will be divvied up.

For all the supposed benefits, settlements still strike many people as creepy. They invert the traditional incentives of life insurance. Insurance companies have always had an interest in you, the policyholder, living as long as possible so that they can collect more premiums. Generally, you also want to live a long time, for obvious reasons. But a settlement means someone hits the jackpot when you die, and the sooner that happens, the more money that person makes.

Clark Hogan represents people who want to sell their life-insurance policies. To find new clients, he cold-calls financial planners, accountants, attorneys and insurance agents. “Hey,

good afternoon, Clark Hogan here," he said one afternoon at the end of last year. "I'm wondering if you've ever had a client surrender a life-insurance policy and if you've considered a life settlement instead. . . ."

Seller's agents like Hogan say that while it may seem wrong for strangers to profit from your demise, settlements are a resoundingly pro-consumer innovation. In the casino of life insurance, the game is rigged. The industry's profit models rely upon the fact that more than two-thirds of customers lapse — stop paying premiums — before dying, thus invalidating their policies before their beneficiaries can collect a cent. People often have good reasons for doing this. A husband outlives his wife, the intended beneficiary. An elderly woman with a dwindling pension decides that she needs money for medical care now more than her heirs will need it later.

Policyholders have only one possible escape route beyond lapsing. If the policy has a redemption provision, the customer can sell it back to the insurance company for a tiny fraction of its full face value. But this option represents the prison of a monopsony, a marketplace with only one possible buyer. "You wouldn't want to buy a Ford and turn around 10 years later and find out that the only entity you could sell it to is back to Ford," says Vince Granieri, the chief actuary at the life-expectancy company 21st Services. Settlements let the consumer shop a policy to multiple buyers and potentially get anywhere from 2 percent to more than 60 percent of its face value. For most people, discovering that they can sell an asset whose value rivals that of their house is a joyful surprise. "It's almost like finding money under the mattress," says John Yaker, former president of Quantum Life Settlements.

Hogan's cold calls that day yielded two financial planners who offered to send settlement cases his way, but receptive audiences aren't the norm. One planner he called dismissed life-settlement brokers with an expletive. Hogan curled over toward the speakerphone as if in abdominal distress but replied in upbeat tones. "This is the fight I have to win on behalf of the financially distressed life-insurance policyholder," he said, "to persuade them that there are legitimate buyers out there serving an industry that's trending toward legitimacy."

Life settlements have a dubious past indeed; as relatively new, poorly understood and, until recently, minimally regulated transactions, they have been prime terrain for fraud. The most notorious scheme even has its own acronym, Stoli, for stranger-originated life insurance, which typically targets the elderly. I spoke with one couple — wealthy, elderly retirees in Florida who asked not to be named — who were routinely approached to take out life-insurance policies. "Every other day you'd get invited for a free dinner at a high-class restaurant as an incentive to listen to a spiel on life settlements," the husband said. That the couple didn't actually have insurance did not dissuade the pitchmen. "They would try to convince you to take out a policy,

hold it for a while and then flip it," he said. The shady brokers offered to cover the premiums; after two years the brokers would get themselves named as the beneficiaries on a policy and then wait for the couple to die so that they could collect the insurance-company payout.

Such a scheme might not seem all that different from life settlements in which the policy seller wasn't put up to the transaction by a stranger — either way, you wind up having a third party that profits when the policyholder dies. But life-insurance contracts specify that the person taking out the policy must be doing so on behalf of himself, a relative or a business partner whose death would cause direct financial harm. So insurance companies have argued that Stoli is fraud, a contractual violation, and state legislatures have agreed. With the active support of the life-settlement industry, which wants to establish its legitimacy, settlements are now regulated in all but five American states, and most of the new laws explicitly ban Stoli.

Last fall, hoping to raise awareness of his reformed industry, Scott Page created one of the odder viral marketing campaigns ever to hit the Internet. In the video "I'm Still Hot," the actress Betty White sits atop a golden throne and raps about settlements to a bevy of shirtless male models. "I hooked up with the Lifeline/I got big cash in no time," White says. The video has been viewed nearly 1.5 million times on YouTube, clearly a viral victory for Page's Lifeline Program, though the message arguably gets lost amid the pecs and octogenarian break-dance sequences.

To spread the pro-consumer message, the industry might do better simply to run advertisements featuring real customers with settlement-fattened wallets. A client of Innovative Settlements named Arline Maisel, for instance, obtained a settlement for her father after he received a diagnosis of prostate cancer. The family used the money to rent a house in Colorado so that the sick father, his children and grandchildren could gather together for what proved to be his final year alive. "All of this takes money, and lots of it," Maisel told Carole Fiedler. "I know that a lot of people think that what you do is macabre . . . but I can tell you that you are in reality a dream weaver and a lifesaver."

Fred, a retired engineer in Texas, agreed to explain the buyer side — that of settlement providers who invest in the future deaths of policyholders — on the condition that his full name not be used. A decade ago, Fred worked as a sales representative for a company called Vespers, which arranged viatical settlements for terminally ill policyholders. The company then sold shares to investors who would be paid when those policyholders died. Fred himself invested $200,000 in 10 different policies. The way it was supposed to work was that he would pony up a share of the settlement award, typically less than 10 percent, and would receive that same percentage, minus the premiums paid, of the death benefit once the insured person died.

Life-settlement investors, like those in other sectors, crave timely information about their holdings, and the key metric for predicting portfolio performance is the health status of the policyholders. To acquire this sensitive information, Fred says a Vespers representative would call and question the policyholders — or their adult children, nurses and doctors — as often as quarterly. He would then receive tracking reports summarizing what the company learned.

In the report for the third quarter of 2007, for example, Fred got updates for more than 100 policyholders, each of whom is identified by name. He could look up one man and learn that "his health is fine." He could find out that the last time another policyholder was seen by a doctor "her condition [was] poor due to the spread of her breast cancer." The briefest entries in the tracking report heralded investments that paid off: a name, followed by a notation like "03/31/2006 — Date Deceased." To date, Fred has been paid for seven such maturities. But his portfolio isn't entirely closed out. "I still have three policies left," he told me. "I'm waiting on them to die!"

This sort of profit-motivated death watch disturbs people like John Cautillo, an executive for a food-service company in New York. In June 2011, Cautillo helped his fiancée's mother sell her life-insurance policy. Quantum Life Settlements brokered the deal, netting a settlement of more than $2 million, which the family used to pay off a loan taken out to pay for the insurance premiums. Cautillo says that he would "absolutely" recommend the transaction to others. Yet the process is unsettling. "Someone owns my future mother-in-law's life now," he says.

Investors like Fred take umbrage at the suggestion that they're rooting for death. "We pray for all of our people, that they would have a good life and be able to use this money" from the settlement, he said. Besides, he knows what it feels like on the other side of the fence. He sold his own insurance policy a couple of years ago and is now on the receiving end of calls from a provider wanting to know the latest on his health. Fred laughs about this. "I say: 'I'm still alive! I'm hanging in there!' "

Patrick Satterthwaite tested positive for H.I.V. in 1986, and by 1994 he had full-blown AIDS. At the time he was working for the post office in Guerneville, Calif., and he recalls his doctors' giving him two years to live. "I looked at my situation and thought, Well, do I really want to spend the last two years of my life selling Elvis stamps?" Satterthwaite says. With the help of Fiedler, he got a settlement on one policy he owned and an accelerated death benefit on a second, netting him more than $250,000, which he used to buy cameras and jewelry and to travel the world.

Today the money is long gone, but Satterthwaite, to his own amazement, is not. He's 64 and in the past decade has competed in triathlons and bodybuilding contests. His survival, due largely

to innovative drug therapies, is a medical triumph. It's also a thorn in the side of the investor who was expecting him to die more than a decade ago.

To mitigate the risk posed by death's fickle nature, major investors try to acquire large numbers of policies, or "lives"; the more they own, the more the law of averages smooths out the Satterthwaites in the portfolio. "Small securities dealers may only buy 10 to 30 policies, whereas a bank or a hedge fund may buy 100 to 400," says Jason Moos, whose company, Sandor Management, acts as a broker for investors. The Lifeline Program has completed more than 3,000 settlements.

Large portfolios also allow mortality to be packaged for sale in ways that, for better or worse, recall the byzantine ingenuity of the subprime era. Settlements can be pooled, sliced and recombined into a dizzying array of financial instruments, including ''death" bonds, derivatives, notes and swaps.

An investment firm called Centurion showcases some of the industry's most creative ways of packaging mortality. Steady returns are more important to clients than periodically stratospheric ones, so buyers for Centurion's "micro longevity" fund — a group of several hundred settlements — analyzed life-expectancy projections and made policy purchases with an eye toward evenly spacing the deaths. The company diversified acquisitions by sex, smoker status and the projected likeliest cause of death, from heart disease to cancer. Pollyanna Wan, an investment adviser at Centurion, says that there might have been certain years when the fund needed "more lives that are projected to mature."

Diversity has traditionally been constrained because there are a limited number of insurance policies available on the settlement market. This problem led Centurion to focus on "synthetic" mortality funds, or swaps. For these, Centurion isn't restricted to policies that are actually for sale. Instead, the company essentially bets on when particular people, whose insurance policies remain owned by other entities, like large investment banks, are going to die. Centurion thus benefits from a Walmart-size selection of lives rather than the limited supply of the corner bodega. "It's a little bit like going to a warehouse and saying, 'What do you have in stock?' " Wan says.

The science of predicting death is imperfect and evolving. The doctors and actuaries who provide reports to the settlement companies start by reviewing the reams of medical records sent in for cases like that of Ruben Robles. They identify all health issues and add or subtract months to the projected life expectancy, or L.E. An L.E. report I saw for Fred, for instance, credited him for exercising "more than expected for age," while the long list of demerits included his high blood pressure, past heart attack and family history of cancer. Hoping to

advance the precision of medical underwriting, the L.E. provider 21st Services is currently reviewing the Medicare records of some 10 million Americans who have died in the past two decades, analyzing the death risks posed by 240 different medical conditions, singly and in combination. "By the time the study has been completed, 21st Services will have by far the largest data pool on factors that affect mortality," says Vince Granieri of 21st Services.

An L.E. calculation of, say, 48 months, is no guarantee that the person in question will keel over exactly 48 months later. Instead, the "median L.E." figure relied upon by settlement companies simply means that if there are 1,000 people with the same medical status as the person being analyzed, you'd expect half of them to be dead at the 48-month mark. Hoping to make this guesswork at least somewhat more precise — and to reduce the chance of betting wrongly on a case like that of Robles — researchers for the settlement industry have begun to parse socioeconomic factors as well as medical ones. For instance, rich people "are not going to die as predicted, because they have the resources to stay healthy," Wan says. Other life-expectancy consulting firms analyze death trends based on the prevailing lifestyles of where people live, separating the mountain-climbing denizens of Boulder from the Big Mac-chomping residents of Bakersfield.

The most startling attempt to sharpen traditional underwriting comes from a company called Longevity Insight, which recently began offering its analytics to the settlement industry. The company was formed in consultation with Howard Friedman, a psychology professor at the University of California, Riverside, whose breakthroughs in the science of longevity were set in motion two decades ago. At the time, Friedman suspected that personality traits strongly influenced how long people lived, but proving that was a problem: the necessary longitudinal studies would take decades and cost millions of dollars.

Then, by chance, Friedman realized that his data had already been collected for him. Back in 1921, a Stanford University psychologist, Lewis Terman, selected 1,528 kids for a study on what demographic and psychological factors enabled students to excel, in both their early years and later in life. The children were regularly assessed even as they grew into adults, got jobs and had families. After Terman's death in 1956, the project was taken up by other researchers, who continued tracking the participants all the way into the 21st century. That the study hadn't been designed to analyze longevity scarcely mattered to Friedman: here was a large group of people who had undergone standardized assessments from age 11 till death. Friedman and his colleagues exhaustively mined the Terman data for statistically valid correlations between the "psychosocial" profiles of the participants and how long they lived. "Surprisingly, the long-lived among them did not find the secret to health in broccoli, medical tests, vitamins or jogging," Friedman wrote in his 2011 book "The Longevity Project." "Rather, they were individuals with certain constellations of habits and patterns of living."

Friedman's findings buck much of the conventional wisdom on longevity. For instance, the cheerful study participants were less likely, on average, to live to a ripe old age than the more serious ones, in part because happy-go-lucky people are prone to "illusory optimism," meaning they underestimate health risks and are less likely to follow medical advice. Highly sociable people, on average, did not live longer than less gregarious ones as is commonly believed, because they tended to drink, smoke and party more. Over all, Friedman found a longevity edge for the successful nerds of the world, the scientist types over lawyers and businesspeople. "The findings clearly revealed that the best childhood personality predictor of longevity was conscientiousness — the qualities of a prudent, persistent, well-organized person — somewhat obsessive and not at all carefree," Friedman wrote.

Dustin Milner, the chief executive of Longevity Insight, and Friedman have developed a proprietary underwriting system, "LITE," in which they will administer intensive psychological reviews of people trying to sell their life insurance. The results will be parsed along with traditional medical L.E. reports. Longevity Insight can then advise settlement purchasers whether the insured is likely to die before the median L.E., on time or, most worrisomely for a potential purchaser, late.

On a cold, clear morning in Los Angeles, Ruben Robles let me accompany him to the Cedars-Sinai Medical Center for an appointment with his oncologist, Dr. Jeremy Rudnick. "How are you doing, how are you feeling?" Rudnick asked brightly as he strode into the examination room.

"Good," Robles said.

"How's your movement?"

"Good," Robles said.

Rudnick turned to me. "This is the way it goes every time," he said. "He comes in and tells me he's fantastic."

In truth, Robles could have been better. Covering the short distance from the parking garage to Rudnick's office took him 10 minutes in a halting gait. When Rudnick asked what he had planned for the weekend, Robles repeatedly said "cine, cine," until Rudnick realized that he meant he was going to the movies. But Robles's movement and speech were slowly improving, the doctor said. Bottom line, Robles was bucking the life-expectancy reports that projected his death as early as 2008. He was still alive.

For all the advancements that aim to make life-expectancy science more precise, death remains

one of the most uncertain certainties around. When you invest in an individual life settlement, you are placing a bet. And bets hinge upon probabilities that can't be controlled. For Robles, something has gone unexpectedly right in the years since his terrible diagnosis, and it is beyond the reach of both social and medical science to fully explain it. At Cedars-Sinai, Rudnick led us to another room and pulled up a series of M.R.I. images of Robles's brain. The earlier ones, from 2007 and 2008, showed the white mass of a glioblastoma spreading across his left frontal cortex. But in the images after the third operation, in 2009, the frightening white blob didn't return. Rudnick estimates that fewer than 5 percent of patients in Robles's condition do as well as he has.

"At some point, will the tumor flip a switch and start growing again?" Rudnick asked. "It probably will, but we don't know when. I've seen people with this kind of tumor who have been stable for 20 years. It defies all odds, but somebody has to defy the odds."

James Vlahos writes often for Popular Science and Popular Mechanics.

Editor: *Ilena Silverman*