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Providing Information and Value Customers Deserve • Transforming the Life Insurance Marketplace

Abe Lincoln's 202nd Birthday, February 12, 2011

Mr. Steven Brobeck, Executive Director and
The Board of Directors of
The Consumer Federation of America
1601 I Street, [eye St.] NW – Suite 200
Washington, DC 20006
Via Mail and Email

Dear Directors:

I am writing to ask you to reconsider CFA's lack of follow through on our joint project to fix the life insurance industry's deplorably inadequate disclosure and terribly-costly problematic sales practices by providing the policy disclosure that consumers have always needed and deserved. In making this inquiry, it is necessary and appropriate, I believe, to present my perspectives on: 1) my work relationship with CFA this past year, and 2) CFA's own efforts over the past nearly 30 years to reform the life insurance industry. Many other public interest groups look to CFA for leadership of the consumer interest on life insurance matters. However, since it appears many of these organizations, by virtue of their delegation of leadership on life insurance matters to CFA, have not retained expertise to assess CFA's performance, I hope you will consider my review in the constructive spirit in which it is offered. Please also let me note that I am writing directly to you, The Board of Directors, because whenever I have approached Steve Brobeck to discuss such, he has repeatedly asserted that decisions about resuming the joint disclosure project rest with CFA's life insurance advocate, Jim Hunt. As explained below, Jim, for many compelling reasons – of which I imagine you have been completely unaware - is not qualified to have such authority for America's life insurance consumers.

To briefly introduce myself, I am an economist by schooling and a life insurance agent, somewhat unwittingly, by profession. I have written extensively over the years on my industry's disclosure, marketing, and legal problems. My articles have been published in *Best's Review*, the *National Underwriter*, and *The Journal of Insurance Regulation*. A former A. M. Best editor has introduced me, stating, "You could not deal with a more ethical, independent expert on the design and marketing of insurance products...[who] tackles complex life insurance issues that frequently prove prescient." The American Council on Consumer Interests has selected my paper, "The Disclosure Solution to the Problems that Consumers Face in the Life Insurance Marketplace" for inclusion in its 2011 Annual Conference and Journal. In November 2009, following a presentation I had made to him, Steve Brobeck asked me to work with Jim Hunt on preparing my disclosure approach for CFA and me to jointly publicize. Despite my keen interest in and good work on this

project, Jim Hunt has kept it from reaching fruition. Jim's actions, or inactions, are harmful to America's life insurance consumers.

I explicitly and thoroughly review numerous relevant facts, not to be excessive, but to be complete. Much additional information, if necessary to clarify any matter about which you might remain uncertain, can be provided. This review, unfortunately, irrefutably shows that CFA's advocacy on life insurance matters during Jim's nearly 30 year tenure has been misguided, problematic, and terribly ineffective. When the Union Army was not winning the war, President Lincoln recognized the need for a change in military leadership, and ineffective generals were replaced. The fundamental problem in the life insurance marketplace has been readily solvable for decades, if not generations. However, despite its paramount position of leadership, CFA has never solved them, and **in fact, CFA's life insurance advocate, Jim Hunt, despite being well-intentioned, has been and is part of the problem.**

Executive Summary – As Succinct As Possible To Be Complete, But Not Short (an ~ 15 min. read)

Professor Joseph Belth – widely regarded as one of the foremost life insurance authorities in our country - has stated, **“The solution to the problem of deceptive practices [and every other related/interconnected problem, i.e., the comparatively poor value so many consumers obtain] in the life insurance industry lies in disclosure.”** **The Linton Yield analysis that Jim Hunt provides individually to consumers on a fee-basis is not appropriate policy disclosure;** the Society of Actuaries (SOA) and the National Association of Insurance Commissioners (NAIC) have repeatedly rejected using the Linton Yield approach for policy disclosure to consumers (not that these organizations' actions can be commended or warrant unquestioned respect, but their rejection of the Linton Yield analysis approach is justified – it is not disclosure).

Effective advocates intelligently, vigorously, and effectively attack inherent weaknesses in an adversary's position; Jim hasn't done that. The inherent weakness of the life insurance industry's position, its opposition to appropriate policy cost disclosure, has always been fundamentally rooted in its protection of agents' compensation. Jim has not only failed to effectively attack such, to put and maintain the spotlight upon this problem, he has actually proposed increasing agent compensation. (Fortunately, CFA has removed this incredibly flawed proposal from its web site.) As a consequence of Jim's ineffective advocacy, over just the past nine years alone, more than \$5 trillion (death benefit value) of new cash-value life insurance policies with undisclosed and excessive sales loads have been sold. During this same period, \$3.1 trillion of cash-value life insurance has also been surrendered; these policies' average death benefit value of \$85,000 documents their widespread purchase by millions of Americans with ordinary financial means. During Jim's tenure with CFA, in excess of ten billion dollars – in fact, it could easily be multiples of that - has been misleadingly appropriated from America's life insurance consumers.

Jim has repeatedly said, “It doesn't take long doing the type of work I do to realize that hardly any policyholders understand how a whole life policy works.” His statement confirms the inadequacy of current disclosure practices and the pervasiveness of misrepresentations. In his fee-only advisory practice, Jim, like many other such advisers who are largely sought by consumers because of their distrust of agents, has frequently and directly encountered agents' misrepresentations. While I understand that for Jim, like for other fee-only advisors, to report agent

misrepresentations is akin to biting the hand that feeds them (that is, the pervasiveness of misrepresentations arising from inadequate policy disclosure is the 'oxygen' fueling such advisors' businesses), in Jim's role as CFA's consumer representative he has had responsibilities not merely to help the individuals who pay his fee but also to serve much more broadly consumers in general. (As explained in my January 2011 letter to the NAIC's President – available on my web site - the purpose of reporting misrepresentations is not to harm agents but to endeavor to eradicate the pollution of misrepresentations.) **The point here is:** Preventing his few clients from succumbing to an agent's misrepresentations but doing nothing to prevent that agent's misrepresentations from subsequently being repeated countless times to others is a most peculiar way to promote public safety in financial transactions.

Jim allows friendships with industry insiders to undermine his advocacy. A few months ago, last October, Jim declined signing my petition to challenge IMSA (the Insurance Marketplace Standards Association – a self-regulatory organization sponsored by life insurers that I think everyone knowledgeable about life insurance matters would acknowledge has been a fraud. Any doubts about my charge against IMSA can be evaluated by studying my August 2010 letter to IMSA, at <http://www.breadwinnersinsurance.com/letters-to-insurers-and-regulators-imsa-president/>). Jim asserted he would not be getting involved because "Brian Atchinson [IMSA's President] is a friend so I'll stay out of this." **No effective advocate can allow personal friendship with the industry's representative to silence imperative criticism.** Jim did not propose to use his friendship to work in private with Mr. Atchinson to achieve legitimate consumer objectives, he simply opted out. While this friendship may explain Jim's decade long muteness regarding IMSA's fraudulent charade throughout Mr. Atchinson's tenure, it can hardly excuse Jim's failure to fulfill CFA's obligation to America's consumers to attack the life insurance industry's duplicitous and shameful methods.

Similarly, Jim's managerial role as SBLI's actuary while its policyholders were defrauded of more than \$100 million in a demutualization ought to be a matter of serious concern for CFA. Jim had the financial information to have prevented this looting of policyholders. Furthermore, even before the demutualization, SBLI had violated its statutory restrictions limiting its surplus to 10% of reserves – statutory restrictions drafted in 1907 by Louis D. Brandeis, the then future Supreme Court Justice. Admittedly, Jim's concerns about possibly losing his job had he openly challenged the demutualization can be noted. But the facts and the law are clear. This demutualization was an extraordinary and epic fraud, and ought to, and could, have been prevented. Consequently, Jim's role or presence in this financial disaster can hardly be an endorsement or a credential to be a national advocate for America's life insurance consumers. Certainly, no one now would ever recommend that Enron's Jeff Skilling should be entrusted as sole protector of any investor organization's interests.

In the last years of his life, Justice Brandeis considered SBLI - a no-load, mutual life insurance company – his greatest accomplishment. This historic company that could have fundamentally transformed the American life insurance industry sadly no longer exists. MA Savings Bankers, their lobbyist, Robert Sheridan, and their lawyers, destroyed policyholders' exclusive claim to SBLI's on-going future profits, appropriated its \$100 million surplus, forfeited SBLI's separate guaranty fund of \$12 million (that had been built entirely from SBLI policyholders' premiums) to Massachusetts – apparently, as the state's fee for promulgating this fraud, and have now hired commission-paid agents. Again, what could have become the greatest life insurance company in America, what could