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WHEN YOUR CLIENTS SHOULD NOT SELL THEIR STRUCTURED SETTLEMENT ANNUITY PAYMENTS

BACKGROUND

The use of structured settlements has risen dramatically over the past twenty years. A fixed rate annuity is often purchased to fund the settlement of personal injury lawsuits. In a typical settlement, the tortfeasor's insurer and the claimant reach a settlement which provides for the claimant to receive periodic payments over a period of time. The annuity is usually purchased by an assignee of the insurer and names the claimant as the payee. Previously, claimants were presented only with the option of an immediate cash settlement, which created significant tax related burdens, and did not always address the long term needs of the plaintiff.

Although these structured settlements typically satisfy the needs of claimants, the most significant downside for a claimant with a structured settlement is the inherent inflexibility of the payment stream. In ways unforeseen at the settlement table, the claimant's financial needs often change over time resulting in a demand for liquidity options. As a result of this demand and starting in the early 1990s, a few small specialty finance companies started meeting post settlement liquidity demands by offering new flexibility for structured settlement payees through a lump sum cash payment to the claimant in return for some or all of the rights to the claimant's structured settlement annuity payments.

POOR REASONS TO SELL STRUCTURED SETTLEMENT ANNUITY PAYMENTS

Although there are many circumstances that might emerge which would require your client to sell his or her structured settlement annuity payments, many claimants try to sell their payments without good cause.

- Vacation. A short term discretionary expense is not an appropriate use of funds. It is hard to imagine circumstances under which it would be in the best interests of a claimant to forego significant future dollars for the immediate gratification of a week's vacation at Disney or Atlantic City.

- Various Risky Investments. Many have sold or tried to sell their payments for the promise of high returns in the stock or real estate markets. We contend that any investment with a high degree of risk is an inappropriate use of factored funds. The nature of factoring transactions simply makes inappropriate anything other than a safe investment. It simply does not make sense to raise money at a relatively high fixed cost and then turn around and invest the proceeds with the hope of earning a higher return.

Furthermore, a positive return of any kind is certainly never a foregone conclusion in a majority of circumstances.

- Support of Extravagant Lifestyle. One should not sell payments to go on a spending spree, to buy a gift for a significant other or to temporarily maintain a lifestyle that one can simply not afford. Responsible people do lose their jobs or encounter unforeseen expenses which set up the true need for factoring transactions. But, it is rarely in someone's best interests to use factored funds try to live above his or her means for a short duration.

TYPES OF PAYMENTS WHICH MAY BE INAPPROPRIATE TO SELL

- Are the payments due too soon? The purchaser will need to make a minimum amount of money on every transaction regardless of whether the payments are due tomorrow or in ten years. If the payments are too soon in time, then the purchaser will not be able to make much money on the passage of time and compounding of interest over the years. Thus, the rate that is charged for a very short transaction will typically be much higher.

- Are the payments too distant? If the payments are due too far into the future, then the long-term interest rates and compounding process will virtually guarantee that your client will suffer sticker shock and get a disappointingly small amount of money for his or her distant payments.

- Are the payments too small? If the payments are extremely small, then the transaction costs that purchaser will need to recover (either built into the price quoted or otherwise) will likely cause your client to be selling payments at a very steep discount, as the fixed costs to process a transaction are typically the same regardless of size.

WHICH COMPANIES SHOULD YOUR CLIENT AVOID?

- Does the purchaser have a long history in the business with years of experience? There are several reputable companies to choose from that which each have more than 15 years of experience.

- What kind of record does the purchaser have with the Better Business Bureau?

- Does the purchaser have an easy to read contract that allows your client to change his or her mind or simply cancel the transaction without any penalties?

- Does the purchaser charge your client for its own attorney fees? The price quoted may not necessarily be the amount of money that your client will receive, at closing.

- Is the purchaser hiding its true identity? For their own mysterious reasons, some companies fail to reveal their true names and addresses in their advertisements and on their web sites.

- Is the purchaser a member of the National Association of Settlement Purchasers (NASP)? This is the industry trade association which has been instrumental in establishing guidelines within the industry through its lobbying efforts and rules of conduct.

Founded in 1995, Singer Asset Finance Company, L.L.C. ("Singer") is an industry pioneer and a national leader in converting structured settlements, lottery winnings and annuities into lump sums. Since Singer's inception, we have purchased nearly $1 billion in future payment streams.

Singer is always willing to provide free appraisals without any obligation. When permitted, Singer is also happy to pay referral fees. If you have any questions, please feel free to contact Singer at (800) 670-6777 or sales@singerasset.com. You can also find additional information about Singer at www.singerasset.com.

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