Coventry Alleges EEA Thwarted Efforts to Buy Portfolio

It claimed EEA representatives led the company on during months of negotiations, but never had any intention of following through with the sale.

By Donna Horowitz
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Coventry Capital US LLC alleged that representatives of EEA Life Settlements Inc. thwarted its efforts to buy the company's portfolio by continually changing the terms of the sale without any real intention of going through with it.

These allegations and others were made in a Thursday, Sept. 28, lawsuit in U.S. District Court for the Southern District of New York in Manhattan.

"This action arises out of a pattern of fraudulent, bad faith conduct by EEA, its lead contract negotiator, Vincent Piscaer, and one of its senior officials, Hiren Patel, in undermining the negotiation of a 'Definitive Agreement' to sell a portfolio of life insurance policies to Coventry Capital," the 30-page suit said.

Coventry accused EEA of undermining negotiations to ensure that its affiliates continued to collect significant fees to manage the portfolio. Over the years, Coventry said EEA has charged its investors more than $228 million in fees and other expenses.

It further said that EEA only was using the sale as a ruse to appease its regulator and investors.

Despite an agreement that death benefits from policies were to go to Coventry, the EEA Life Settlements Fund **PCC** Ltd. secretly kept those maturities as its own earnings, the suit claimed. The fund is an affiliate of the defendant.

The portfolio at issue holds about 133 policies with $459 million in death benefits. Before entering into a contract, Coventry initially offered to buy the portfolio for $200 million, later $201 million and ultimately $204 million because EEA said it had to be sold at or for more than the net asset value.

But Coventry said EEA and its representatives kept jerking it around.

After negotiating for weeks over the purchase price for the whole portfolio, the EEA representatives changed their position during the first week of April, the complaint said. At that time, EEA insisted that part of the portfolio be kept because continuing investors needed it for their ongoing investment.

The Guernsey-domiciled fund is being wound down. Besides the continuing investors, there's another group of investors seeking redemptions to get their investment back.

The London-based fund manager suspended redemptions and trading in the fund in November 2011 after the U.K.'s Financial Services Authority, now known as the Financial Conduct Authority, referred to life settlements as a "toxic" asset.

The actual purchase price of the portfolio and other pertinent details were redacted due to confidentiality provisions in the contract, although Coventry said it will ask the court for permission restore the blacked-out portions and file the full complaint.

Coventry said it doesn't believe the redactions are necessary or appropriate in light of the First Amendment and common-law rights of public access to court documents.

Coventry said it and EEA described in detail the terms of a definitive agreement and provided a framework for "good-faith negotiations." Coventry anticipated a definitive agreement would be negotiated quickly by late July.

The company said this was important because it already had lined up buyers for many of the policies.

With purchase on the horizon and a binding agreement to negotiate, Coventry said EEA would be able to appease its investors and its regulator that the fund would soon have enough liquidity to meet redemptions.

Coventry said that EEA and Piscaer insisted in an April email that the contract was necessary so it could discuss this with the regulator. The suit doesn't name the regulator, which is the Guernsey Financial Services Commission. An investors' group has alleged a wide range of improprieties against the fund manager.

"This was all part of Defendants' fraudulent scheme, and they embarked on a multi-faceted pattern of bad faith conduct in an attempt to forestall any possible deal," Coventry said.

EEA undermined efforts to reach a definitive agreement by misrepresenting the net asset value of the policies, Coventry claimed.

Coventry said EEA's attorney, Andrew Harrop, acknowledged that EEA could not accept an offer below the aggregate net asset value. Thus, Coventry raised its offer to $204 million.

"Once the Contract was signed, Coventry Capital embarked on what would be a futile, months-long effort to negotiate the composition and price of the retention portfolio," Coventry said.

It said EEA's incentives changed when it began discussing the retention portfolio.

"Any increase in the price of the retention portfolio was thus a dollar-for-dollar reduction in the amount Coventry Capital would pay EEA for the remaining policies. Thus, whereas Defendants previously had claimed Coventry Capital's valuations were too low, when it came time to discuss specific retention portfolio policies, Defendants suddenly began to assert that Coventry Capital's valuations were consistently too high," the suit said.

Coventry said it became suspicious, but still it pressed on.

In August, Reid Buerger, CEO of **Coventry First LLC**, an affiliate of Coventry Capital, wrote to Piscaer saying that Coventry would bear some of the price difference, but heard nothing constructive from EEA. He asked EEA and Piscaer to certify the policies' net asset values.

"EEA responded that Coventry Capital's valuations were always too high, yet refused to provide the individual policy NAVs that were supposedly lower than Coventry Capital's valuations," Coventry claimed.

Two days later, Coventry said Piscaer "disclaimed the relevance" of the policy net asset values to the negotiations.

Coventry said the complete about-face was a "transparent attempt to avoid disclosing" that EEA's representations about the net asset value of the portfolio and retention portion were false.

EEA's constantly changing positions forced Coventry to repeatedly return to the drawing board over its proposals for the makeup of the retention portfolio.

Then, Piscaer abandoned the retention portfolio idea altogether and instead discussed purchase of the entire portfolio, with no explanation why it was no longer necessary for the continuing shareholders, the complaint added.

Coventry said it ultimately came to believe that the shifting and contradictory positions were intended to prolong negotiations over a definitive agreement in perpetuity.

Coventry also claimed that certain policies in the portfolio were priced on fraudulent medical records, false statements by insureds of their income and net worth on applications and were issued without insurable interest to conceal the true beneficiaries of the policies.

Thus, Coventry said it told EEA it wanted to eliminate those policies from the transaction, but said Piscaer didn't agree. Coventry said this was not the first time EEA had been told of the fraudulent policies.

On top of this, Coventry alleged that Piscaer demanded that Coventry pay $2.2 million for 12 months of premiums for fraudulent policies while EEA sought to sell them elsewhere.

Still Coventry didn't give up and made yet another offer regarding the agreement. EEA didn't respond.

Most recently, on Sept. 21, Patel and Piscaer contacted one of the companies Coventry had planned to resell some of the policies to and asked for help to continue "pretextual" negotiations with Coventry, the suit said.

But now the two EEA representatives demanded that Coventry relinquish any claim that they had acted fraudulently and wanted the company to agree that the death benefits on policies that occurred after the contract took effect belonged to the fund.

Coventry alleges breach of contract against EEA, fraud/intentional misrepresentation against all defendants and aiding and abetting fraud and intentional misrepresentation against Patel and Piscaer.

Coventry is seeking compensatory and punitive damages, all costs and interest allowed by law and attorneys' fees relating to the transaction and lawsuit.

Neither Alan Buerger, chairman of the Coventry board, nor Reid Buerger, who heads the Fort Washington, Pa.-based provider, responded to requests for comment. They are represented by the **Williams & Connolly LLP** law firm.

Martin Stott, a spokesman for EEA in the U.K., said in an email that he would not be able to comment because he had not seen the lawsuit and wouldn't be able to reach anyone with the company Friday night.