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Life, Death and Insurance: Indiana's $15 Million Mystery

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INDIANAPOLIS—It is a tale worthy of an airport-kiosk thriller.

The mother-in-law of a nationally known executive is found dead in her bathtub. She is fully clothed from an evening out at a martini bar, high heels still on her feet. The authorities rule she accidentally drowned.

Months later, her family learns that the last person to see the woman alive—a local businessman half her age—had a $15 million insurance policy on her life, payable to his company.

The scenario is playing out in real life in a civil lawsuit in federal court here. The mother-in-law, Germaine "Suzy" Tomlinson, died in September 2008 at age 74. The son-in-law is Stephen Hilbert, who co-founded insurance company Conseco Inc. and now runs an investment fund. His family is seeking to wrest control of the $15 million policy from its beneficial owner, a company controlled by entrepreneur JB Carlson. The Hilbert family maintains that the 36-year-old Mr. Carlson, who was a social companion to the older woman for several years and had some business dealings with her, had no legitimate reason to obtain the policy.

Mr. Hilbert says: "I'm not accusing anybody of anything. There's still incredible suspicion from the family as far as her demise."

Mr. Carlson says suggesting the death is anything but a tragic accident "is just ridiculous." He says the loss of a friend has been "tremendously painful."

He says that he drove a tipsy Ms. Tomlinson home from the bar about 1 a.m., escorted her inside and left her—alive—in her living room. Mr. Carlson maintains that he legitimately bought the insurance on Ms. Tomlinson as a "key man" policy, sometimes taken out by a business to protect itself from financial damage if a top executive dies. Ms. Tomlinson introduced him to potential investors and told people she was a board member of his company.

The dispute over the $15 million policy is a dramatic example of a larger controversy roiling the life-insurance industry over "stranger-originated" policies. In recent years, insurance agents, hedge funds and other investors have induced thousands of elderly people to take out giant policies. Investors then buy these policies, pay the premiums, and collect when the insured dies.

Insurers argue the practice violates "insurable interest" laws that require a buyer to be a relative, employer or someone else more interested in having the insured person alive than dead. U.S. courts long have supported this concept, including a 1911 ruling in which Supreme Court Justice Oliver Wendell Holmes Jr. wrote: "A contract of insurance upon a life in which the insured has no interest is a pure wager that gives the insured a sinister counter interest in having the life come to an end."

Complaints alleging foul play from policies bought by strangers are rare. But in 2008, a pair of elderly Los Angeles-area women were sentenced to life in prison after being convicted of murdering two homeless men in an insurance scheme. The women befriended the men, took out life-insurance policies on them, then murdered them, collecting a total of $2.8 million.

The insurer that issued the $15 million policy on Ms. Tomlinson, the American General Life unit of American International Group Inc., has asked a federal court to declare it void. The insurer claims in U.S. District Court in Indianapolis that the policy was fraudulently obtained and was a stranger-originated policy intended for resale, violating state insurable-interest laws.

AIG charges that Mr. Carlson and an insurance agent, Geoffrey VanderPal, submitted vastly inflated net-worth figures for the elderly woman as part of a "carefully crafted scheme" to dupe it into selling such a large policy. An attorney for Mr. VanderPal says his client believed Ms. Tomlinson was important to Mr. Carlson's company and therefore the policy was legitimate. In court filings, Mr. VanderPal denies submitting false information.

The insurer says Ms. Tomlinson cited "personal estate-planning" when she applied for the policy, naming the "Germaine Tomlinson Insurance Trust" as the beneficiary. Such trusts are commonly set up by wealthy people for tax reasons. AIG says it was never told that Ms. Tomlinson had signed a document making Carlson Media Group the beneficial owner of that trust. As for Mr. Carlson's assertion of a "key man" role for Ms. Tomlinson as the basis of the policy, AIG in court papers dubs this a belated explanation and a "sham."

AIG's stance that it shouldn't have to pay the $15 million has united the warring Messrs. Hilbert and Carlson on one front: They say AIG is stuck with the policy it sold.

Mr. Carlson has told the court that AIG's fraud claim is irrelevant because the policy was past the two-year period in which the insurer could legally contest it. Mr. Hilbert says AIG shouldn't be allowed to collect the hefty premiums, then use the courts to wriggle out of paying.

An AIG spokesman says the insurer "acted appropriately in the sale of this policy."

Mr. Hilbert founded what became Conseco in 1979. The company grew by acquiring small insurers. Mr. Hilbert became wealthy, with a lifestyle that included a walled estate north of Indianapolis, and horses in Kentucky. In 2000, he was pushed out of Conseco after an acquisition soured. Following lengthy litigation over loan guarantees the company had made for him, he gave back the walled estate and some other assets to Conseco. He remains wealthy.

In 1994, Mr. Hilbert divorced his wife of 16 years and married Tomisue Tomlinson. The couple met when Tomisue performed as a dancer at a party Mr. Hilbert attended.

The marriage delivered a raft of new in-laws, including Tomisue's mother. Suzy Tomlinson was born in Paris and worked as a model before marrying an American soldier and moving to the U.S. in 1960, according to her funeral program. Her early years in the U.S. were tough; she divorced the soldier, and later married and divorced a man in Indianapolis, having five children along the way, the family says.

She supported herself for a while as a cook at the Living Room Lounge in downtown Indianapolis, recalls Loren Walker, the bar's former owner. He remembers her as an outgoing woman with a strong French accent, who would "finish her shift and sit down and drink with the customers."

After her daughter married Mr. Hilbert, Ms. Tomlinson's fortunes improved. Mr. Hilbert says he and his wife put her on salary for tasks at the estate, set her up in her own home and gave her a Cadillac and, later, a Lincoln.

Friends and relatives describe Ms. Tomlinson as a vivacious woman who enjoyed the company of people of all ages.

One young friend was Mr. Carlson. Like Mr. Hilbert, he showed an entrepreneurial bent. At Ms. Tomlinson's urging, Mr. Hilbert says he met with Mr. Carlson around 2003 to hear him pitch an electronic coupon-redemption business. Mr. Hilbert says he wasn't impressed.

Mr. Hilbert says he recently discovered through legal depositions in the case that his mother-in-law had invested about $50,000 in the younger man's company, Carlson Media Group. In court filings, that company says she was elected to its board in 2002 and later became vice chairman. Ms. Tomlinson told friends that she was helping with Mr. Carlson's business.

Thomas W. Mason, who served on Carlson Media's board, says the coupon project "fizzled out" for a variety of reasons, including difficulty in lining up financing. Mr. Carlson blames other factors, including the collapse of a planned deal with a major retailer. Court filings show Mr. Carlson and his companies have had debt problems, including two pending claims for nonpayment of credit-card bills totaling more than $40,000.

Mr. Carlson says the credit-card claims came because he was conserving cash for the legal fight against AIG.

In early 2006, court documents show Ms. Tomlinson applied for the giant life-insurance policy. In a telephone interview with a firm working for the insurer, she said the intended beneficiaries were Tomisue, another daughter and a grandson, but referred AIG to the insurance agent for details because she was "not sure how they are setting this up." At some point, she named the Germaine Tomlinson trust as the beneficiary.

The application stated that Ms. Tomlinson would liquidate assets to pay the $387,000 annual premiums. In fact, the insurance trust overseen by Mr. Carlson took out a 30-month loan with an interest rate of 17% a year, filings show.

Insurers generally will sell such a large policy only to a wealthy person or company with a legitimate reason for that much coverage. AIG was provided a financial statement stating Ms. Tomlinson had $46.7 million in assets, including real estate, artwork and $39.8 million in preferred shares of Carlson Media. It was signed by "Kevin League" on the letterhead of "KLS & Associates," according to court documents.

Mr. League previously had worked for Mr. Carlson. The address listed for KLS was a rented house from which Mr. League was evicted shortly thereafter, his former landlord says. Mr. Carlson says he didn't prepare the statement and never saw it until he was sued by AIG. He says valuing Ms. Tomlinson's preferred shares of Carlson Media at $39.8 million was "wildly inaccurate." Mr. League couldn't be located.

Mr. Hilbert says his family didn't know about the policy until four months after Ms. Tomlinson's death, after AIG filed its lawsuit to void it. But she assured them years ago they would be taken care of. Mr. Hilbert calls her a "complete pawn in this process." Instead of being worth $46.7 million, he says she had almost no money of her own. AIG filed tax returns under seal showing her annual income in the years in question was under $17,000.

An email filed by AIG in court shows that Mr. Carlson and his insurance agent explored selling the policy while Ms. Tomlinson was alive, but Mr. Carlson says he decided instead to refinance the $1.3 million loan. He risked losing the policy to the lender if he failed to refinance. As it turned out, a refinancing he says he was counting on didn't materialize by the loan's due date, Sept. 30, 2008.

Ms. Tomlinson died just before that deadline. On Saturday, Sept. 27, she accompanied Mr. Carlson to the crowded fifth-anniversary party of one of their favorite hangouts, the Blu Martini. Outgoing as always, Ms. Tomlinson at one point in the evening danced under a white umbrella with the bar's owner, Bill Pritt. Sometime later, one person at the table noticed that Ms. Tomlinson was stumbling, and someone else suggested Mr. Carlson take her home, according to Mr. Carlson and two other people at the bar that night.

Mr. Pritt, the owner, recalls walking out to Mr. Carlson's car with the pair, Ms. Tomlinson supported by the young man's arm.

Mr. Carlson says he escorted Ms. Tomlinson inside the home. "I placed her in a love seat and walked toward the door, I clapped with my hands to get her attention and told her to lock the door...The last time I saw Suzy Tomlinson, she was alive."

Ms. Tomlinson's body, still wearing her clothes from the Blu Martini, was discovered in the bathtub by one of her sons Monday morning. The county coroner ruled it was accidental drowning compounded by "acute ethanol intoxication."

Mr. Hilbert says his mother-in-law never took baths. He says police told the family that a rug was crumpled up, a glass shelf was knocked over and a faucet knob on the tub was broken. The autopsy found no bruising on her body, the coroner says. "How did the water get turned on?" Mr. Hilbert says. "It makes no sense whatsoever."

Alfarena Ballew, chief deputy coroner, says the scene was "consistent with a fall." She also said her records show that the house's doors were locked. One of Ms. Tomlinson's daughters, Laura Covington, disputes that, saying her brother found a patio door unlocked and locked it before police arrived.

"We worked it as a murder case" for several months but concluded the death was accidental, says Det. Mike Mitchell, in charge of the investigation at the Indianapolis police.

The death put Mr. Carlson in position to claim the $15 million, making the policy more valuable as an asset as he scrambled to arrange new financing. Mr. Carlson says he got the loan refinanced in mid-October, before the lender seized the policy. AIG still hasn't paid him a dime.

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