Your Money or Your Life

December 1, 1999 By Griffin Shea

You hear a lot about how people commit crimes because of their childhood," said Johnny Bonds, a former Houston Police Department detective. "But Michael Lee Davis—he just loves being a criminal."

Bonds has spent most of the past quarter-century tracking Davis, and helped to put him behind bars in the '80s for arranging the murder of four people in exchange for a slice of their life-insurance payoff. But incarceration didn't make Davis wary of entering the viatical business in Dallas in the '90s with two other convicted felons. Now the 46-year-old stands accused of masterminding a tangled scheme in which HIV positive men were paid to falsify applications for insurance policies eventually sold to investors.

Tipped to a warrant for his arrest, Davis fled in June to parts unknown. Feds joined the probe of his alleged misdealings involving companies in several states. Then, in the early morning hours of September 22, Davis walked into the Dallas County Sheriff's Department with his lawyer and gave himself up. As *POZ* went to press, he was being held without bail, and Davis' attorney, Mark Watson, declined comment.

While Davis' case is an exceptionally lurid example, controversy has roiled the viatical business since its inception. With profit margins dependent on the demise of its clients, the billion-dollar industry presents a PR challenge, no matter how up-and-up an individual company may be. Still, for the many HIVers who have sold insurance policies, viaticals have provided a legal resource for needed money.

With few laws governing the sale of life-insurance policies, people like Davis may see viaticals as an easy mark. "He's the smartest criminal I've encountered," said Bond, adding that Davis—who comes from a wealthy family—has routinely passed himself off as a lawyer, despite not having finished college until he was in prison. His suave intelligence made him uniquely qualified to engineer what the Dallas County DA's office calls the largest viati cal scam ever uncovered.

The investigation of Davis' company has led to the indictment of 29 other people—one insurance agent and 28 men with HIV who together purchased more than $10 million worth of policies through Davis. The HIVers were paid a few thousand dollars for each policy, while Davis most likely ran with the $1.4 million in profits he allegedly pocketed from 1997 to late 1998.

The story of one of Houston's most infamous criminals begins in 1975, when Davis was still known

as Walter Waldhauser Jr. and a woman named Trudy Zobolio was found hanged by her pantyhose. Four years later, John and Diane Wanstrath (Zobolio's daughter) and their 14-month-old son were all discovered shot in the head. An investigation revealed that Zobolio's son, Markham Duff-Smith, had in fact arranged all the deaths, and that Waldhauser had put him in touch with the hitman, Allen Janecka. All three men were convicted in 1981; Duff-Smith was executed in 1993, and Janecka is still on death row. Waldhauser avoided lethal injection by pleading guilty to three counts of murder. After serving less than 10 years of his 30-year sentence, he was paroled and legally changed his name to Michael Lee Davis.

In 1996 he moved to Dallas and was hired by Southwest Viatical. The company's founders, Wesley Crowder and Hoyt Wauhob, had been convicted, respectively, of unrelated drug and theft charges—like Davis, they were still on parole. Texas requires viatical brokers to register, but only people who have committed felonies within 10 years are banned, said Lee Jones, spokesperson for the Texas Department of Insurance. That left all three men in the clear.

There was just one hitch: 1996 was not the best year to be dealing in viaticals. Davis started his own firm, First American Fidelity, and began marketing policies still within the two-year period during which an insurance company can cancel if it discovers fraud. Because of that risk, Davis offered HIVers less money for the policies, making his own profits higher.

But as news spread of PWAs' Lazarus-like recoveries, Davis worried that the market was drying up, according to affidavits. He started recruiting HIVers to apply for as many as six new life-insurance policies each, to be viaticated immediately. He concealed the applicants' HIV status from insurance companies whose small policies didn't require blood tests, and kept a second set of records with the men's actual medical histories to persuade potential buyers of the policies that the payoff would come quickly.

Davis then directed the men to a local insurance agent, Sammy Squyres II, who wrote out the insurance coverage, say court documents. One PWA charged in the case, Steve Nutt, told *The Dallas Morning News* that Squyres assured him it was legal to leave serostatus questions blank. To add to the confusion, some clients were told they didn't have to fill out the forms, just sign on the line. Each also had to sign a release giving Davis access to his medical files.

The 28 men indicted all obtained at least three policies each, for which they were paid $4,000 to $7,000 per policy, a fraction of the typical selling price. They were given a $1,000 finder's fee for bringing more people into the scheme and were promised one policy of their own to be viaticated later at full value.

Like Nutt, most of the men who viaticated policies through Davis' company were living on small disability benefits and trying to cover big medical bills—conning a giant insurance firm may not have seemed like much of a crime, say sources close to the case. "That's why Davis targeted them," said Brian Flood, a Dallas County assistant DA. "They had a need, and he took advantage of it."

That doesn’t mean they got off scot-free, however. According to Per Larson, a financial planner for PWAs, a few years ago the men might have been subject to a breach-of-contract suit, at worst. Now, with Texas cracking down on viatical scams, they’ve been charged with fraud. Nutt and the other 27 men face a maximum sentence of life in prison. The first two men who entered pleas received deferred probation for their cooperation. At press time, the other cases were still working their way through the courts.

As for Davis, he was expected to be arraigned on six felony counts—the fraud charge the PWAs face—and five counts of money laundering, each of which carries a possible life sentence.

Bonds, for one, is looking forward to the chance to testify against Davis. “He’s going to get his day in court,” he said. “I can’t wait to tell the world what he’s done."

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