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ONE HUNDRED SEVENTH CONGRESS

# Congress of the United States

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### Opening Statement of Rep. Henry A. Waxman

#### Hearing on

### The Collapse of Executive Life Insurance Company

#### and its Impact on Policyholders

### October 10, 2002

The collapse of Executive Life Insurance Company in 1991 is an important issue that deserves careful consideration by this Committee. But I am confused by the last-minute timing of this hearing and the absence of key witnesses. It is unclear what this hearing will actually accomplish.

The collapse of Executive Life affected over 300,000 policyholders, many of whom lived in California. The hardest hit policyholders were those people who relied on annuity payments for their living expenses. When Executive Life collapsed, these policyholders – many of whom were disabled – lost significant amounts of money.

For this reason, I wrote to Chairman Burton six months ago, asking him to monitor this issue. According to press accounts, the Los Angeles office of the U.S. Attorney's office recommended in April 2001 that Credit Lyonnais be indicted. However, there were disturbing reports from the *New York Times* that the Justice Department might be negotiating a lenient settlement with the bank that would provide little restitution to policyholders. Concerns were also being raised about efforts by the French government to lobby President Bush and Secretary of State Powell. And the French bank had retained a close ally of President Bush to lobby the Justice Department. My letter requested that the Committee look into these issues.

In addition, Rep. Nancy Pelosi and Rep. Howard Berman wrote to Attorney General Ashcroft to express their concerns about how the Justice Department was handling this matter. Republican members, including Mr. Ose and Rep. Jerry Lewis, have made similar requests.

How the Justice Department is proceeding in this matter and whether DOJ is being improperly influenced by political considerations are important issues falling squarely within the Committee's jurisdiction. These issues need to be – and can be – examined in a bipartisan manner.

Unfortunately, I doubt whether that will happen today. The key witnesses who can help us understand why the Justice Department is not taking action are not here. Plus, there's no indication that future hearings are planned into the Justice Department's failure to act.

Instead, the timing and focus of this hearing creates the impression that it is being held primarily to help Gary Mendoza, who is the Republican candidate running against John Garamendi for insurance commissioner in California. Mr. Mendoza is trying to make an issue out of the fact that Mr. Garamendi presided over the sale of Executive Life in 1991. The election is just 26 days from now.

Here are some interesting facts: According to several eyewitnesses, Mr. Mendoza told a group of insurance executives two weeks ago – well before this hearing was ever publicly announced – that a congressional committee would be investigating Mr. Garamendi's role in Executive Life. And the *Dow Jones Newswire* is reporting today that the Republican staff is distributing to the media an old 1994 article critical of Mr. Garamendi.

There is little basis for insinuations about Mr. Garamendi's conduct. In the late 1980s, the junk bond market was crashing. This drove Executive Life into insolvency. As insurance commissioner, Mr. Garamendi directed that the junk bond portfolio held by Executive Life be sold as a means of protecting policyholders from further losses. With 20-20 hindsight, it's easy to question this decision, since the junk bond market rose in the 1990s. But as millions of Americans are now experiencing, there's nothing improper about being wrong on the direction of financial markets.

Some believe the reason we're holding this hearing is because Mr. Garamendi is in the middle of a political campaign. Since Mr. Garamendi can't be here, there could be an opportunity for political potshots. I hope that won't be case – that would be unfair and wrong.

Ironically, this hearing runs the danger of actually hurting the policyholders of Executive Life. The California Insurance Commissioner is litigating a major civil fraud lawsuit against Credit Lyonnais right now. This lawsuit has a very real chance of recovering some of the over \$2 billion that was fraudulently taken away from policyholders.

The majority has requested testimony from two lawyers in the Insurance Commissioner's office. They are here today, but have expressed their great reluctance to testify. These lawyers are legitimately concerned that their testimony might lock them into statements that Credit Lyonnais could use against them in court, or that they might be forced to provide a roadmap of their legal case. Nevertheless, the majority has insisted that these lawyers testify.

So, at the end of the day, here's what we have:

- We have a hearing that's not addressing the Justice Department's failure to prosecute Credit Lyonnais.

- We have a hearing that may be used for partisan political purposes to affect an election 26 days from now.
- And we have a hearing that could possibly damage the only chance for policyholders to recover any money.

This is not how I would have approached this hearing. Nevertheless, if we are able to send a unified message to the Justice Department, some good can be accomplished. It is important for the Justice Department to understand the loss being suffered by Mr. Bozeman, Ms. Jacobsen, and other policyholders, and it is important for the Department to understand the urgency of federal action to redress their wrongs.