

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICHAEL J. QUILLING, Receiver for ABC §
VIATICALS, INC. and Related Entities, §
§
Plaintiff, §

vs. §

Civil Action No.: 3:07-CV-0421-P

INTERNATIONAL FIDELITY & SURETY LIMITED, §
INTERNATIONAL CONSULTANTS & §
MANAGEMENT LTD., SURETY MARKETING §
SOURCE, LLC, KPMG VANUATU, HAWKES LAW, §
KPMG INTERNATIONAL, BOSWELL, DERMOTT §
& PAWLETT, LLP, MOHAN & ASSOCIATES, §
DAVID A. GOLDENBERG, DAG INVESTMENTS, §
LLC, LPG INVESTMENTS, LLC, WED §
MARKETING, LLC, GALAX HOLDINGS, LTD., §
MARK WOLOK, LINDA WOLOK and ARIE §
KOTLER. §

ECF

Defendants §
§
§

**TEMPORARY RESTRAINING ORDER AND
ORDER SETTING PRELIMINARY INJUNCTION HEARING**

On this date the Court considered the Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction filed by Plaintiff, Michael J. Quilling, as Receiver for ABC Viaticals, Inc. and other related entities, (the “Receiver”), supported by the Receiver’s Declaration and attached exhibits. For the following reasons, it appears that all four factors for injunctive relief weigh heavily in the Receiver’s favor:

1. The Receiver has submitted sworn testimony that ABC Viaticals, Inc. (“ABC”) transferred at least \$3,267,037.50 of investor funds to Defendants David A. Goldenberg (“Goldenberg”), Mark Wolok (“Wolok”), and Surety Marketing Source LLC (“SMS”). They have

already diverted those funds into other accounts under their control and held in their names or through, DAG Investments LLC, WED Marketing LLC, LPG Investments LLC, Excel Surety Agency, and ICM Group LLC.

2. The Receiver has shown that he faces irreparable harm unless this Court issues the Temporary Restraining Order. Since Defendants Goldenberg and Wolok have already diverted the \$3,267,037.50 to other accounts and used the funds for various personal expenses, the loss of value to the receivership estate has already occurred. That harm is exacerbated every day that Defendants have access to those funds and with every transfer or purchase made from those accounts. Without a temporary restraining order and preliminary injunction, further harm to the receivership estate will be imminent and will irreparably impair the Receiver's ability to realize a substantial recovery in this case. Therefore, a temporary restraining order and preliminary injunction are the only adequate legal remedies that protect the Receivership Estate's assets and its ability to collect a money judgment in this case.

3. The Receiver enjoys a substantial likelihood of success. Defendants Goldenberg, Wolok, DAG Investments LLC, LPG Investments LLC, and Surety Marketing Source LLC were all served with summons and failed to timely answer or otherwise respond in this case. The Receiver's request for entry of default under Fed. R. Civ. P. 55 is currently pending and all of the requirements for default judgment appear to be present. Furthermore, even if this case is determined on the merits, the Receiver's evidence is likely to establish that ABC was operated like a Ponzi scheme and that the investor funds transferred through SMS were, therefore, fraudulent as a matter of law and subject to disgorgement.

4. The Receiver has shown that the comparative hardships favor preserving the status quo pending trial. As explained above, the receivership estate faces imminent and irreparable harm

if the Defendants continue spending the proceeds of investor funds at issue in this case. It is hard to imagine these Defendants could claim any legitimate hardship in being denied the benefit of those funds, which they alleged obtained through misrepresentation and the sale of fraudulent bonds. Furthermore, since none of these Defendants never actually purchased or backed any of those bonds, there was no exchange of value between the parties and a temporary restraining order would simply return everyone to the same position held before the alleged fraudulent conduct giving rise to this suit.

5. Finally, the Receiver has shown that public interest favors injunctive relief in this case. Although not parties to this action, ABC's investors will ultimately benefit from the temporary restraining order because it preserves receivership assets for distribution by this Court. Other courts have also recognized that, when assets from a fraudulent investment scheme are at stake, this public interest weighs heavily in favor of injunctive relief. *See, e.g., F.T.C. v. Affordable Media*, 179 F.3d 1228, 1237 (9th Cir. 1999) (noting the "important public interest in preserving the [transfers] from the Ponzi scheme was more important than the private interests").

IT IS THEREFORE ORDERED THAT Defendants David A. Goldenberg, Surety Marketing Source LLC, DAG Investments LLC, WED Marketing LLC, LPG Investments LLC, International Fidelity and Surety Limited, ICM Group LLC, and their agents, servants, employees, attorneys, family members, and persons in active concert or participation with them shall not transfer, spend, or otherwise diminish the value of funds held in any account, wherever situated, including but not limited to accounts at National City Bank, First Place Bank (f/k/a Franklin Bank), LaSalle Bank (f/k/a Standard Federal Bank), and Bank of Birmingham.

IT IS THEREFORE ORDERED THAT National City Bank, First Place Bank (a/k/a Franklin Bank), LaSalle Bank (a/k/a Standard Federal Bank), and Bank of Birmingham shall freeze all

accounts held by or for the benefit of David A. Goldenberg, Surety Marketing Source LLC, DAG Investments LLC, WED Marketing LLC, LPG Investments LLC, Excel Surety Agency, International Fidelity and Surety Limited, and ICM Group LLC as well as any other accounts for which Goldenberg has signatory authority until further ordered by this Court.


IT IS ORDERED THAT this Temporary Restraining Order is binding upon all persons, including financial institutions, who receive actual notice of it by personal service or otherwise.

IT IS ORDERED THAT this Temporary Restraining Order is effective immediately and for the next 10 days or until further order of this Court.

IT IS ORDERED THAT the Receiver's Motion for Preliminary Injunction shall be set for hearing on the 1st day of May, 2007 at 9:30 o'clock, a.m.

IT IS ORDERED THAT the Receiver, as an officer of the Court, is not required to post a bond under the terms of Rule 65(c) of the Federal Rules of Civil Procedure.

SIGNED this 17th day of April, 2007, at 1:10 o'clock, p.m.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE