

**I.
SUMMARY**

As permitted by Local Civil Rule 56.3(b) of the United States District Court for the Northern District of Texas, the elements of each claim for which summary judgment is sought, along with the factual and legal grounds supporting those claims, are set forth in the Brief in Support of Plaintiff's Motion for Partial Summary Judgment, which is filed simultaneously with this motion.

**II.
SUMMARY JUDGMENT EVIDENCE**

Plaintiff's Motion for Partial Summary Judgment is based on the Declaration of Michael J. Quilling, Receiver, Exhibit A (App. at 4-8).

**III.
REQUESTED RELIEF**

Plaintiff respectfully requests that the Court enter judgment in his favor and against Defendant Surety Marketing Source LLC ("SMS") under Rule 56 and enter an order as follows:

1. finding that ABC Viaticals, Inc. ("ABC") was operated as a Ponzi scheme;
2. finding that SMS received a fraudulent transfer of \$3,267,037.50 from ABC's Ponzi scheme;
3. awarding a money judgment in favor of the Receiver and against SMS in the principal amount of \$3,267,037.50;
4. awarding the Receiver's costs, fees, pre-judgment interest, and post-judgment interest at the highest rate permitted by law;
5. finding that SMS received \$3,267,037.50 that was impressed with a constructive trust for the benefit of ABC's investors; and

6. directing SMS to disgorge those amounts to the Receiver within 60 days.

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully requests that the Court enter a judgment in his favor as set forth above and for such other and further relief, general or special, at law or in equity, to which he is otherwise justly entitled.

Respectfully submitted,

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