

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

VS.

ABC VIATICALS, INC.,  
C. KEITH LAMONDA,  
and JESSE W. LAMONDA, JR.,

Defendants,

and

LAMONDA MANAGEMENT FAMILY  
LIMITED PARTNERSHIP,  
STRUCTURED LIFE SETTLEMENTS, INC.,  
BLUE WATER TRUST,  
and DESTINY TRUST

### Relief Defendants.

Civil Action No.: 3:06-CV-2136-P

## RECEIVER'S PRELIMINARY REPORT

TO THE HONORABLE JORGE SOLIS, UNITED STATES DISTRICT JUDGE:

COMES NOW, Michael J. Quilling, the Receiver appointed in this case and, pursuant to Paragraph 9 of the Court's Order of November 17, 2006 [Dkt. No. 8], submits the following report:

## I. GENERAL OVERVIEW

1. ABC Viaticals, Inc. (“ABC”) has been engaged in the life settlement contract/viatical industry since its inception. Based on information currently available to the Receiver, it does not appear that ABC was involved in any other business activities. Although

there is no strict rule as to how ABC conducted its business, in general it would raise monies from investors that would be held in an escrow account maintained by one of the prior trustees associated with ABC. Simultaneously, ABC would locate an insurance policy that could be purchased from an insured at a steep discount versus the maturity amount. Once the policy was identified, ABC would use investor funds to purchase the policy and then investor funds would be "matched" to the policy up to a level determined by ABC, but in all instances enough to provide a return to the investor when the death benefits were paid under the policy. Based upon this program, each investor, in exchange for investing funds, would receive a fractionalized interest in the death benefit of a given policy.

2. As a general rule, when a policy was acquired, it would be acquired in the name of a life settlement trust (not ABC itself) beginning with a five-digit plus the letter V identifier. Appropriately, investors would not know the identity of the insured<sup>1</sup>, but would only know that they held a fractional interest in the death benefits that were to be paid to the trust. Each time a new policy was acquired, a new trust would be created. Over the years, there have been three trustees, the most recent of which was Erwin & Johnson, LLP, a law firm located in Irvine, California ("Erwin & Johnson). Although the trustee should have been acting independently of any instructions given him by ABC, based upon information currently available to the Receiver, it does not appear that this was the case.

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<sup>1</sup> In order to continue to protect the identity of the insured from those who may be interested in their early death, the Receiver will, during this report and throughout these proceedings, use an identifier comprised of the first three letters of the last name and the first letter of the first name. John Smith = SMI - J. If the policy covers two individuals, John and Sally Smith, the identifier is SMI - J&S. If there are multiple policies on the insured(s) a number designation follows - SMI - J&S(1).

3. As part of its marketing program and as a vital component to the alleged safety of the investment, ABC would bond the maturity date of the insured<sup>2</sup>, which was calculated as the date their life expectancy was calculated to end. Historically, ABC used two different bonding companies, first International Fidelity & Surety, Limited (“International Fidelity”) and subsequently Albatross Invest S.p.A. Unfortunately, the life expectancies of the insureds have not proven to be realistic and, more unfortunately, International Fidelity has proven to be illegitimate. To date, International Fidelity has refused to honor its bonding obligations, despite one or more insureds outliving their life expectancy. However, regardless of the bonding obligations, it does not appear that ABC ever properly set aside sufficient premium reserves in escrow accounts to cover premium obligations when ABC, and ABC alone, had the responsibility to pay the premiums. This factor, along with the refusal of International Fidelity to honor its obligations, has created the financial train wreck in which ABC is now involved.

## **II. ABC VIATICALS, INC.**

### **Offices/Books and Records**

4. Since 2001, ABC has conducted its business operations in Houston, Texas out of five offices on an executive suite floor of offices. All of the company’s books and records known to the Receiver were located at these offices other than those in the possession of the SEC. At the time the Receiver was appointed, two of the offices were leased under the name of Structured Life Settlements through January, 2007 and three of the offices were leased in the name of ABC through April, 2007. Various items of furniture of nominal value were located in the offices. Each of the leases have been terminated by the Receiver effective as of December

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<sup>2</sup> If the insured did not die when expected, the bonding company would pay the amount of the death benefits and take over the beneficial rights under the policy.

31, 2006. In connection with the termination, the Receiver paid the monthly rent for December, 2006 and January, 2007 and abandoned all furniture to the landlord. In exchange, the landlord agreed to waive any further charges under either of the leases. As of December 12, 2006, the offices were vacated and all books, records, equipment, and computers were transferred to Dallas and are in the custody of the Receiver at the Receivership Office located at 2001 Bryan Tower, Suite 2115, Dallas, Texas 75201.

#### **Employees**

5. At the time the Receiver was appointed, ABC had two employees.<sup>3</sup> In that the business operations of ABC have been terminated and no additional funds are being accepted by the Receiver from investors, each of the employees have been terminated and paid through December 31, 2006.

#### **Bank Accounts**

6. At the time the Receiver was appointed, ABC maintained an account at Bank of America and an account at Banco Popular. The trustee of various trusts discussed above and below, Erwin & Johnson, LLP, maintained several accounts at Bank of America out of which it conducted the business affairs of the trusts. Set forth below is a schedule of the accounts closed by the Receiver and the amounts forwarded to the Receiver by the financial institutions.<sup>4</sup> All funds from the accounts were deposited by the Receiver into his receivership accounts at Sovereign Bank.

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<sup>3</sup> The two employees were actually "leased" by ABC from an employee leasing company, Administaff.

<sup>4</sup> One additional account exists at Bank of America styled Erwin & Johnson - ABC Premium Account, which has a balance of approximately \$280,000.00. In order to make sure all premium checks cleared, the Receiver has not yet closed the account but intends to do so.

Account Name	Account Number	Closing Balance
Erwin & Johnson, LLP - ABC Escrow Account	0057-8330-5331	\$3,961,231.07
ABC Viaticals, Inc.	0057-4309-1180	\$33,850.38
Erwin & Johnson - ABC Management Expense Acct	0057-8330-5292	\$63,519.05
Erwin & Johnson - ABC Maturity Account	0057-8330-5344	\$13,724.83
Banco Popular	0450000295	\$10,055.57
<b>TOTAL</b>		<b>\$4,082,380.90</b>

### Viaticals/Life Settlement Contracts

7. At the time the Receiver was appointed, the primary assets of ABC consisted of the insurance policies in the portfolio. As discussed above, although they are technically owned by various trusts, based upon the structure of the trusts and their revocability, they are in essence owned and controlled by ABC. Attached hereto as Exhibit "A" is a schedule which sets forth various information as to each policy. This summary was prepared by the Receiver based upon information currently available to him and documents provided to him by the SEC, the former trustee of each of the trusts, and others. To summarize the schedule, there are currently 54 known policies owned by ABC having a death benefit value of \$232,065,286.00.

8. The single biggest challenge facing the Receiver is to find a way to pay the premiums on the policies while the insureds are alive. Prior to the appointment of the Receiver, there was great uncertainty about the amount of premium due under each policy. Indeed, ABC and the former trustee of the trusts spent at least \$154,479.00 just prior to the appointment of the Receiver and were only able to obtain partial information. Since his appointment, the Receiver

has obtained complete and accurate premium information as to all the policies at a very nominal cost. Attached hereto as Exhibit "B" is a schedule of actual cash that will be needed by the Receiver to keep all premium payments current from the time of his appointment to the end of 2007<sup>5</sup>. As stated, the total required is at least \$6,195,557.93. Even if all funds in the possession of the Receiver were dedicated to payment of the premiums, there are insufficient funds to meet the requirements. The Receiver is also in the process of obtaining five, seven, and nine year premium scenarios.

9. In an effort to prepare for the inevitable depletion of cash available in the receivership estate to pay premiums, as an emergency measure, the Receiver has sought and obtained Court approval [Dkt. Nos. 16 and 18] to obtain a line of credit to be secured by all of the policies, which have been pooled by Order of the Court [Dkt. No. 17]. Efforts are currently underway to document the proposed \$5,000,000.00 line of credit, but as of the date of this report it is not yet completed. The Receiver does not anticipate any problems in the line of credit being implemented.

### Trusts

10. The actual owner and beneficiary of each insurance policy is a trust established pursuant to the laws of the State of California. Prior to the appointment of the Receiver, the trustee of each trust was Erwin & Johnson. The Receiver met with the trustee and it was decided that the trustee would resign and the Receiver would be appointed as substitute trustee. The paperwork to accomplish this is in the process of being prepared. A list of each of the trusts is attached hereto as Exhibit "C".

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<sup>5</sup> This schedule includes the premiums on policies owned by the other entities discussed below.

#### **Other Assets**

11. Other than the assets set forth above, there are no other known physical assets. Prior to the appointment of the Receiver, ABC rented an apartment and apparently owned a vehicle, both of which were located in Houston. The Receiver has been told that the lease was terminated and the vehicle was sold. Due to time constraints, the Receiver has not yet verified this information.

#### **Investor Claim Liabilities**

12. The primary liabilities of ABC and the related trusts are the investor claims. Given the fact that the claims process has not yet begun, the exact amount of claims is not yet known. However, based upon the records of ABC and information currently available to the Receiver, the total amount of money invested is \$115,635,072.15. Those claimants expect to receive a total of \$225,865,285.00 of death benefits.

#### **Other Liabilities**

13. Based upon information available to the Receiver as of this date, there appear to be unpaid invoices owed to various trade vendors and service providers. There may also be unpaid legal bills, trust management expenses, and the like. Due to time constraints, the Receiver has not yet been able to ascertain these amounts.

### **III. LAMONDA MANAGEMENT FAMILY LIMITED PARTNERSHIP**

#### **Offices/Books and Records**

14. It is possible that LaMonda Management maintained its offices out of the ABC offices, but there may be other locations as well. In that LaMonda Management has not yet

provided an accounting<sup>6</sup> to the Receiver or the SEC and due to time constraints, the Receiver knows very little about this entity and does not know the whereabouts of its books and records.

#### **Employees**

15. The Receiver does not know whether or not LaMonda Management had any employees.

#### **Bank Accounts**

16. LaMonda Management maintained a bank account at Bank of America, which has been closed by the Receiver and the balance in the account (\$89,438.17) has been paid to the Receiver by Bank of America. Although LaMonda Management maintained bank accounts at other financial institutions, to date the Receiver is unaware of any positive balances in any accounts.

#### **Viaticals/Life Settlement Contracts**

17. The Receiver is unaware as to whether LaMonda Management owns or controls any viaticals/life settlement contracts.

#### **Other Assets**

18. The Receiver does not know what other assets may be owned by LaMonda Management.

#### **Liabilities**

19. The Receiver is unaware of what liabilities may be owed by LaMonda Management.

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<sup>6</sup> This accounting is due on or before March 1, 2007, pursuant to Paragraph 7 of the Agreed Preliminary Injunction, Order Freezing Assets, Order Requiring an Accounting, and Order Requiring Preservation of Documents [Dkt. No. 9] (hereinafter "the Accounting").



#### **IV. STRUCTURED LIFE SETTLEMENTS, INC.**

##### **Offices/Books and Records**

20. As set forth above, Structured Life Settlements rented two of the offices at the executive suites in Houston. One of the offices was occupied by Lynn Larimer, an employee of ABC, and the other office was occupied by Keith LaMonda. It is not known by the Receiver whether or not Structured Life Settlements maintained offices at any other locations. Despite having a presence at ABC, virtually no books or records relating to Structured Life Settlements were located at those offices. It is not known to the Receiver where those records may be.

##### **Employees**

21. Structured Life Settlements is believed to have had several employees<sup>7</sup>, based upon representations by Administaff, but it does not appear that any of those employees, other than Keith LaMonda, actually maintained an office in the executive suites.

##### **Bank Accounts**

22. Structured Life Settlements maintained an account at Bank of America, which has been closed by the Receiver and the balance in the account (\$82,542.66) has been paid to the Receiver by Bank of America. At least two other accounts were maintained on behalf of Structured Life Settlements by Erwin & Johnson, LLP. One of those accounts, entitled Structured Life Settlements Escrow Account, was closed by the Receiver and the balance in the account (\$343,732.72) was paid to the Receiver by Bank of America. It is not known by the Receiver whether or not Structured Life Settlements maintained additional bank accounts at other financial institutions.

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<sup>7</sup> Again, these employees were "leased."

**Viaticals/Life Settlement Contracts**

23. Structured Life Settlements is believed to have owned or controlled at least three insurance policies (HAR - F&J; KAP - M(1); KAP - M(2)), each of which are set forth in Exhibit "A" attached hereto. As stated, the current death benefits attributable to those three policies is \$3,574,747.00. It does not appear that any investor funds were matched to any of those policies.

24. Since his appointment, the Receiver has been paying any required premiums associated with the Structured Life Settlements policies, as reflected in Exhibit "B" attached hereto.

**Other Assets**

25. The Receiver has been advised by representatives of Keith LaMonda that Structured Life Settlements owns several pieces of real estate and several automobiles. A detail of those assets has been promised to the Receiver but not yet received.

**Liabilities**

26. The only liabilities of Structured Life Settlements known to the Receiver are those attributable to premiums required with respect to each of its policies. Additional liabilities are supposed to be set forth in the Accounting to be provided to the Receiver and the SEC.

**V. BLUE WATER TRUST**

**Offices/Books and Records**

27. It is unknown to the Receiver whether or not Blue Water Trust maintained offices at any locations.

**Employees**

28. The Receiver is not aware of any employees of Blue Water Trust.

**Bank Accounts**

29. The Receiver is not aware of any bank accounts maintained by Blue Water Trust.

**Viaticals/Life Settlement Contracts**

30. Blue Water Trust is believed to be the owner of one insurance policy (LAN - H), having a death benefit of \$100,000.00. This policy is included within those set forth in Exhibit "A" as being owned by ABC. It does not appear that any investor funds were matched to this policy.

31. Since his appointment, the Receiver has been paying any required premiums associated with the Structured Life Settlements policies, as reflected in Exhibit "B" attached hereto.

**Other Assets**

32. The Receiver does not know whether or not Blue Water Trust has any other assets.

**Liabilities**

33. The Receiver does not know whether or not Blue Water Trust has any liabilities, other than the obligation to pay premiums on the policy that it owns.

**VI. DESTINY TRUST**

**Offices/Books and Records**

34. It is unknown by the Receiver whether or not Destiny Trust maintained offices at any locations.

**Employees**

35. The Receiver is not aware of any employees of Destiny Trust.

**Bank Accounts**

36. The Receiver is not aware of any bank accounts maintained by Destiny Trust.

**Viaticals/Life Settlement Contracts**

37. Destiny Trust is believed to be the owner of one insurance policy (FIE - T), having a death benefit of \$500,000.00. This policy is included within those set forth in Exhibit "A" as being owned by ABC. It does not appear that any investor funds were matched to this policy.

38. Since his appointment, the Receiver has been paying any required premiums associated with the Structured Life Settlements policies, as reflected in Exhibit "B" attached hereto.

**Other Assets**

39. The Receiver does not know whether or not Destiny Trust has any other assets.

**Liabilities**

40. The Receiver does not know whether or not Desinty Trust has any liabilities, other than the obligation to pay premiums on the policy that it owns.

**VII. RECOMMENDATION REGARDING BANKRUPTCY**

41. The Receiver is Board Certified in the area of Business Bankruptcy Law and is aware of the advantages and disadvantages of bankruptcy proceedings. Based upon the Receiver's initial investigation, there is no advantage to be gained by initiating bankruptcy proceedings for any of the Defendants or Relief Defendants.

### VIII. CAVEATS

42. Due to time constraints, the Receiver has necessarily focused on matters that he considered to be top priority, *i.e.*, the offices of ABC and the insurance policies. Now that those matters have been addressed, the Receiver will focus on items of lesser importance.

43. The Receiver has only had thirty days of investigation time, including holidays and weekends, to investigate the affairs of ABC and the related entities. Accordingly, this Report, as additional information is acquired and after the Accounting is prepared, could change in whole or in part. No person should rely on any portion of this Report other than for basic information that is believed to be true as of this date. Nothing in this Report shall constitute an admission by the Receiver and this Report is expressly subject to change.

Dated: December 18, 2006

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.  
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By: /s/ Michael J. Quilling  
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ATTORNEYS FOR RECEIVER

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> of December, 2006, a true and correct copy of the foregoing document was served via electronic notice to all parties requesting same.

/s/ Michael J. Quilling  
Michael J. Quilling