

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

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CIVIL ACTION NO.  
3-06CV-2136

**RECEIVER’S UNOPPOSED MOTION FOR AUTHORITY TO EMPLOY  
NATIONAL VIATICAL, INC. NUNC PRO TUNC AND  
REQUEST FOR EXPEDITED CONSIDERATION**

TO THE HONORABLE JORGE A. SOLIS, UNITED STATES DISTRICT COURT JUDGE:

COMES NOW Michael J. Quilling, in his capacity as Receiver, and files this Motion for Authority to Employ National Viatical, Inc. Nunc Pro Tunc and Request for Expedited Consideration and in support of such, the Receiver respectfully shows unto the Court as follows:

### **Background Facts**

1. By order of November 17, 2006, the Court appointed Michael J. Quilling as Receiver for, among others, ABC Viaticals, Inc. (“ABC Viaticals”), authorizing and charging him to take complete and exclusive control, possession, and custody of all “Receivership Assets” of the corporation.

2. The largest single asset of the receivership estate is the portfolio of life insurance policies in which ABC Viaticals or its related entities have interests. There are at least 54 policies with a maturity value of over \$225,000,000.00. Maintaining and monitoring this portfolio will require a significant amount of administrative time and effort. In addition, it requires experience and expertise in both the insurance and viatical industries. Maintaining the portfolio is of paramount importance in order to maximize returns to the creditors and investors of ABC Viaticals.

3. Accordingly, the Receiver requests that he be authorized to employ National Viatical, Inc. (“NVI”) of Woodstock, Georgia nunc pro tunc to administer the life insurance portfolio. NVI has been in the life settlement and viatical industry since 1999. NVI has extensive experience in monitoring and maintaining life insurance portfolios. Most recently, NVI was employed by the receiver in a large viatical-related receivership in Grand Rapids, Michigan, where it very successfully performed similar services for a \$250,000,000.00 portfolio with approximately 900 policies. It is anticipated that NVI will aid the Receiver in handling paperwork associated with the policies, analyzing the policies to obtain their value, obtaining updated medical reports, tracking maturities, monitoring premium payment schedules, and other necessary actions needed to maintain the portfolio. The Receiver believes that employing NVI is

in the best interests of the receivership estate, because NVI has the experience and resources to efficiently and effectively monitor and maintain the portfolio.

4. NVI has agreed to maintain the portfolio for a cost of \$50.00 per policy per month. The Receiver believes that the fees proposed by NVI are reasonable.

#### **Argument and Authorities**

5. The Order Appointing Receiver authorized him to employ and pay other professionals (attorneys and accountants) for the preservation and maintenance of the Receivership Assets, but did not explicitly mention professionals such as those described in ¶ 3 above. (Order Appointing Receiver, Dkt. No. 8 ¶ 11.) It did, however, give the Receiver broad authority to do whatever was necessary to maintain and preserve Receivership Assets. On that basis, the Receiver retained NVI immediately after his appointment and they have already performed critical services, including identifying several premium payments that needed to be paid on an immediate basis to avoid policies from going into grace periods (30 days prior to lapse for failure to pay premiums).

6. A federal district court has broad authority to allow a receiver to expend funds for the benefit of the estate. *See Securities & Exch. Comm'n v. Elliott*, 953 F.2d 1560, 1576 (11<sup>th</sup> Cir. 1992) (“It is appropriate and obvious that a receiver will make expenditures to maintain trust property”); *see also Securities & Exch. Comm'n v. Phoenix Telecom, L.L.C.*, 231 F. Supp. 2d 1223, 1226-1227 (N.D. Ga. 2001) (authorizing receiver to pay professional fees to financial consulting firm). As described above, the employment of NVI as sought by the Receiver would benefit the receivership estate by helping the Receiver efficiently and effectively maintain the life insurance portfolio.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests that the Court issue an order authorizing him to employ NVI nunc pro tunc and compensate it consistent with the terms described above, for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.  
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By: /s/ Michael J. Quilling.  
Michael J. Quilling  
State Bar No. 16432300  
D. Dee Raibourn, III  
State Bar No. 24009495  
Brent Rodine  
State Bar No. 24048770

ATTORNEYS FOR RECEIVER

**CERTIFICATE OF CONFERENCE**

I hereby certify that prior to the filing of this motion, I contacted counsel for the SEC and the Defendants and they agree to the relief requested.

/s/ Michael J. Quilling.  
Michael J. Quilling

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st 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