

Exhibit “A”

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

SECURITIES AND EXCHANGE COMMISSION, §

Plaintiff, §

vs. §

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

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. §

**DECLARATION OF MICHAEL J. QUILLING, RECEIVER
IN SUPPORT OF SHOW CAUSE HEARING**

I, Michael J. Quilling, do hereby declare under penalty of perjury and in accordance with 28 U.S.C. §1746 that this declaration is made of my own personal knowledge, that I am competent to testify as to the matters stated herein, and that the following statements are all true and correct:

1. I am the appointed Receiver for ABC Viaticals, Inc. ("ABC") and other entities named as defendants and relief defendants in this case. In that capacity, I have investigated virtually all aspects of ABC's investment program involving life settlement policies. I have seized known corporate and escrow accounts, subpoenaed records, investigated the underlying

transfers of investor funds, and interviewed numerous agents, employees, and investors. Through these efforts, I have acquired personal knowledge of ABC's operations and the funds that it transferred to Donald S. Kaplan, Kaplan Investment Properties, LP, and/or Services International Corp.

2. Before going into receivership, ABC operated a life settlement investment program under the direction and control of C. Keith LaMonda and Jesse W. LaMonda, Jr. ABC purchased insurance policies on the lives of third-party insureds and then sold fractional interests in those policies to investors. The investors expected to realize a return of 30% to 150% from benefits paid when the insured died.

3. ABC represented to investors that their contributions were tied to a particular insurance policy and would only be used to cover that policy's purchase price, premium payments, and other related expenses. Each policy was to have a separate escrow account that covered all premiums on that policy for the life of the investment. ABC, however, never managed investor funds consistent with these representations.

4. From the beginning, ABC commingled each investor's contribution and used it to pay premiums and expenses on numerous policies not assigned to that particular investor. The commingled escrow accounts were also underfunded, meaning ABC had to solicit funds from later investors to cover its obligations to earlier investors. Therefore, ABC was insolvent from its inception and operated as a *Ponzi* scheme.

5. This conclusion is supported by ABC account records seized by the Receiver. Those records show that ABC did not segregate funds for each insurance policy but, instead, commingled all investor funds into a single account to pay commissions, buy new policies, and make premium payments on numerous policies as they became due.

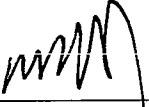
6. ABC's principals eventually depleted the company's reserved by, among other things, transferring millions of dollars to themselves. Therefore, to keep the policies from lapsing, funds from new investors were used to pay the premiums on policies benefiting earlier investors. In reality, ABC was at all times insolvent and relied on the contributions of new investors to sustain itself.

7. Among those who benefited from the ABC investment program was Donald S. Kaplan. Between July, 2002 and March, 2006, ABC paid at least \$1,200,890.92 in commissions to Kaplan, both individually and through Services International Corp. and Kaplan Investment Properties, LP. A summary of those payments is attached as Exhibit "A-1" and fully incorporated for all purposes. It is my conclusion that those commissions were fraudulently transferred from a *Ponzi* scheme and, therefore, constitute assets of the Receivership Estate.

8. On March 8, 2007, I directed my counsel to send Kaplan a copy of the Order Appointing Receiver along with a letter demanding that he return all commissions received from ABC. A true and correct copy of that letter is attached as Exhibit "A-2" and fully incorporated for all purposes. To date, Kaplan has not tendered that amount to the Receivership Estate.

I declare under penalty of perjury and in accordance with 28 U.S.C. § 1746 that the foregoing is true and correct.

EXECUTED in Dallas, Texas this 5th day of April, 2007.



Michael J. Quilling
Receiver for ABC Viaticals, Inc., et al.

Exhibit “1”

ABC VIATICALS, INC.
Commissions Paid to Donald S. Kaplan

<u>Date</u>	<u>Payment</u>	<u>Recipient</u>	<u>Transferor</u>
07/17/02	\$39,768.40	Don S. Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/31/02	\$9,570.33	Donald S. Kaplan	ABC Viaticals, Inc.
08/15/02	\$6,707.47	Donald S. Kaplan	ABC Viaticals, Inc.
08/29/02	\$12,103.85	Donald S. Kaplan	ABC Viaticals, Inc.
09/13/02	\$43,521.86	Donald S. Kaplan	ABC Viaticals, Inc.
09/30/02	\$50,573.84	Donald S. Kaplan	ABC Viaticals, Inc.
10/15/02	\$44,123.75	Donald S. Kaplan	ABC Viaticals, Inc.
10/30/02	\$45,037.95	Donald S. Kaplan	ABC Viaticals, Inc.
11/27/02	\$5,737.21	Donald S. Kaplan	ABC Viaticals, Inc.
12/13/02	\$22,882.42	Donald S. Kaplan	ABC Viaticals, Inc.
12/31/02	\$10,919.14	Donald S. Kaplan	ABC Viaticals, Inc.
01/16/03	\$20,672.29	Donald S. Kaplan	ABC Viaticals, Inc.
02/05/03	\$45,202.21	Donald S. Kaplan	ABC Viaticals, Inc.
02/18/03	\$5,811.22	Donald S. Kaplan	ABC Viaticals, Inc.
03/05/03	\$3,525.57	Donald S. Kaplan	ABC Viaticals, Inc.
03/14/03	\$9,103.36	Donald S. Kaplan	ABC Viaticals, Inc.
03/28/03	\$10,801.62	Donald S. Kaplan	ABC Viaticals, Inc.
04/16/03	\$30,693.19	Donald S. Kaplan	ABC Viaticals, Inc.
05/02/03	\$52,393.80	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/23/03	\$28,831.76	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/29/03	\$27,455.06	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/29/03	\$28,831.76	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
06/16/03	\$48,193.26	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/01/03	\$11,812.10	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/15/03	\$19,712.39	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/31/03	\$10,620.59	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
08/15/03	\$14,286.30	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
09/02/03	\$23,686.34	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
09/18/03	\$20,111.29	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
09/24/03	\$10,000.00	Services International Corp.	ABC Viaticals, Inc.
09/29/03	\$3,275.95	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
10/01/03	\$13,964.00	Services International Corp.	ABC Viaticals, Inc.
10/17/03	\$4,900.63	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
10/29/03	\$4,900.91	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/13/03	\$5,004.52	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/28/03	\$21,624.01	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
12/15/03	\$6,901.76	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
12/29/03	\$6,303.14	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
01/15/04	\$22,825.43	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
01/28/04	\$12,604.18	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
02/17/04	\$1,500.73	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
02/20/04	\$10,000.00	Services International Corp.	ABC Viaticals, Inc.
02/27/04	\$5,251.05	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
03/19/04	\$16,705.39	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
03/31/04	\$14,478.92	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
04/20/04	\$3,916.42	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
04/30/04	\$21,213.36	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/18/04	\$9,614.69	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
06/04/04	\$12,828.49	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
06/04/04	\$21,700.00	Services International Corp.	ABC Viaticals, Inc.
06/16/04	\$3,824.73	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
06/30/04	\$4,729.02	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.

07/16/04	\$1,908.47	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/30/04	\$7,200.88	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
08/16/04	\$4,057.92	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
09/01/04	\$13,747.00	Services International Corp.	ABC Viaticals, Inc.
10/29/04	\$2,076.72	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/16/04	\$4,125.44	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/30/04	\$1,875.34	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/30/04	\$10,143.60	Services International Corp.	ABC Viaticals, Inc.
12/16/04	\$5,182.73	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
12/29/04	\$375.28	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
01/07/05	\$10,366.60	Services International Corp.	ABC Viaticals, Inc.
01/18/05	\$2,250.48	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
01/28/05	\$4,905.50	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
02/11/05	\$38,625.00	Services International Corp.	ABC Viaticals, Inc.
02/15/05	\$3,834.19	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
02/28/05	\$19,869.20	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
03/18/05	\$7,929.51	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
03/23/05	\$15,635.03	Services International Corp.	ABC Viaticals, Inc.
04/01/05	\$12,571.21	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
04/15/05	\$14,286.04	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/02/05	\$6,739.47	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/16/05	\$7,510.70	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
05/31/05	\$13,108.26	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
06/14/05	\$4,689.38	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/01/05	\$2,100.51	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/18/05	\$3,907.47	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
07/29/05	\$2,549.70	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
08/11/05	\$599.94	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
08/31/05	\$1,445.30	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
09/15/05	\$3,720.89	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
10/04/05	\$3,001.24	Donald S. Kaplan	ABC Viaticals, Inc.
10/13/05	\$1,600.11	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
10/27/05	\$2,151.55	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/15/05	\$2,360.47	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
11/30/05	\$1,600.15	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
12/14/05	\$20,924.63	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
12/28/05	\$7,202.59	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
01/09/06	\$5,544.10	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
01/27/06	\$3,337.32	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
02/15/06	\$5,652.59	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
02/27/06	\$2,050.96	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
03/15/06	\$3,901.49	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
03/30/06	\$2,300.06	Don Kaplan dba Kaplan Investment Properties	ABC Viaticals, Inc.
Total:		\$1,229,722.68	

Commissions Refunded to ABC

<u>Date</u>	<u>Payment</u>	<u>Recipient</u>	<u>Transferor</u>
05/27/03	\$28,831.76	ABC Viaticals, Inc.	Don Kaplan dba Kaplan Investment Properties
Total:	\$28,831.76		

Net Commissions Paid to Donald S. Kaplan

Total Paid:	\$1,229,722.68
Refunded:	\$28,831.76
Total:	\$1,200,890.92

Exhibit “2”

Brent J. Rodine
Phone: 214.871.2100



E-mail: brodine@qscalc.com

March 8, 2007

Donald S. Kaplan
3906 Fairbreeze Circle
Westlake Village, California 91361-3801

Re: *Securities and Exchange Commission v. ABC Viaticals, Inc., C. Keith LaMonda, and Jesse W. LaMonda, 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 (N.D. Tex.)

Dear Mr. Kaplan:

Please be advised that the United States District Court for the Northern District of Texas has appointed Michael J. Quilling as Receiver for ABC Viaticals, Inc. and other related entities. Please find a copy of the Order Appointing Receiver attached.

Our investigation of Receivership Records indicates that you received at least \$1,200,890.92 in commissions from ABC. ABC was insolvent and operated as a fraudulent investment company and, therefore, those commissions constitute fraudulent transfers. Demand is hereby made upon you to immediately return to the Receiver all commissions that ABC paid to you, Kaplan Investment Properties, and Services International Corporation.

If you fail to return these funds within seven (7) days from the date of this letter, we will undertake legal action against you to recover that amount.

**WE EXPECT AND APPRECIATE YOUR
IMMEDIATE ATTENTION TO THIS MATTER.**

Sincerely,

Brent J. Rodine
Attorney for Receiver

Enclosures (1)

L:\MJQ\ABC Viaticals 911.1000\Correspondence\2007.03.08 - Demand letter to Don Kaplan.wpd

Exhibit “B”

1 UNITED STATES SECURITIES AND EXCHANGE COMMISSION
2 In the Matter of:)
3) File No. FW-03034-A
4 ABC VIATICALS, INC.)
5 WITNESS: Donald S. Kaplan
6 PAGES: 1 through 269
7 PLACE: Securities and Exchange Commission
8 5670 Wilshire Boulevard
9 11th Floor
10 Los Angeles, California 90036
11
12 DATE: Monday, July 17, 2006.
13
14 The above-entitled matter came on for hearing at 9:10
15 a.m., pursuant to notice.
16
17
18
19
20
21
22
23
24 Diversified Reporting Services, Inc.
25 (202) 467-9200

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1 APPEARANCES:
2
3 On behalf of the Securities and Exchange Commission:
4 ERIC R. WERNER, ESQ.
5 JULIA WATSON HUSEMAN, ESQ.
6 Securities and Exchange Commission
7 Division of Enforcement
8 Burnett Plaza, Suite 1900
9 801 Cherry Street, Unit 18
10 Fort Worth, TX 76102
11 (817)900-2654
12
13 On Behalf of the Witness:
14 RICHARD T. BAUM, ESQ.
15 221 Colby Avenue
16 Los Angeles, California 90064
17 (310) 286-9525
18
19
20
21
22
23
24
25

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1 PROCEEDINGS
2 MS. HUSEMAN: On the record at 9:10 on July 17th,
3 2006. Would you raise your right hand, please?
4 Whereupon,
5 DONALD S. KAPLAN
6 was called as a witness and, having been first duly sworn,
7 was examined and testified as follows:
8 EXAMINATION
9 MS. HUSEMAN: Please state your full name and spell
10 your full name for the record.
11 THE WITNESS: Donald Sheldon Kaplan, D-o-n-a-l-d,
12 S-h-e-l-d-o-n, K-a-p-l-a-n.
13 MS. HUSEMAN: I am Julia Huseman and to my left is
14 Eric Werner. We are both officers of the Commission for the
15 purposes of this proceeding. This is an investigation by the
16 United States Securities and Exchange Commission in the
17 matter of ABC Viaticals, Inc. to determine whether there have
18 been violations of certain provisions of the federal
19 securities laws. However, the facts developed in this
20 investigation might constitute violations of other federal or
21 state, civil or criminal laws.
22 Prior to the opening of the record, you were
23 provided with a copy of the formal order which is marked as
24 Exhibit 1. It will be available for your examination during
25 the course of this proceeding. Mr. Kaplan, have you had the

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1 with ABC. I may have sent out one or two packages, but I
2 wouldn't remember at this time.

3 Q When did you first start working -- when did the
4 -- the majority of your business focused on ABC. When did
5 that begin?

6 A I believe 2003.

7 Q Do you know when in 2003?

8 A I can't pinpoint it exactly. It may have -- I may
9 have signed up as an independent agent with them back in
10 2002. I searched high and low for the agency agreement that
11 I had with them which I know they have a copy and I was
12 unable to find it to give an exact date.

13 Q I'm going to help you out here.

14 A Thank you.

15 MR. BAUM: I told you she'd have it.

16 THE WITNESS: Good.

17 BY MS. HUSEMAN:

18 Q I'm showing you what I'll mark as Exhibit 45 and
19 ask you if you recognize this.

20 (SEC Exhibit No. 45 was marked for
21 identification.)

22 A Yes.

23 Q And what is it?

24 A This would be a Producers' Marketing and Marketing
25 Material Agreement for the at that time assignee an agent

1 Q Did you tell them that that was what that was, that
2 in fact, it was just a mail drop?

3 A I was never asked.

4 Q When did you first make contact with Keith or
5 Jessie LaMonda?

6 A By phone are we saying or --

7 Q The first time you ever met them, spoke to them in
8 any capacity?

9 A I would have to assume it would be the date of this
10 agreement.

11 Q And did you speak to them by phone before you
12 signed this, did you meet with them in person?

13 A I had only met Keith LaMonda when he made a trip
14 out here and I met him at the airport at the Hilton Hotel or
15 something about two years ago, so I think it was some time in
16 2004. I had never met him previous to that date.

17 Q In the time --

18 A But I did speak to him on the phone a lot.

19 Q So between July 16th, 2001 which is the date of
20 this Producers Agreement, and the date in 2004 when you met
21 him at the Hilton Hotel at the airport in Los Angeles?

22 A Yes.

23 Q Your communication was primarily by phone; is that
24 correct?

25 A Yes.

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1 number and it was an agreement on what I can do in the way of
2 sending out materials or --

3 Q Isn't there a separate agreement for that?

4 A There may be.

5 Q This just appears, at least as I'm reading it, to
6 be the Producers Agreement, the actual agreement saying that
7 you are going to represent ABC as an agent and seek out
8 investments or investors what they call purchasers, and I
9 believe it was signed in July -- on July 16th of 2001; is
10 that correct?

11 A Yes.

12 Q And you signed it. Your name as the producer is
13 Donald S. Kaplan, DBA Services International Corporation.

14 A Donald S. Kaplan, President, Services
15 International.

16 Q Well, I'll refer you to the first page of Exhibit
17 45, Producer's name, Donald S. Kaplan, DBA Services
18 International Corporation.

19 A Okay.

20 Q Is that what that says?

21 A That's what it says, yes.

22 Q And your physical street address is listed as 5699
23 Canan Road, Suite 234 Agoura Hills, is that the mail drop
24 address?

25 A Yes.

1 Q How about by e-mail?

2 A And e-mail, yes, e-mail and phone.

3 Q Did you execute the Producers Marketing Agreement
4 at the same time that you executed the Producers Agreement?

5 A I -- again, I was unable to locate these documents
6 so I guess the document would speak for itself as to the date
7 that I executed it.

8 Q Okay, I'm showing you what I've marked as Exhibit
9 46. It appears to be executed the same day as the Producers
10 Agreement; is that correct?

11 (SEC Exhibit No. 46 was marked for
12 identification.)

13 A Yes. Wait, this is the same agreement, isn't it?

14 Q Do you know what, I gave you the wrong -- I
15 apologize. Strike Exhibit 45.

16 MR. BAUM: 46.

17 MS. HUSEMAN: No, 45, 46 is correct. I'll give you
18 -- what I meant to give you the Producer's agreement is 47.

19 So just for the record, the Producer's agreement is also at -
20 - is, in fact, that you're now looking at Exhibit 47 was
21 executed on the 16th of July 2001; is that correct?

22 (SEC Exhibit No. 47 was marked for
23 identification.)

24 THE WITNESS: That's correct.

25 BY MS. HUSEMAN:

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1 A You would send it -- in the package, would be
 2 something actually saying Bank of America and it gives the
 3 account number for the benefit of and it may be Irwin and
 4 Johnson, that could be the trustees. And I do have in that
 5 package a little two or three-page blurb that was supplied to
 6 me by ABC on Irwin and Johnson, on the trustee.
 7 Q Yes, I saw that. Isn't that two or three-page
 8 blurb actually two or three pages from Irwin and Johnson's
 9 own website?
 10 A That may very well be but that's what they had sent
 11 me, ABC sent me and that's what I put in the package.
 12 Q Okay. Going to page 3 of Exhibit 46, I believe,
 13 yes.
 14 A I got these two pages and then I've got this.
 15 Q Right. It's all attached. It's still page 3 of
 16 the same exhibit.
 17 A Oh, okay.
 18 Q Stay on page 3.
 19 A Is this 3?
 20 Q That's 3.
 21 A Oh, that's 3, okay.
 22 Q Okay, and I assume this is a confirmation letter
 23 telling you that they've given you a new producer
 24 identification number and welcoming you to Accelerated
 25 Benefits Corporation. Is that correct?

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1 A Yes.
 2 Q And it says in the last line, "We will be making
 3 compensation checks payable to Services International Corp.
 4 until further notice from you". Did you ever change the
 5 entity or the account to which you had your commissions sent?
 6 A Okay, there's two accounts involved here. Any
 7 commissions that were wired in, I had previously set it up to
 8 be wired in to Kaplan Investment Properties.
 9 Q Okay.
 10 A And then as I received that wire within a
 11 reasonable period of time, I would just write a check to
 12 Services International and write "transfer" and I would
 13 transfer the funds over to Services International. Any
 14 checks that they made out to Services International, those
 15 were deposited only in Services International Corporation
 16 checking account. The wired funds are only from what is done
 17 through Jason Sun and his people which are offshore, outside
 18 the USA and I just had that set up and I've never changed it
 19 but I've never received any wired funds to my knowledge of
 20 any from any other -- as commission from any other investor
 21 that was not part of the Asian group.
 22 Q Okay. Assume the Asian group generated -- Jason
 23 Sun generated a couple million in investments, ABC would then
 24 generate you an overwrite check for that investment?
 25 A No, they would wire the funds in.

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1 Q They would wire -- but the wire came from ABC is my
 2 question.
 3 A Yes, yes, yes.
 4 Q And that wire from ABC would go into your limited
 5 partnership account.
 6 A Yes.
 7 Q But if ABC cuts you a check to Services
 8 International, that went into the Services International
 9 account.
 10 A Yes.
 11 Q Did the -- did you ever transfer the monies
 12 received as commissions into the limited partnership account
 13 into the Services International account?
 14 A From checks or from --
 15 Q From wire -- the money that went in from the wires,
 16 did you ever transfer it back to the Services International
 17 account?
 18 A Yes, that was what I said, I would write a check.
 19 I had -- the way my accountant set it up, I can take, you
 20 know, up to the full year to transfer but at the end of each
 21 year, calendar year, I had to have any monies that I received
 22 by wire into the limited partnership account transferred over
 23 to the Services International account.
 24 Q Let me ask you, you just said your accountant set
 25 it up. When you mean set it up, could you elaborate on that?

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1 A Well, he basically stated to me, there's nothing in
 2 writing, "You don't have to take and transfer those funds the
 3 same day you receive them into Services International; they
 4 can sit in your limited partnership account and just make
 5 sure at the end of the year all of the funds that you have
 6 received from any wires that pertain to Services
 7 International, you have transferred them over to the Services
 8 International account", and that's what I would do. I was
 9 basically doing it monthly.
 10 Q So you'd do a sweep at the end of every month, take
 11 all the monies that had come in via wire to the limited
 12 partnership account and moving it to the Services
 13 International account.
 14 A Correct.
 15 Q So as things stand today, the overwrites that you
 16 receive on your Asian market, do those wires still go into
 17 the limited partnership account?
 18 A Yes.
 19 Q And anything that you receive directly from ABC as
 20 a commission or a check, any check you receive from ABC would
 21 go into the Services International account.
 22 A Correct, because those checks were only made out to
 23 the corporation, so I could only deposit them. Even the bank
 24 would only allow me to deposit it in that corporate account.
 25 Q When you started -- when did you start seeing the

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1 reassurance. And that's, I think, when IFS started getting
 2 involved in the picture. But as far as ABC using Lloyds of
 3 London or reassuring any policies, I don't know. I didn't
 4 sell any and I don't know if they did.
 5 BY MS. HUSEMAN:
 6 Q Did you ever attend -- did you ever visit ABC
 7 Viatical's offices in Florida?
 8 A No.
 9 Q Did you ever attend anything called Viatical
 10 University?
 11 A No.
 12 Q Did you ever go to a sales agent meeting sponsored
 13 by ABC or Accelerated Benefits?
 14 A No.
 15 Q Did you ever attend any kind of promotional,
 16 viatical promotional meeting outside of the one that you went
 17 to initially to get involved in this?
 18 A No.
 19 Q Has ABC ever asked you to contact or speak to
 20 people who were considering being agents themselves?
 21 A No.
 22 Q Not even once?
 23 A Where they asked me to contact someone who wanted
 24 to be an agent?
 25 Q Or they said -- or someone -- they gave your number

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1 to someone and they contacted you and said, "Hey, I'm
 2 thinking about doing this agency agreement with ABC. They
 3 said you're one of their agents. I just wanted to talk to
 4 you about it and see what it's about".
 5 A Not to my knowledge. I mean, I had people that
 6 wanted to become agents. I don't pick agents and --
 7 Q No, but who contacted you to ask you about how the
 8 program works, are you making money, potential agents.
 9 A Yeah, but they didn't say they were from ABC.
 10 Q No, okay.
 11 A Maybe I misunderstood the question.
 12 Q Did potential agents, people who were considering
 13 doing what you do, contact you?
 14 A They contacted me initially, yes. I would have
 15 people that would contact me and I would basically say that,
 16 you know, I would tell them the program and if they can
 17 sustain and bring in so much monies, they can make a
 18 commission.
 19 Q Okay, I want you to break that down a little bit
 20 for me. You said you would tell them the program. What
 21 would you tell them?
 22 A I would explain the program exactly the way it was
 23 explained to me by ABC, whatever their policies are as far as
 24 what was available, the gross commission that was paid out on
 25 this, and after explaining it, then I said, "But you would

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1 have to maintain a certain criteria monthly", and I would
 2 then pass them directly onto ABC and it would normally be
 3 Keith LaMonda if they're talking big numbers and I would turn
 4 them over to ABC, telling ABC that, "This person is going to
 5 be coming to you and if you feel you want to take them on as
 6 an agent, he'll be an agent, and I'll just get an overwrite
 7 fee from what he does".
 8 Q How many agents are you currently getting overwrite
 9 fees from?
 10 A I think there's eight or nine.
 11 Q Are those the eight or nine that are listed in that
 12 side letter?
 13 A Yes.
 14 Q And not including Jason Sun. Jason Sun is
 15 separate.
 16 A He's separate and I tried to break that down in the
 17 letter where it says "funds that were wired in", I put that
 18 was from Jason Sun only.
 19 Q Okay, so I want you -- please bear with me, I want
 20 you to take it down one more step. You said you would
 21 explain to them what the commissions were. What -- how would
 22 you explain to them the commission arrangement, a potential
 23 agent?
 24 A I would say that -- I would ask them what they
 25 could maintain, what do they think --

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1 Q When you say "maintain", you mean how much can you
 2 raise?
 3 A How much can you bring in on a monthly basis and
 4 maintain that amount every month? I said, "Your commission
 5 will be adjusted according to your production".
 6 Q What are the cutoffs?
 7 A It would be pretty much whatever we were
 8 comfortable with, with the exception if they said, "Okay, we
 9 can bring in a lot of money", then I would say to them, "Then
 10 you would have to do two and a half million dollars and as
 11 soon as you've reached that two and a half million dollars,
 12 whether it takes 12 months or two months to reach it, then
 13 you would get an additional overwrite and I will reduce my
 14 side of the commission". And then I would turn them over to
 15 ABC after that and nine out of 10 times, ABC would come back
 16 to me and say, "Don, you can't make that kind of money.
 17 We're going to give them 10 percent and give you five
 18 percent", and that's the way they would set it up. And --
 19 Q Who would call you and say, "Don' you can't make
 20 that kind of money"?
 21 A Lynn.
 22 Q What would she say?
 23 A She would basically say that I was being a gonif.
 24 Q Excuse me, a what?
 25 A That's a nasty word.

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1 MR. BAUM: A gonif, it's Yiddish, it's a thief.

2 MS. HUSEMAN: Can you spell it?

3 MR. BAUM: G-o-n-i-f.

4 THE WITNESS: That's just the way it is. In
5 essence, I was trying to get too much money and if they're
6 going to be doing all the work and I just made the
7 introduction and turned them over, then they should be
8 entitled to the largest benefit of that commission.

9 BY MS. HUSEMAN:

10 Q So assuming that I had contacted you and said, "I
11 could come up with two and a half million a month" --

12 A Right.

13 Q -- you would then tell me, "Okay, your commission
14 would be --

15 A I would turn around and say, "Okay, it would vary
16 depending on the policies, but at this point, most of the
17 policies pay a 15 percent commission". So I would say to
18 you, "I'll give you -- you can receive directly from ABC,"
19 because I don't write any checks to anyone. I never have.
20 "You can receive from ABC 10 percent and I'll get a five
21 percent overwrite. However, once you reach your two and a
22 half million, and I'm trying to give you incentive, then
23 every dollar after that I'll give you an additional one
24 percent overwrite, so I, in essence, I've reduced myself from
25 five percent down to four percent". I was trying to shake

1 and then to send it out to the search engines. So I have an
2 investment going there and with that investment going, yes,
3 I'm making a very good profit but they're coming in on what
4 that website states and from there, I then turn them over to
5 ABC. I feel I'm entitled to an overwrite, but I've accepted
6 whatever they've given me so far.

7 Q Okay, I'm not even arguing that point with you.

8 I'm just saying -- and I'm not saying I agree with you
9 either. I'm just saying I'm not arguing that point with you,
10 but what you've outlined to me is you spent \$50,000.00 on the
11 website. You pay a 100 to \$200.00 maintenance fee. The
12 website has been up -- you've been working for ABC with this
13 website for approximately five years. Is that correct?

14 A That's correct.

15 Q So assuming the \$50,000.00 start-up cost, 100 to
16 \$200.00 a month, assuming the \$200.00 figure, that's about
17 \$62,000.00; is that correct?

18 A Okay, and then I have a -- you're correct on that
19 and I have a monthly expense of any package that I send. A
20 typical package that send out outside the United States is
21 about \$7.00 to \$7.95 per package for that little package and
22 I may send anywhere not lately but at one time, I was sending
23 40 and 50 a month. So that was an ongoing expense.

24 Q That still -- if it does, and I can only do so much
25 math in my head one time, based on the commission overwrite

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1 them out and see are they just giving me what they want me to
2 hear or whatever, but --

3 Q Weren't you also trying to make a little bit of
4 money?

5 A I'm entitled.

6 Q Okay, I'm not suggesting you're not entitled. I'm
7 just saying that besides being the -- shaking them out for
8 ABC, weren't you also trying to make some money?

9 A Yeah.

10 Q I mean, as you've described it to me, up until this
11 point, you seem to have a pretty good deal going here.
12 You're making a considerable amount of money on overwrites
13 without doing a whole lot of leg work. Is that fair?

14 A Well, it can be. The way I look at it is, this
15 website was very expensive to design.

16 Q Who paid for the website?

17 A I did. When I say, I, Services International paid
18 for the website.

19 Q Was Services International ever reimbursed by ABC
20 for the cost of the website?

21 A No. And the expense of that website probably ran
22 close to \$50,000.00. From there I pay a monthly fee
23 maintaining that website and that monthly fee could be
24 anywhere from, you know, 100 to \$200.00 a month because it
25 takes up so much band width and so on, just to maintain it

1 schedule that you and I just discussed, you would make that
2 back in a month from a good producer.

3 A If he's a good producer, I may make it back in a
4 month, nothing wrong with that. That's good.

5 Q I'm just trying to understand the parameters of the
6 agreement, the deal that you have.

7 A Right.

8 BY MR. WERNER:

9 Q Have you ever been, I guess considered a top line
10 agent yourself? Have you ever sold policies or sold
11 investments in policies yourself?

12 A Where I would get paid the full 15 percent
13 commission, yes.

14 Q Correct. You have?

15 A Yes.

16 Q When was the last time that you did that?

17 A That is part of the group of eight names I gave you
18 or I'm sorry, it's part of the list that I gave you of all
19 the investors where I had received a check and not a wired --
20 wired funds. And in that group, not of the names, but I
21 think I supplied a two-page or something like that of all of
22 the policies that I have -- that have been sold through ABC,
23 that was part of the package I sent.

24 Q Well the --

25 A It would give their name, how much they invested

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1 and when the policy is supposed to mature and then it would
2 say ABC, in other words, a separate attachment that was in
3 the package I sent you.

4 Q I don't specifically recall that unless it was --

5 A Okay.

6 MS. HUSEMAN: I don't --

7 BY MR. WERNER:

8 Q No, no, no, it's --

9 A In trying to answer this I --

10 MS. HUSEMAN: I don't recall that.

11 THE WITNESS: It may be out of 50 or 60 people on
12 there, there may be four, five, six or eight of those people
13 that I brought in directly and then I would get paid the full
14 15 percent. The bulk of it and the bulk of the monies that I
15 received was a small percentage based on the investment
16 through those eight agents.

17 BY MR. WERNER:

18 Q Okay, but specifically with respect to ones that
19 you brought in directly and received the full commission,
20 when was the last time that you did that and the three of us
21 will diligently look for whatever you produced but just if
22 you can --

23 A Off the top of my head on a full commission, it had
24 to be somewhere within the last 24 months and it would have
25 been maybe one or two, three the most.

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1 Q What kind of dollar figure would you put on it?

2 A I would say maybe a total commission that I would
3 have received, a dollar figure might be somewhere around 50,
4 60,000.

5 Q And would that be for -- if it's possible -- have
6 you sold any investments directly in 2006 ones that you
7 received a full commission?

8 A Not to my knowledge, no.

9 Q What about 2005?

10 A There might have been one or two in there, maybe
11 three the most in 2005.

12 Q Okay. What about 2004?

13 A It might have been one or two in there.

14 Q What about 2003?

15 A We're only talking ABC? Maybe one or two, or it
16 might have been some of the same that then made a
17 reinvestment.

18 Q Okay, what about 2002?

19 A I don't recall any with ABC then but not -- that
20 doesn't mean I haven't done it. I just don't recall that.

21 Q For the sales that you made on direct policies for
22 which you received a full commission, how were you paid?

23 A That was paid by check and that is reflected in the
24 amount of monies that I have shown you so far.

25 Q Okay. And did -- have you, yourself over the years

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1 done any accounting to sort of add up or distinguish between
2 commissions that you received in full versus overwrites?

3 A No.

4 Q Off the top of your head, do you have any general
5 sense as to what percentage or what dollar amount we're
6 talking about in terms of -- you know, let's look back. You
7 said in your production that in 2005 you received \$129,000.00
8 approximately through --

9 A Well, that would just be the wired funds?

10 Q Correct. Okay, and there may be others but do you
11 have any sense as to how much you made in commissions for
12 direct sales during that time period?

13 A I think in -- is your question asking how much
14 based on how much I received? In other words, if there's 10
15 people and out of those 10, nine of them I got an overwrite
16 commission, and that one that I got straight commission added
17 up to the total of what the overwrite did, how do you want me
18 to answer this question?

19 Q I mean, that would be an answer to the question
20 because I just, sitting here have no sense as to the dollar
21 amount we're talking about here. Maybe in 2005 we're only
22 talking about five or \$10,000.00 or maybe we're talking about
23 hundreds of thousands of dollars. I just have no sense and
24 I'm wondering if you could give us a sense as to the dollar
25 amount that you were earning for full direct commissions on

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1 ABC products.

2 A Right. Well, from memory, I haven't broken it
3 down, per se, but from that list, once we find it, I think I
4 said it was about 60,000 that I had earned, maybe it's
5 55,000. Now, what percentage of that based on the investment
6 made on the list, we'd have to get that list and add it all
7 up. There might have been a total of six, \$700,000.00 on
8 that list, maybe 800,000 total of all investments. Out of
9 that, 50 or 60,000 of it was received to me, so we can almost
10 back into a percentage as the full commission and the rest
11 was strictly an overwrite.

12 Q Okay, how did the direct sales come about. It
13 seems that your website -- you have a structure set up where
14 you receive overwrites from various other agents during the
15 selling. How is it that you're going out and doing the
16 selling or getting direct sales? Is it because people are
17 coming to you or do you actively seek out --

18 A No, every one of my leads is directed just from
19 whatever the website generates. So if some of these people
20 e-mail me and they're interested, I then send them a package.
21 If they -- and I also e-mail them back and say, after you
22 receive the package, if you have any questions, please e-mail
23 me your questions, figuring that's the quickest way to get an
24 answer back and forth.

25 If some of them had a question how to fill out the