

**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 LA MONDA  
JESSE W. LA MONDA, 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

**RESPONSE OF DONALD S. KAPLAN TO MOTION FOR SHOW CAUSE HEARING  
REGARDING COMMISSIONS PAID TO DONALD S. KAPLAN; REQUEST FOR  
INTERIM HEARING SETTING PROCEDURES;  
DEMAND FOR JURY TRIAL**

Comes Now DONALD S. KAPLAN ("Kaplan"), and makes the following Response to the Motion of Receiver Michael J. Quilling for Show Cause Hearing Regarding Commissions Paid to Donald S. Kaplan, and Request for Expedited Hearing, and requests that the Court set an interim hearing whereby it will set forth the procedures to be followed

in this matter. Nothing herein is intended to be a waiver of the right of Kaplan to object to the personal jurisdiction of the court over him, which jurisdiction is denied.

1. This Court does not have personal jurisdiction over Kaplan in that he did not have minimum contacts with the District in which this Honorable Court sits, nor with the State of Texas, such that the imposition of personal jurisdiction over him offends his rights under the due process clause of the Fifth Amendment to the Constitution of the United States of America. Kaplan is not subject to the nationwide service of process provisions of any Act of Congress.

2. This Court does not have personal jurisdiction over Kaplan in that process was not served upon him commanding him to appear, stating when such appearance was necessary, nor otherwise advising him of his duties and obligations, nor informing him that actions could be taken against him if in default of his duty to respond and what those actions could be, so as to deprive him of his rights under the due process clause of the Fifth Amendment to the Constitution of the United States of America.

3. The Order Appointing Receiver entered November 17, 2006 does not include any asset of Kaplan's. Kaplan has not been alleged to have undertaken any action which contravenes, violates, disobeys or otherwise interferes with the Order Appointing Receiver, or any right, power or interest of the Receiver appointed thereunder. As such, the procedure Michael J. Quilling ("the Receiver") attempts to use herein is not effective to

reach any asset of Kaplan's.

4. Kaplan did not undertake any actions with regard to ABC VIATICALS, INC. or any of the other defendants. Any agreements with the Defendants were with Services International Corporation, a Nevada Corporation, and were not with Kaplan.

5. The Receiver's motion is based upon the allegation that ABC VIATICALS, INC. operated its business as a "Ponzi scheme". However, a Ponzi scheme is an enterprise which does not have any legitimate business purpose and depends upon future investment to pay past investors, whereas ABC VIATICALS operated utilizing a business model that would, if properly operated, produce substantial profits or had the realistic potential to produce substantial profits. Further, the business was not to use new investors' money to pay profits to old investors, but rather was to purchase life insurance policies and pay the premiums on those policies until such time as they matured, and in fact ABC Viaticals used investors' money to purchase life insurance policies. As such, the business of ABC VIATICALS was not a Ponzi scheme, but rather a failed business enterprise which may have run afoul of various federal and state securities laws. Thus the Receiver will be required to prove that each specific transfer was made with actual or with constructive fraudulent intent as of the date of the transfer.

6. The Statute of Limitations bars the Receiver's recovery of any alleged transfer made more than four years from the date that the court acquired jurisdiction over any of

the parties to this motion.

7. Kaplan has an existence separate, apart and distinct from Services International Corporation and Kaplan Investment Properties, LP. No facts exist which would justify the disregard of the corporate entities and imposing personal liability upon him.

8. Kaplan acted in good faith and without notice of the fraudulent intent of ABC VIATICALS and its officers, and as such, is a good faith transferee for value against whom the transfers may not be set aside.

9. Expedited hearing procedures requested by the Receiver deny Kaplan his due process rights against deprivation of liberty and property since the safeguards of personal jurisdiction, trial by jury, trial at a non-inconvenient forum, discovery, appeal, and others are not specified in the motion.

**WHEREFORE**, Kaplan prays that the court enter relief as follows:

For Interim Relief:

1. That the Court dismiss the Motion as being without personal jurisdiction over Kaplan;

2. That the Court dismiss the Motion as not imparting sufficient notice to Kaplan of the proceeding as to satisfy due process requirements under the Fifth Amendment of the United States Constitution.

3. That the Court order that this motion shall be treated as a civil action, and that all rights, duties and procedures of the Federal Rules of Civil Procedure apply in this proceeding, including, but not limited to, trial by jury, discovery, motion procedure and practice, trial, judgment, and appeal.

4. That the Court deny the request for expedited consideration of the final relief sought by this motion in order to allow the parties sufficient opportunity to conduct discovery and to determine whether the factual predicates upon which the Receiver's motion are based can be established.

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For Final Relief:

1. That the Receiver take nothing by his motion herein.
2. That Kaplan recover his costs of suit herein.
3. That if the Court finds that Kaplan has liability to the Receiver, that the court enter a money judgment against Kaplan for that amount.

DATED: June 14, 2007

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**DEMAND FOR JURY TRIAL**

Donald Kaplan hereby Demand Trial by Jury on the Claims set forth in the Receiver's Motion.

DATED: June 14 , 2007

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**CERTIFICATE OF SERVICE**

I hereby certify that a true of the above instrument has this day been sent by electronic means upon its filing to all parties pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5(a)(3)(A).

SIGNED on June 14, 2007.

/s/ Richard T. Baum  
RICHARD T. BAUM