

# Exhibit “5”

## CONFIDENTIALITY AGREEMENT

WHEREAS, the undersigned potential purchaser ("Purchaser") has expressed an interest in acquiring certain insurance policies ("Policies") owned and/or controlled by Michael J. Quilling, in his capacity as Receiver ("Receiver") in the matter of SEC v. ABC Viaticals, Inc., Cause No. 3:06cv2136-P (N.D. Tex.) ("Receivership"); and

WHEREAS, Purchaser is interested in acquiring the Policies "as is, where is" (the "Transaction"); and

WHEREAS, Purchaser desires to conduct due diligence to such an extent as in its sole independent judgment, is necessary or appropriate to make a firm offer to purchase; and

WHEREAS, the parties acknowledge and understand that the purchase of the Policies is subject to approval by the United States District Court for the Northern District of Texas ("Court") in the Receivership proceedings; and

WHEREAS, the Receiver intends to make available information to the Purchaser that is not available to the general public concerning the Policies and confidential personal information regarding the insureds;

NOW, THEREFORE, in consideration of the recitals and the mutual promises hereinafter contained, the Parties agree as follows:

1. The Receiver will provide Purchaser access to Confidential Information, as defined below, with respect to the Policies in order for Purchaser to evaluate the Policies and to make a binding offer to purchase one or more of the Policies "as is, where is" without any warranties, express or implied.

2. "Confidential Information" shall include all data, reports, interpretations, forecasts, verification of coverage, names of insurance companies, identities of insured and viators, medical information and diagnoses and records, financial information, premiums, business records and transactions, correspondence, analyses, and documents or other information or data to the extent they contain information concerning the Receivership and/or the Policies and/or the insureds which is not available to the general public.

3. "Confidential Information" does not include information which (a) becomes generally available to the public other than as a result of disclosure by the Receiver; (b) was available on a non-confidential basis prior to its disclosure by the Receiver or (c) becomes available to the Purchaser on a non-confidential basis from a source other than the Receiver, his agents or representatives.

4. As used herein, "Transaction" shall mean the purchase in cash in readily available funds in U.S. Dollars for the purchase of one or more Policies, "as is, where is" without any warranties whatsoever, whether express or implied.

5. In consideration of access to Confidential Information, Purchaser agrees on its own behalf and for all of its employees, agents, assigns, and representatives, that all Confidential Information will be held and treated in strictest confidence and will not, except as hereinafter provided, without the prior written consent of the Receiver, be disclosed in any manner whatsoever in whole or in part, and will not be used other than in connection with the Transaction. Furthermore, Purchaser, its employees, agents, and representatives, further agree that they will not disclose Confidential Information except under the following conditions:

A. With respect to their employees, agents, assigns, representatives, Purchaser will disclose Confidential Information only to those agents, employees, assigns and representatives (i) who need to know the Confidential Information for purposes of participation in the Transaction; (ii) who will be advised of this Agreement and who will acknowledge in writing to be bound by the terms of this Agreement by executing this Agreement where indicated below and returning a copy to the Receiver at the address provided below, and specifically sent to the attention of Leslie Finn;

B. With respect to persons who are not employees, agents, assigns or representatives of Purchaser, Purchaser will not disclose any Confidential Information without the prior consent of the Receiver; and

C. Purchaser will not disclose Confidential Information except to the extent required by applicable law or regulation, but only after providing the Receiver written notice of the request to disclose Confidential Information and providing the Receiver with the opportunity to prevent the disclosure.

6. Any written Confidential Information and all copies thereof, or portions thereof, provided to Purchaser with respect to the Transaction will be returned to the Receiver or destroyed promptly, on the Receiver's request. All Confidential Information will be retained until destruction or return subject to the terms of this Agreement.

7. If Purchaser or its employees, agents, assigns or representatives are requested or required (by oral questions, interrogatories, request for information or documents, subpoenas, civil investigative demand or other process) to disclose any Confidential Information, Purchaser will immediately provide the Receiver with prompt notice of any such request or requirement so that the Receiver may seek an appropriate protective order or waive compliance with the provisions of this Agreement.

8. It is further understood and agreed that no failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power, or privilege hereunder.

9. The Parties consent to the exclusive jurisdiction of the United States District Court for the Northern District of Texas with respect to any dispute arising out of or related to this Agreement or to the Transaction.

10. This Agreement shall be governed and construed in accordance with Texas law.

**Warning: The content of this Agreement should be taken extremely seriously. The Confidential Information contains matters that are sensitive and personal in nature as to the insureds. If the Receiver determines that you have violated this Agreement he will seek to hold all responsible persons in contempt of Court. If you cannot abide by this Agreement do not sign it.**

Acknowledged and Agreed:

**RECEIVER MICHAEL J. QUILLING:**

Date: \_\_\_\_\_  
c/o Quilling, Selander, Cummiskey &  
Lownds  
2001 Bryan Street, Suite 1800  
Dallas, TX 75201

**PURCHASER:**

Name: \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**PURCHASER AGENTS/EMPLOYEES**

Name: \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

(Attach additional sheets if necessary)