

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., §

ECF

Defendants §

and §

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

Relief Defendants. §

**RECEIVER'S MOTION TO STRIKE RESPONSE OF
ERWIN & JOHNSON, LLP AND CHRISTOPHER ERWIN
TO RECEIVER'S THIRD INTERIM FEE APPLICATION**

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

1. In a blatantly obvious and desperate litigation tactic, Erwin & Johnson, LLP and Christopher Erwin ("Erwin Defendants") file a so-called response to the Receiver's Third Interim Fee Application as if they were somehow parties entitled to respond. Unable to prevail on the merits of the case by the Receiver to hold the Erwin Defendants responsible for their actions and inactions with respect to the handling of investor funds (*Michael J. Quilling v. Erwin & Johnson, LLP and Christopher R. Erwin*, Cause No. 3:07-CV-1153-P, N.D. Tex.), the Erwin Defendants seek to cut off funding for the Plaintiff to continue the litigation.

2. Feigning concern for the investors, the Erwin Defendants attack the Receiver's Fee Application. If the Erwin Defendants were ever truly concerned about the investors, none of us would be here. It is the actions and inactions of the Erwin Defendants which, in very large part, caused the financial train wreck inherited by the Receiver. Inexperienced and greedy, the Erwin Defendants forged ahead in helping cause the financial calamity which has befallen the investors. Any experienced attorney not blinded by a million dollar plus payoff would have run as far and as fast as he could from ABC Viaticals, Inc. If the Erwin Defendants are truly concerned about the investors, perhaps Mr. Erwin could sell his exotic sports car which he purchased with investor funds and return those funds to the estate.

3. Although the Receiver stands ready to address the specious concerns raised by the Erwin Defendants about the Receiver's Third Interim Fee Application¹ if the Court so desires, there is no need for the Court to waste its valuable time and energy in doing so at this juncture for one very simple reason – the Erwin Defendants lack standing to be heard in this proceeding. The Erwin Defendants are not now, nor will they ever be, parties to this proceeding.² Particularly, Section 21g. of the Securities Exchange Act of 1934 prevents them ever becoming a party without the consent of the Securities and Exchange Commission.³ The objection of the Erwin Defendants should be stricken until or unless they are able to prove that they are parties to this proceeding or allowed to intervene by the Court.

¹ Apparently, the Court simply didn't understand what it was doing when it approved the Receiver's First and Second Interim Fee Application.

² The Erwin Defendants seem to equate the Receiver's consent to their receipt of electronic notice of pleadings they could otherwise obtain anyway, with conferring party status and standing.

³ Section 21g has been interpreted very broadly to prevent anyone from having any involvement in an SEC proceeding without their consent. If the Court desires, the Receiver can brief this issue more extensively.

WHEREFORE, premises considered, the Receiver prays that upon final consideration of this Motion, the Court strike the spurious objection filed by the Erwin Defendants and for such other and further relief, general or special, at law or in equity, to which the Receiver may show him justly entitled.

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

A true and correct copy of this motion has been served on all interested parties through the Court's electronic filing system.

/s/ Michael J. Quilling
Michael J. Quilling