

**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.

[illegible]

**Civil Action No.: 3-06CV2136-P**  
**(ECF)**

**RESPONSE OF THE SECURITIES AND EXCHANGE COMMISSION TO  
RECEIVER'S MOTION TO SELL INSURANCE POLICIES  
AND APPROVE PURCHASE AND SALE AGREEMENT  
AND REQUEST FOR EVIDENTIARY HEARING**

Plaintiff Securities and Exchange Commission files this response to the Receiver's Motion to Sell Insurance Policies and Approve Purchase and Sale Agreement and Request for Evidentiary Hearing (the "Motion") and would respectfully show the Court as follows:

1. The Commission filed suit against Defendants ABC Viaticals, C. Keith LaMonda and Jesse W. LaMonda, Jr., and Relief Defendants in November 2006. In its Complaint, the Commission alleged that the Defendants had engaged in violations of the anti-fraud and registration provisions of the federal securities acts. At that time, the Court appointed a Receiver

to take possession of the assets of the Defendants and Relief Defendants for the benefit of the Defendant's investors. After the appointment of the Receiver, the Court appointed an independent Examiner to act on behalf of the defendants' investor victims. Subsequently, the individual defendants, C. Keith and Jesse LaMonda, agreed to the entry of an order permanently enjoining them from future violations of the federal securities laws. Both were also convicted in a criminal prosecution arising from conduct that predated the allegations in the Commission's Complaint and were sentenced to lengthy prison terms

2. Since the appointment of the Receiver, the Commission has monitored the Receiver's efforts to preserve the existing assets of the receivership estate and to recover additional assets for the benefit of investors. In accordance with the Court's order appointing the Receiver, the Receiver has provided information to the Commission concerning his efforts and the difficulties presented in continuing to support the monthly cash needs to maintain the chief asset of the receivership estate – the portfolio of insurance policies underlying the viatical interests sold to investors. In an effort to communicate with investors, the Receiver has established an Internet website and has made a practice of posting information on the website. A large number of the investors that were victimized by the Defendants conduct reside in Taiwan and Southeastern Asia. Accordingly, the Receiver has caused a great deal of information to be translated and posted on the website for the benefit of these investors.

3. Despite the Receiver's efforts to communicate with the investors, the staff at the Commission has also received a number of emails from investors, primarily in and around Taiwan, concerning the Receiver's efforts and, in particular, the Receiver's pending Motion. The essence of these emails is shock, despair and disbelief at the Receiver's proposed course of

conduct. Many of the investors have asked substantially similar questions or have articulated substantially similar positions.

4. First, most of the investors are seemingly unaware that they were the victims of an elaborate fraud. As alleged in the Commission's Complaint, ABC Viaticals sold many of its investments premised on the illusion that the investments were safe and secure because: 1) funds were being held in escrow to cover necessary premium costs to maintain the insurance policies fractionalized by ABC Viaticals; and, 2) the payoffs on the investments were secured by two different bonding companies. Both claims were false. As the Receiver learned when he took control of ABC Viatical's assets, there were insufficient funds held in escrow for even one year's worth of premium payments. Additionally, the Receiver and the Examiner's investigation into the purported bonding entities have clearly demonstrated that the claim that the investments were secured by legitimate bonding companies was fraudulent and the bonds worthless. Consequently, the safety net sold to the investors was a sham and there is no source of funds capable of securing the investment returns investors were promised.

5. Second, many of the investors have asked why the LaMondas were not held accountable for their fraud and why their assets cannot be used to rescue the investors. The Receiver, however, has recovered substantially all assets held by the LaMondas and has liquidated, or is in the process of liquidating, these assets. Unfortunately, the assets recovered by the Receiver from the LaMondas comes no where near the monthly cash requirements needed to maintain the insurance portfolio such that the investors could realize a full return on their investment, or recover the full amount of their invested principal. While there is over \$200 million in death benefits at stake in the portfolio, the cost of maintaining this investment is approximately \$1 million per month and the Receiver has already had to borrow a substantial

amount of money to keep the policies in force. The issue before the Court therefore, is whether continuing to maintain the policies in force, on the unproven hope that a significant insured will die in time to rescue the investors, is a prudent course of action.

6. Third, many of the investors are distrustful of the process used to solicit bids for the portfolio and are appalled at the bid of \$27 million to acquire the portfolio. Since the process was approved by the Court and contains adequate safeguards to protect the investors' interests, the main issue that appears to trouble investors is the "sticker shock" attached to their investments and sadly the ultimate realization that the market value of their investments is substantially less than what they were sold at the time of their investment. In other words, they were, and are, the victims of fraud.

7. Counsel for the Commission has reviewed the Receiver's Motion and the Examiner's Report Regarding the Motion, as well as a considerable number of emails from investor victims. Based on the information contained in the pleadings of the Receiver and the Examiner, and the information provided to the Commission since the appointment of the Receiver, counsel for the Commission believes that it is in the best interests of all investors to approve the Receiver's Motion and liquidate the insurance portfolio. Otherwise, it is well within the realm of the probable that all of the assets of the Receivership Estate will be used to maintain a portfolio that will not mature for the benefit of the investors, and all of the Defendants' victims will realize a total loss.

Dated: September 16, 2008

Respectfully submitted,

s/ Harold R. Loftin, Jr.  
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CERTIFICATE OF SERVICE

I affirm that on September 16, 2008, I electronically filed the foregoing *Plaintiff's Response to Motion to Sell Policies* with the Clerk of the Court for the Northern District of Texas, Dallas Division, by using the CM/ECF system which will send a notice of electronic filing to all interested parties and CM/ECF participants for this matter.

s/ Harold R. Loftin, Jr.  
HAROLD R. LOFTIN, JR.