

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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**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.



**CIVIL ACTION NO.**

**3:06-CV-02136-BH**

**REFERRED TO THE  
U.S. MAGISTRATE JUDGE**

**ANGELO DIAZ GONZALEZ AND AGENCY'S MOTION FOR CONTINUANCE  
OF SEPTEMBER 23, 2008 HEARING ON RECEIVER'S MOTION TO SELL  
ALL INSURANCE POLICIES AND APPROVE PURCHASE AND SALE  
AGREEMENT AND REQUEST FOR EVIDENTIARY HEARING**

TO THE HONORABLE UNITED STATES MAGISTRATE JUDGE IRMA C. RAMIREZ:

COMES NOW Angelo Diaz Gonzalez and Agency (“Diaz”), as agent for approximately 400 of the Puerto Rican Investors (11.4% of the total investors in ABC Viaticals, Inc.) (the “Puerto Rican Investors”), and would show the Court as follows:

### Relief Requested

1. The Puerto Rican Investors request a ninety (90) day continuance of the hearing currently scheduled for September 23, 2008 on the Receiver's motion to sell the

Portfolio; and further request that the Court instruct the Receiver to draw down sufficient funds on the existing line of credit to fund monthly premiums on the policies through the 90 day period and subsequent sale. They respectfully request that this Motion for Continuance be heard as the first point of order at the hearing on September 23, 2008.

**Grounds for Relief**

2. The Puerto Rican Investors' request for relief herein is supported by Shirley Ma ("Ma"), as agent for approximately 2,300 of the Taiwanese investors (65.7% of the total investors in ABC Viaticals) (the "Taiwanese Investors"). Collectively, Diaz and Ma represent approximately 2,700 (or 77.1%) of the 3,500 investors in ABC Viaticals ("ABC").

3. The Receiver's motion to sell, docket no. 146, filed on June 30, 2008 (the "Motion to Sell") seeks authority to sell the 55 insurance policies, with a combined death benefit face value of \$236,240,033.00 (the "Portfolio"), at auction on September 23, 2008, with a stalking horse bid of \$27,100,000.00 by Silver Point Capital Fund, L.P. ("Silver Point"), subject to reduction (if any) pursuant to the provisions of Section 3.3(b) of the Purchase and Sale Agreement between Silver Point and the Receiver, dated effective June 27, 2008 (the "PSA").

4. A ninety (90) day continuance of the hearing on the Motion to Sell is warranted for several reasons.

5. First, events have taken place subsequent to the filing of the Motion to Sell which are not referenced in the September 15, 2008 Examiner's Report or Motion to Sell, and which are relevant to the Motion to Sell. Specifically, the Receiver recently collected \$3.1 million in settlement proceeds from the widow of David Goldenberg, a former

principal of IFS, who recently committed suicide. These funds were applied to lower the loan balance from \$15 million to \$12 million, thereby creating an additional \$3 million potential surplus for use to fund the ninety (90) day extension and engagement of a life settlement expert requested by the Puerto Rican Investors, and supported by the Taiwanese Investors.

6. In addition, the Receiver recently received a \$1.2 million refund on an overpayment on a policy, which was not referenced in the Examiner's Report or the Motion to Sell, and which provides additional surplus to fund the ninety (90) day extension and engagement of the life settlement expert.

7. Second, while the Puerto Rican Investors recognize the difficult job and the efforts of the Receiver and Examiner in this case, they respectfully submit that it is absolutely critical to complete a full and thorough independent life estimate update on the remaining policies in the Portfolio. Until that is complete, the Puerto Rican Investors submit that the Court, the investors, the Receiver, and the Examiner do not have enough information to make an informed decision on the Motion to Sell. The Examiner's Report states that the Receiver explored this issue over a year ago. However, to his credit, the Receiver will be the first to acknowledge that such exploration was never fully completed.

8. Third, there is more than sufficient available funds to pay the premiums through the requested ninety (90) day extension and engagement of the life settlement expert. According to the Receiver, the current payoff on the loan balance with Sovereign Bank is down to \$12 million, and the credit line has recently been increased to \$20 million. According to the Receiver, if he were to request sufficient funds to cover the

premiums for the extended period requested (estimated at \$3 million), Sovereign Bank would have to honor such request, given the current \$8 million of available credit on the line. This Court has already approved the increased line of credit for the Receiver. The use of such funds to complete the expert's engagement would leave an estimated \$5 million of credit and a minimum of \$12 million available for distribution to the investors, even under the worst case scenario of a \$27 million purchase price. Accordingly, the requested use of these funds to potentially enhance the value of the Portfolio multiple times over not only makes good business sense, but it represents no true risk to the investors. Under the PSA, Silver Point or other successful bidders must reimburse the Receiver for such premium payments prior to closing.

9. Fourth, contrary to what the Examiner and Receiver may personally believe about the significance and utility of a life estimate update on the marketability and value of the Portfolio, the fact remains that in this niche industry such life estimate updates are generally accepted indicators of value, and such updated estimates may greatly enhance the value of a portfolio. Accordingly, the Puerto Rican Investors are not asking for anything outside the normal contours of this industry. One added benefit to engaging an expert is that the expert can also comment on additional measures to enhance the value of the Portfolio, such as improvement on marketing efforts.

10. Fifth, although the Motion to Sell was filed in June 2008, the Examiner did not post a copy of the Motion to Sell in Spanish for the Puerto Rican Investors to consider. According to the Examiner's Report, on July 3, 2008, the Examiner posted such notice on the English and Chinese versions of the website established by the Examiner to communicate with the investors. The lack of any Spanish translation denied

sufficient due process and notice to the Puerto Rican Investors of the Motion to Sell and its potential impact on them. While the Examiner states that he mailed copies of the Motion and Order to all investors in mid-August 2008, the Puerto Rican Investors submit that this was insufficient time for them to engage counsel, retain an appropriate expert, fully respond to the Motion to Sell, and prepare for the evidentiary hearing. The Examiner did not report to this Court that 2,700 investors (who the Examiner is supposed to speak for) oppose this Motion to Sell. There is no reference to the September 14, 2008 correspondence from Puerto Rican Investors' counsel to the Examiner, disclosing the numerous positions and objection of the Puerto Rican and Taiwanese Investors, a copy of which is attached as Exhibit "A."

11. Finally, the Puerto Rican Investors submit to this Court that the granting of this Motion for a Continuance is the right thing to do in light of the fact that this is a court of equity and the Puerto Rican and Taiwanese Investors are foreign to this Court and this process.

12. For all the foregoing reasons, the Puerto Rican Investors ask the Court to grant this Motion for Continuance.

**WHEREFORE**, the Puerto Rican Investors ask the Court to grant this Motion for Continuance, order that the hearing on the Motion to Sell be rescheduled ninety (90) days later (or as soon thereafter as the Court deems appropriate), order that the Receiver draw down on the line of credit with sufficient funds to pay premiums for the extended period and on through the anticipated closing date, and for such other relief, legal or equitable, to which the Puerto Rican Investors may show themselves justly entitled to receive.

Dated: this 17th day of September, 2008.

Respectfully submitted,

/s/ John S. Brannon

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ATTORNEYS FOR ANGELO DIAZ  
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**CERTIFICATE OF CONFERENCE**

I hereby certify that I conferred by email with counsel for the Receiver, Examiner, and the SEC on September 17, 2008 about this Motion for Continuance. The Receiver replied that he objected to the Motion, but did not object to the Motion being heard as the first matter of order at the September 23, 2008 hearing. None of the others responded as to whether they opposed or consented to the Motion.

/s/ John S. Brannon

John S. Brannon

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served upon the following parties by fax on this 17<sup>th</sup> day of September, 2008.

/s/ John S. Brannon

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