

**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.

[illegible]

CIVIL ACTION NO.

3:06-CV-02136-P

**MATTER
PREVIOUSLY REFERRED TO
MAGISTRATE IRMA RAMIREZ
UNDER 28 U.S.C. § 636(b)**

**EMERGENCY MOTION
OF ANGELO DIAZ GONZALEZ AND AGENCY
FOR (I) STAY OF MAGISTRATE’S ORDER AND SALE CLOSING
AND (II) FOR EXPEDITED TREATMENT OF MOTION FOR
RECONSIDERATION**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COME NOW Angelo Diaz Gonzalez and Angelo Diaz Gonzalez and Agency¹ (collectively, the “Agency”), and, pursuant to Fed. R. Civ. P. 62(b)(3) and the Court’s equitable powers, submits the following Emergency Motion to stay the Magistrate’s Order, Docket No. 179 (the “Sale Order”) and the impending sale closing, and for

¹ Angelo Diaz Gonzalez and Agency includes both Angelo Diaz and his hierarchy of agents within his company.

expedited treatment of the pending Motion for Reconsideration of the Sale Order, and would show the Court as follows:

INTRODUCTION

1. The primary asset of 3,500 defrauded investors will be sold next week for substantially less than fair value unless this Court issues an immediate stay of a Magistrate's Sale Order and the imminent closing and/or grants the pending Motion for Reconsideration (docket no. 180) prior to such closing. Absent such stay and/or grant of the Motion for Reconsideration, the current appeal of the Magistrate's Sale Order (docket no. 179) may be rendered moot upon consummation of the sale, thereby forever depriving the investors of fair value for their asset. The Court should exercise its equitable powers and its authority under Fed. R. Civ. P. 62(b)(3) to stay the Sale Closing and the Magistrate's Sale Order, without bond requirements, pending this Court's ruling on the Motion for Reconsideration (docket no. 180), and/or immediately rule upon and grant the Motion for Reconsideration, thereby setting the Sale Order aside.

PROCEDURAL AND FACTUAL BACKGROUND

2. On October 6, 2008, Magistrate Ramirez issued an order (docket No. 179) (the "Sale Order") granting the Receiver's motion to sell (the "Sale Motion") a portfolio of fifty-five (55) life settlement policies with a face amount of \$235 million (the "Portfolio") to SGI for \$33.5 million.

3. On October 13, 2008, the Agency filed its motion to reconsider the Sale Motion, docket no. 180 (the "Motion for Reconsideration") with this Court, pursuant to Fed. R. Civ. P. 59(e), 72(a), and 28 U.S.C. § 636(b)(1)(A). In light of the impending Sale

Closing, the Agency asks this Court to immediately consider the Motion for Reconsideration prior to the anticipated Sale Closing.

4. The Agency was contacted by the Receiver about an imminent closing on the Portfolio the last week of October, 2008 (the "Sale Closing"). If the Sale Closing occurs prior to this Court's ruling on the Motion for Reconsideration, then the Motion for Reconsideration may become moot and the investors may lose their primary asset (the Portfolio) for substantially less than fair value.

5. Most of the investors have lost their life savings in connection with the securities fraud which is the subject of the above-styled and captioned civil action before this Court. They lack funds to post any bond to halt enforcement of the Sale Order or the imminent Sale Closing.

6. The Agency has identified a party with interest in possibly submitting a bid for substantially more than the \$33.5 million purchase price currently offered by SGI and approved under the Sale Order. The issuance of the Sale Order has hindered those discussions, although the Agency is hopeful that a written offer may be made in the near term. In addition, if this Court grants the Motion for Reconsideration and implements the 3 Week Proposal requested therein and at the Sale Hearing, the Agency believes that additional bidders will participate in a supplemental auction, resulting in a substantially higher purchase price at no additional cost to the investors.

ARGUMENT

7. As a Court of equity, this Court has authority to stay the Sale Order and Sale Closing, pending its ruling on the Motion for Reconsideration, and to do so without requiring the investors to post a bond. Equity demands such relief under the facts as

reflected above. The investors have been defrauded out of \$125 million on their investments with ABC Viaticals, Inc. ("ABC"), representing the life savings of most of these investors. They do not have the financial wherewithal to post a bond to stay execution of the Sale Order or consummation of the Sale Closing. The stay should be effective until this Court can consider the pending Motion for Reconsideration. In the interim while the stay is pending, the investors will suffer no financial harm. The current purchaser (SGI), as well any subsequent purchaser if the Court allows a supplemental auction, is and/or will be required to reimburse the Receiver for all premiums payments from July 2008 through the date of Closing.

8. The Court also has statutory authority to issue such a stay pursuant to Fed. R. Civ. P. 62(b)(3), in light of the pending Motion for Reconsideration before the Court.

9. Pursuant to 28 U.S.C. § 636(b)(1)(A), and as reflected in the Motion for Reconsideration, the Magistrate's Sale Order was clearly erroneous (findings without substantial support in the record) and contrary to law (contrary to the Fifth Circuit authority prohibiting such findings).

10. An expedited consideration of the Motion for Reconsideration prior to the anticipated Sale Closing next week is warranted as an additional measure to prevent the loss of the investors' primary asset for substantially below fair value.

WHEREFORE, the Agency respectfully prays that the Court (i) will grant this Emergency Motion; (ii) issue an emergency stay, prohibiting the enforcement of the Stay Order or the consummation of the Sale Closing, pending final adjudication of the Motion for Reconsideration; (iii) not require any bond to be posted by the investors or the

Agency; (iv) expedite its treatment of the Motion for Reconsideration; and (v) grant such other and further relief as to which the Agency may show itself justly entitled to receive.

Dated: this 21st day of October, 2008.

Respectfully submitted,

/s/ John S. Brannon

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following parties by fax and first class mail, postage prepaid on this 21st day of October, 2008.

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