

**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-P**

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

**AMENDED EMERGENCY MOTION<sup>1</sup>  
OF ANGELO DIAZ GONZALEZ AND AGENCY FOR  
(I) STAY OF MAGISTRATE’S ORDER AND SALE CLOSING;  
(II) STAY OF THIS COURT’S ORDER DENYING AGENCY’S MOTION FOR  
RECONSIDERATION AND STAY (DOCKET NO. 195); AND  
(III) FOR RECONSIDERATION OF THIS COURT’S ORDER DENYING  
STAY/RECONSIDERATION (DOCKET NO. 195)**

<sup>1</sup> The Agency was first notified of tomorrow's scheduled Sale Closing this morning by the Examiner in response to a prior status request. The Agency endeavored to delay the Sale Closing without Court intervention in order to allow the Dallas asset manager time to compute true premium costs to carry the Portfolio with the investors. The Agency was told by the Receiver to file something with the Court if it felt strongly about the asset manager's interest in Portfolio. As a result of the short time frame in which to respond, counsel for the Agency endeavored to develop as many facts as possible about the Dallas asset manager's status and interest in the Portfolio. Unfortunately, counsel for the Agency misunderstood some aspects of the asset manager's reorganization plan, and, this amended motion better reflects their intentions.

**TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:**

**COME NOW** Angelo Diaz Gonzalez and Angelo Diaz Gonzalez and Agency<sup>2</sup> (collectively, the “Agency”), and, pursuant to Fed. R. Civ. P. 59(e) and 62(b)(3) and the Court’s equitable powers, submits the following Amended Emergency Motion (i) to stay the Magistrate’s Order, Docket No. 179 (the “Sale Order”) and the impending sale closing tomorrow; (ii) to stay this Court’s Order denying the Agency’s motion for reconsideration/stay of the Magistrate’s Order; and (iii) emergency reconsideration of this Court’s Order denying the Agency’s motion for reconsideration/stay of the Magistrate’s Order (docket no. 195), and would respectfully show the Court as follows:

**INTRODUCTION**

The Agency recently received newly discovered evidence that a Dallas asset manager is interested in exploring a possible offer to the Receiver, subject to satisfactory premium mapping results, which may provide the investors substantially more than they stand to recover under the current sale to SGI, up to 3 times as much. However, the Receiver intends to go forward with the SGI sale tomorrow morning at 9:30 a.m., notwithstanding notice of this development. Absent an immediate stay of the sale closing, the investors stand to lose millions of dollars of sale proceeds.

**NEWLY DISCOVERED FACTS**

1. The primary asset of 3,500 defrauded investors, a portfolio of life settlement policies with a face amount of \$236,240,033 (the “Portfolio”) will be sold tomorrow at 9:30 a.m. for \$33.5 million to SGI.

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<sup>2</sup> Angelo Diaz Gonzalez and Agency includes both Angelo Diaz and his hierarchy of agents within his company.

2. A Dallas asset manager is interested in exploring a possible offer to the Receiver, subject to satisfactory premium mapping results, which may provide the investors substantially more than they stand to recover under the current sale to SGI, up to 3 times as much. The asset manager is endeavoring to complete the mapping of premiums over the next several days. Subject to the results therein, the asset manager may be in a position to agree to carry the costs of insurance on the Portfolio, and to share the death benefits from the Portfolio with the investors as they mature, such that the investors may recover upwards of 3 times the amount of funds they will recover under the current SGI sale.

3. Attached as Exhibits "A", "B," "C," and "D," are life settlement cash flow illustrations which reflect the potential recovery to the investors if the 39 insureds (i) die on the dates anticipated under updated life estimates (\$92,886,013); (ii) die 12 months past life expectancies (\$91,026,013); (iii) die 24 months past life expectancies (\$76,649,863); and (iv) die 36 months past life expectancies (\$59,483,335). Discounting these figures to present value at a 14% discount rate would yield a range of \$28,663,860 to \$63,922,970 to the investors under these three probable scenarios.

4. Under the current SGI sale, the investors stand to recover no more than \$20 million.

5. The Receiver and Examiner have been informed of this development, but intend to move forward with the SGI closing tomorrow morning at 9:30 a.m.

6. The Agency incorporates by reference all recitations of facts and argument set forth in docket nos. 180 and 187 previously filed by the Agency with the Court.

7. This Court's Order (docket no. 195) denying the Agency's motion to reconsider (docket no. 180) the Magistrate's Order (docket no. 179) and the Agency's emergency motion for stay (docket no.187) was entered on October 31, 2008.

8. This motion for reconsideration and stay of the Court's Order (docket No. 195) is therefore timely under Fed. R. Civ. P. 59(e) and 62(b)(3).

### **ARGUMENT**

9. Fed. R. Civ. P. 59(e) provides that "newly discovered evidence" not available at the time of the prior hearing may constitute grounds for reconsideration of the underlying judgment or order. *See Ford v. Elsbury*, 32 F.3d 931, 937 (5<sup>th</sup> Cir. 1994) (reversing district court's denial of motion for reconsideration where newly discovered evidence was highly relevant to the motion at issue).

10. The Dallas asset manager's information constitutes "newly discovered evidence" for purposes of Rule 59(e). Such evidence was not available at the time of the Sale Hearing or the initial motion for reconsideration. The evidence is extremely relevant to the issue of whether the Sale Order should be reconsidered and set aside as not being in the best interests of the investors.

11. Accordingly, the newly discovered evidence constitutes sufficient grounds for this Court to grant this emergency motion, stay the closing on the Portfolio set for tomorrow morning, stay the Magistrate's Order, stay the Order of this Court denying the reconsideration/stay, and set aside the Magistrate's Sale Order (docket 179).

WHEREFORE, the Agency respectfully prays that the Court (i) will grant this Emergency Motion; (ii) issue an emergency stay, prohibiting the Sale Closing scheduled for tomorrow morning at 9:30 a.m.; (iii) set aside the Sale Order (docket no. 179); and (iv) grant such other relief to which the Agency may show itself entitled to receive.

Dated: this 5th day of November, 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 email, fax and first class mail, postage prepaid on this 5th day of November, 2008.

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I further certify that a copy of the foregoing pleading was served upon the following party by first class mail, postage prepaid on this 5th day of November, 2008.

/s/ John S. Brannon

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