

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., §

Defendants §

and §

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

Relief Defendants. §

RECEIVER'S MOTION TO DISALLOW/ADJUST "A" CLAIMS

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

Comes now, Michael J. Quilling, the Receiver appointed in these proceedings ("Receiver") and files this Motion to Disallow/Adjust "A" Claims. In support of this motion the Receiver would respectfully show the Court as follows:

1. On November 17, 2006, the Court appointed Michael J. Quilling to serve as Receiver in these proceedings and he has done so since that time.
2. On January 16, 2007, the Receiver filed a Motion to Establish Claim Procedure Plan and to Approve Claim Form, which Motion was granted by Order dated January 18, 2007.

Pursuant to paragraph 8 of the Order, the Receiver requests that the Court disallow or adjust each of the following claims for the reasons set forth below:

Augmented Claims

3. From time to time, when ABC Viaticals, Inc. ("ABC") solicited and received investment funds from investors, they would intend to designate those funds to a specific policy having a specific return. Sometimes, the contemplated policy would have no room for additional investment, so the investment funds would be designated to a new policy. In some instances, the new policy had a lower return than the originally contemplated policy. In order to meet the investor's expected return based upon the originally contemplated policy, ABC, at the time the funds were assigned to a substitute policy, would increase or augment the amount of the investment so as to cover the reduced return. In that regard, the investor did not actually invest the amount of the augmentation, nor did ABC actually receive the augmented amount. As reflected on Exhibit 1 attached hereto, there are 2 claims designated as having been augmented and which the Receiver has not been able to resolve by contact with the investor. Accordingly, the Receiver requests that the Court deny each of the augmented claims because the investor did not actually invest the amount of the augmentation.

Death Benefit Claim

4. When ABC solicited investors, it represented that upon death of a given insured, the investor would receive a certain fixed amount. Upon receipt of the claim form from the Receiver, a number of investors submitted a claim for the entire amount they were told they were received upon death of the insured as opposed to the amount of their actual investment. As set forth on Exhibit 1, there are 5 claims submitted for the entire amount of the death benefit which the Receiver has been unable to resolve by contact with the investor. Accordingly, the Receiver

requests that the Court adjust the amount of the allowed claim to reflect only that amount which was actually invested by a given investor as opposed to the anticipated amount to be received on death of the insured.

Commissions Exceed Investment

5. A couple of investors also acted as brokers with respect to soliciting other investors. In those instances, ABC paid the investor/broker a commission. As reflected on Exhibit 1, there are 2 claims filed by investors who received commissions which require that the claims be disallowed to reflect an offset of the amount of the commission. Accordingly, the Receiver requests that the Court deny those claims because the investors received commissions which were in excess of the amount of the actual investment.

Accelerated Benefits Corp. Claims

6. Prior to beginning ABC, Defendants Keith LaMonda and Jess LaMonda operated a virtually identical entity called Accelerated Benefits Corp. Each of them have been tried and convicted of having operated a fraud with respect to Accelerated Benefits Corp. Upon receipt of the claim form from the Receiver, a number of investors filed a claim which reflected an investment made with Accelerated Benefits Corp. as opposed to ABC. In that ABC did not receive those funds, the Receiver requests the Court disallow each of those claims.

No Evidence Claims

7. When the Receiver sent a claim form to investors, each investor was required to submit evidence of the investment. As reflected on Exhibit 1, there is 1 claim where the investor did not submit evidence regarding the claim and, despite contact by the Receiver, the investor has not forwarded any evidence. In addition, the records of ABC do not reflect such an

investment. Accordingly, the Receiver requests that the Court disallow this claim as having no evidence to support it.

Miscellaneous

8. Investor Moshe Markowicz filed claim number ABA-02231 in the amount of \$15,000.00. Records available to the Receiver reflect that Mr. Markowicz only invested \$10,000.00 and despite contact by the Receiver, Mr. Markowicz has been unwilling to reduce the claim to the actual amount invested. Accordingly, the Receiver requests that the Court adjust the amount of the allowed claim to \$10,000.00.

9. Investor Rebecca Lawrence filed claim number ABA-03747 in the amount of \$310,000.00 which reflects not only a claim for the amount of the alleged death benefit return, but includes augmentations as well. After having reviewed the claim, the Receiver believes that the claim should be reduced to the amount actually invested, \$150,000.00, but has been unable to resolve the claim with the investor. Accordingly, the Receiver requests that the Court reduce the amount of the allowed claim to \$150,000.00.

WHEREFORE, premises considered, upon final consideration of this Motion, the Receiver requests that the Court disallow/adjust the claims as requested and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself 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 copy of this pleading was served on all interested parties through the Court's electronic

filing system and by U.S. Mail to:

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