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

§

MICHAEL J. QUILLING, Receiver for ABC VIATICALS, INC. and Related Entities.

Plaintiff,

Defendants.

VS.

INTERNATIONAL FIDELITY & SURETY LIMITED, INTERNATIONAL **CONSULTANTS & MANAGEMENT** § § LTD., SURETY MARKETING SOURCE, § LLC, KPMG VANUATU, HAWKES LAW, KPMG INTERNATIONAL, § **BOSWELL, DERMOTT & PAWLETT,** § § LLP, MOHAN & ASSOCIATES, DAVID A. GOLDENBERG, DAG 8888888 INVESTMENTS, LLC, LPG INVESTMENTS, LLC, WED MARKETING, LLC, GALAX HOLDINGS, LTD., MARK WOLOK, LINDA WOLOK and ARIE KOTLER.

Civil Action No.: 3:07-CV-0421 P

ECF

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST DEFENDANT SURETY MARKETING SOURCE, LLC

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TO THE HONORABLE JORGE SOLIS, UNITED STATES DISTRICT JUDGE:

Plaintiff Michael J. Quilling, as Receiver for ABC Viaticals, Inc. and other related entities, ("Plaintiff" or "Receiver") files this Motion for Partial Summary Judgment against Defendant Surety Marketing Source, LLC under Federal Rule of Civil Procedure 56. In support of that motion, the Receiver would respectfully show the Court as follows:

I. SUMMARY

As permitted by Local Civil Rule 56.3(b) of the United States District Court for the Northern District of Texas, the elements of each claim for which summary judgment is sought, along with the factual and legal grounds supporting those claims, are set forth in the Brief in Support of Plaintiff's Motion for Partial Summary Judgment, which is filed simultaneously with this motion.

II. SUMMARY JUDGMENT EVIDENCE

Plaintiff's Motion for Partial Summary Judgment is based on the Declaration of Michael J. Quilling, Receiver, Exhibit A (App. at 4-8).

III. REQUESTED RELIEF

Plaintiff respectfully requests that the Court enter judgment in his favor and against Defendant Surety Marketing Source LLC ("SMS") under Rule 56 and enter an order as follows:

- 1. finding that ABC Viaticals, Inc. ("ABC") was operated as a Ponzi scheme;
- 2. finding that SMS received a fraudulent transfer of \$3,267,037.50 from ABC's Ponzi scheme;
- 3. awarding a money judgment in favor of the Receiver and against SMS in the principal amount of \$3,267,037.50;
- 4. awarding the Receiver's costs, fees, pre-judgment interest, and post-judgment interest at the highest rate permitted by law;
- 5. finding that SMS received \$3,267,037.50 that was impressed with a constructive trust for the benefit of ABC's investors; and

6. directing SMS to disgorge those amounts to the Receiver within 60 days.

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully requests that the Court enter a judgment in his favor as set forth above and for such other and further relief, general or special, at law or in equity, to which he is otherwise justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY & LOWNDS, P.C. 2001 Bryan Street, Suite 1800 Dallas, Texas 75201 (214) 871-2100 (Telephone) (214) 871-2111 (Facsimile)

By: /s/ Brent J. Rodine

Michael J. Quilling State Bar No. 16432300 Brent Rodine State Bar No. 24048770

Bruce S. Kramer (TN Bar No. 7472) Borod & Kramer, P.C. 80 Monroe Avenue, Suite G-1 Memphis, TX 38103 (901) 524-0200 (Telephone) (901) 523-0043 (Facsimile)

ATTORNEYS FOR RECEIVER

CERTIFICATE OF SERVICE

A true and correct copy of this pleading will be served upon all interested parties through the Court's electronic filing system.

In addition, a copy of this pleading has been sent by U.S. Mail, first class postage prepaid, to:

David A. Goldenberg Estate of David Goldenberg 3036 West Ridge Court Bloomfield Hills, MI 48302

Mark Wolok c/o Jay S. Kalish Jay S. Kalish & Associates, P.C. 28592 Orchard Lake Rd., Ste. 360 Farmington Hills, MI 48334

Surety Marketing Source, LLC The Estate of David Goldenberg 3036 West Ridge Court Bloomfield Hills, MI 48302

/s/ Brent J. Rodine	

This pleading will also be posted on the Receiver's website, www.secreceiver.com after filing.