

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60473-CIV-MORENO

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP.,  
JOEL STEINGER a/k/a JOEL  
STEINER, LESLIE STEINGER  
a/k/a LESLIE STEINER and  
PETER LOMBARDI,

Defendants,

VIATICAL BENEFACTORS, LLC,  
VIATICAL SERVICES, INC.,  
KENSINGTON MANAGEMENT, INC.  
RAINY CONSULTING CORP.,  
TWIN GROVES INVESTMENTS, INC.,  
P.J.L. CONSULTING, INC.,  
SKS CONSULTING, INC., and  
CAMDEN CONSULTING, INC.

Relief Defendants.

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**FIRST REPORT OF RECEIVER**

Roberto Martinez, court-appointed receiver (the "Receiver") of Mutual Benefits Corp. ("MBC"), Viatical Benefactors, LLC ("VBLLC") and Viatical Services, Inc. ("VSI"), (collectively the "Receivership Entities") hereby submits his First Report of Receiver.

**I. BACKGROUND**

On May 3, 2004, the Securities Exchange Commission ("SEC") commenced this action by filing its Complaint for Injunctive Relief and Other Relief (the "Complaint") against the

Receivership Entities. On May 4, 2004, at 5:00 p.m., the Court entered a Temporary Restraining Order (the "TRO"), in part restraining the Receivership Entities from engaging in new business. At the same time the Court entered its Order Appointing Receiver (the "Receivership Order"), which among other things appointed the Receiver and directed him to take control of the Receivership Entities.

The Receiver immediately mobilized professionals to enforce and comply with the terms of the Receivership Order. The following is a summary of the Receiver's efforts during the 12 days since he was appointed. Due to the brief period of time that has elapsed since the entry of the Receivership Order, this report contains preliminary assessments and findings which may be subject to change as the Receiver and his professionals are better able to examine the financial and operational affairs of the Receivership Entities.

## II. INITIAL IMPLEMENTATION OF THE RECEIVERSHIP ORDER

**A. Execution of the Receivership Order.** The Receivership Entities involved three corporate entities located at two separate sites in Fort Lauderdale and two separate storage locations. To effectuate the seizure as effectively and efficiently as possible, it became apparent that this matter would require a large but manageable staff of professionals, administrative personnel and legal assistants. The Receiver retained the services of Kozyak Tropin & Throckmorton, P. A. and Colson Hicks Eidson as his legal advisors. The Receiver retained Berkowitz Dick Pollack & Brant Certified Public Accountants & Consultants, LLP to provide forensic accounting services. The Receiver also retained the computer forensic division of Rachlin Cohen & Holtz for the purpose of acquiring and extracting data from computer hard drives, servers, and workstations located on the seized premises. He also retained the services of Integrity Plus Service to provide security and investigative services.

On the morning of May 5, 2004, the Receiver coordinated teams comprised of the above-named professionals, and with the assistance of the U. S. Marshal's Office and the United States Immigration and Customs Enforcement, simultaneously took possession of the business offices of the Receivership Entities (MBC and VSI) in Fort Lauderdale, Florida.<sup>1/</sup> The main office of MBC comprises the entire 10th floor (16,293 sq. ft.) and portions of the 11th floor (6,700 sq. ft.) of a large multi-story office building in downtown Ft. Lauderdale, located at 200 East Broward Boulevard. VSI's offices are located in a separate building 20 minutes north of downtown, located at 2755 East Oakland Park Boulevard. On the day the Receivership Order was executed, MBC had 73 employees and VSI had 20 employees at their respective locations.

The Receiver took possession of all assets, books, records, documents and computer hardware and software at both premises, as well as the two storage facilities. Both the seizure and the state of the records and the assets were recorded by a professional videographer. The Receiver has retained 24-hour security guard services at both locations in order to control access to the premises and prevent the unauthorized removal of property from the premises.

**B. Meeting with Employees.** After taking possession of the premises, the Receiver gave the employees an overview of the terms of this Court's Receivership Order and informed the employees that some would be contacted to return to work. The employees present at the premises during the takeover were asked to complete a questionnaire to provide the Receiver with a description of the employee's duties and contact information for the employee so that the Receiver could determine which employees would be of assistance to the Receiver.

The employees were escorted to their work areas to gather personal belongings, such as

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<sup>1/</sup>VBLLC is discussed separately below.

wallets, purses, medications and glasses, for which they signed a receipt, and were then escorted out of the premises. The Receiver established strict procedures for employees to recover personal items from the premises. To allow the Receiver's staff an opportunity to inventory all work areas and distinguish personal from business related documents, employees were not allowed to take any documents from the premises.

**C. Imaging of Computer Systems.** The computer experts hired by the Receiver immediately shut down the computer system at each location to prevent access to the computer system from outside the premises during the seizure. Links to outside the premises were disconnected. The computer experts created mirror images of critical hard drives and servers, including critical laptops.

### **III. THE VIATICAL BUSINESS**

One of the Receiver's first tasks was to gain an understanding of the viatical and life settlement business in general and the nature of MBC's viatical and life settlement business in particular.

A viatical or life settlement is a transaction that monetizes a life insurance policy. The owner of the policy sells the policy for an amount that is higher than the cash surrender value of the policy (if there is one) but for an amount that is lower than the face amount of the policy. A viatical settlement is a transaction in which the insured is terminally ill. A life settlement is a transaction where the insured is elderly, but not necessarily ill.

This arrangement is attractive to the seller and the investor. The seller is able to "cash out" a life insurance policy to pay for medical care, a trip, gifts, or living expenses. The investor expects to receive a return on his investment, determined by the difference between the amount invested and

the amount paid by the policy on the death of the insured. At the time of the transaction the investor is provided with a medical estimate of the insured's life expectancy (LE). The discount, together with the LE, allow determination of an anticipated rate of return. The transaction is also attractive to some investors because some investors view this type of transaction as humanitarian.

In a typical transaction a broker "shops" an insurance policy to known viatical settlement companies. The viatical settlement company has a pool of funds, provided by institutional funding or through investors, to purchase the insurance policy. By law in many states, funds adequate to pay the viator (the insured or owner of the policy, if different) must be held in escrow. At the "closing" the viator is paid for the policy, assignments of the policy are sent to, and acknowledged by, the insurance company, typically some funds are placed in escrow to pay for premiums on the policy, broker commissions are paid, and the "profit" is retained by the viatical settlement company.

Often the viatical investments are fractionalized, meaning that more than one, and usually several, investors receive an interest in the policy. Because some insurance companies may not allow several owners of a policy, oftentimes ownership of the policies are assigned to a trustee, while the investors are listed as the beneficiaries of the policy. When the viator dies, the investors, as beneficiaries, receive the death benefits. In some instances the viatical settlement company is a beneficiary under the policy as well.

While the viator is alive, the policy must be administered, premiums must be paid (unless there is adequate cash value in the policy to pay the premiums) and the health, and death, of the viators must be monitored. Some viatical settlement companies perform this service and sometimes this service is performed by an outside company.

MBC and VBLLC are viatical settlement companies. It is the Receiver's understanding that

VBLLC does business only in California and Texas because MBC is not licensed to do business in those states. All functions of VBLLC appear to be performed by MBC. VSI is ostensibly a separate company which services MBC's and VBLLC's policies. VSI's corporate books show its owners and officers to be different from those of MBC and VBLLC. The Receiver presently has no knowledge whether there is any other relationship between MBC, its principals and VSI.

When MBC first began its viatical business, it did not set up premium escrows. Apparently MBC was listed as the owner of many of the policies, with investors listed as beneficiaries. Premiums for these policies appear to be paid directly from MBC's operating accounts. In approximately the year 2000, MBC started setting up escrow accounts for the ostensible purpose of receiving monies for the payment of future premiums and for the payment of those premiums. Attorney Anthony Livotti, as trustee was listed as the owner of the policy, with investors named as beneficiaries of the policies.

The SEC has alleged that the life expectancies upon which the premium escrows were set up (and the investors initially solicited) were fraudulent. The SEC has also alleged that the premium escrows have been used to fund premium payments for policies other than those for which the escrows were established. As part of his responsibilities, the Receiver will be looking into those allegations.

#### **IV. REGULATORY ACTIVITY**

On May 3, 2004, the day before this Court's Receivership Order, the Florida Office of Insurance Regulation issued an Emergency Cease and Desist Order suspending MBC's license on an emergency basis for 90 days pending further regulatory action. This action was based on determinations similar to the SEC allegations.

On May 3, 2004, the Florida Office of Statewide Prosecutor issued a 16 count criminal information against MBC, charging it with 1 count of Racketeering and 15 counts of Investment Fraud.

The Court's Receivership Order did not stay litigation or other regulatory actions involving state or federal regulators. Nevertheless, the Receiver's counsel obtained lists of all such actions from MBC's outside counsel. Those lists detailed 10 regulatory actions in 7 different states. The Receiver filed and served this Court's order in those actions. In addition, the Receiver corresponded with MBC's counsel in each of these cases to obtain information concerning each of these actions. Again, these contacts led to numerous phone calls from MBC counsel as well as numerous phone calls from state regulatory agencies. Receiver's counsel has undertaken to respond to these phone calls and answer the questions and concerns expressed by counsel.

In addition, Receiver's counsel has undertaken to establish lines of communication with state regulators throughout the United States. The Receiver is working with the National Association of Securities Administrators (NASA) to establish a way of communicating with all state securities regulators so as to address their concerns and at the same time minimize the cost of such communication to the Receivership. The Receiver is also working with the National Association of Insurance Commissioners (NAIC) to establish similar lines of communication with all state insurance regulators. One goal of these communications is to eliminate, or at least minimize, the need to respond to regulatory requests and regulatory actions from securities administrators and insurance commissioners in each of the states in which the Receivership Entities did business..

#### **V. PRELIMINARY INFORMATION REGARDING THE INSURANCE POLICIES**

As detailed earlier in this Report, investor funds are used to purchase interests in life

insurance policies. After purchase, the insurance policies are serviced by VSI, one of the Receivership Entities. VSI directs payment of premiums on the insurance policies as those premiums come due, and tracks policy proceeds when the policy matures.

VSI maintains extensive information concerning both active and matured policies. The Receiver anticipates that VSI's files and database will be a key source of information for analyzing how the Receivership Entities operated and how, should it become necessary, claims of investors will be analyzed and determined.

Many individuals, including many state regulators, have expressed concern as to whether all insurance policies alleged to have been purchase actually exist. They have also expressed concern as to whether policies have been "oversold," i.e., the same interests in the policies being sold to more than one investor. Although the Receiver has been in place for only a short period of time, the Receiver and his professionals have worked with VSI on a daily, continuous basis. The Receiver has not seen, to date, any such problems with respect to the insurance policies involved in this Receivership. However, because of the large number of policies in force and the short period of time the Receiver has been in place, it is too soon to state with any certainty whether such problems exist or not.

With the assistance of some VSI employees, the Receiver has undertaken to identify all viatical premiums that are due and is in the process of opening bank accounts to which he can transfer funds sufficient to pay premiums that come due in the next thirty days. The Receiver is also in the process of confirming that all premium checks sent out prior to May 5 have been honored, and to the extent not honored, has set up a mechanism to identify those checks and replace them. As noted previously, all viatical premiums will be paid for at least the first thirty days of the



Receivership. The Receiver has sent letters to all insurance companies that may be issuing death benefits checks in the near future and have asked them to hold onto those funds while the Receiver assesses the nature and interest of the Receivership, if any, in those funds. To the extent necessary the Receiver will seek a court order that directs these insurance companies to hold these funds pending further court order. The Receiver will also be seeking a court order that prohibits any insurance company from causing a policy to lapse without first notifying the Receiver and giving the Receiver an opportunity to cure, and perhaps also requiring authority of the Court prior to any lapse.

The Receiver's forensic accountants have begun to review VSI's database. The Receiver cautions that his forensic accountants have not determined the accuracy or completeness of that database. As a result, the information derived from that analysis is extremely tentative, and is designed only to provide a general understanding. Preliminary analysis of the VSI database shows a total population of 9,559 policies with a face value of \$1,781,177,867. The Receiver believes this database purports to include all insurance policies purchased and sold by MBC and VBLLC since their inception; however, as of the date of this report the Receiver cannot verify this to be true. Of this population, 1,902 policies with a face value of \$200,555,953 have matured (i.e., the insured has died) prior to the Receivership; 7,657 policies with a face value of \$1,580,621,914 were active as of the date of the Receivership.

Discussions with various people familiar with the viatical industry suggested that it is important to distinguish HIV related policies from non-HIV related policies. VSI's database appears to categorize policies as HIV related and non-HIV related. VSI's database also appears to include information relating to the life expectancies (LE) assigned to each policy. Again, the Receiver cautions that this information has not been verified in any way. Preliminary analysis of VSI's

database shows that, with respect to the 7,657 active policies, 6,851 policies with a face value of \$574,843,868 are denominated as HIV related; 806 policies with a face value of \$1,005,778,046 are denominated as non-HIV related.

Preliminary analysis of VSI's database shows that, with respect to the 6,851 active policies denominated as HIV related, 6,763 policies with a face value of \$560,090,290 have exceeded the life expectancy appearing in the VSI database; 88 policies with a face value of \$14,753,578 have not exceeded the life expectancy appearing in the VSI database. Preliminary analysis of VSI's database also shows that, with respect to the 806 active policies denominated as non-HIV related, 141 policies with a face value of \$92,087,051 have exceeded the life expectancy appearing in the VSI database; 665 policies with a face value of \$913,690,995 have not exceeded the life expectancy appearing in the VSI database.

This data is summarized in the following chart:

	<u>HIV</u>		<u>NON-HIV</u>		<u>TOTAL</u>	
	<u># of Policies</u>	<u>FaceValue</u>	<u># of Policies</u>	<u>FaceValue</u>	<u># of Policies</u>	<u>FaceValue</u>
Total Policies	8,486	\$685,094,316	1,073	\$1,096,083,551	9,559	\$1,781,177,867
Matured Policies	1,635	110,250,448	267	90,305,505	1,902	200,555,953
Active Policies	6,851	574,843,868	806	1,005,778,046	7,657	1,580,621,914
Active Policies Beyond Rated Life Expectancy	6,763	560,090,290	141	92,087,051	6,904	652,177,341
% of Active Policies Beyond Rated Life Expectancy	98.7%	97.4%	17.5%	9.2%	90.2%	41.3%
Active Policies Not Beyond Rated Life Expectancy	88	14,753,578	665	913,690,995	753	928,444,573
% of Active Policies Not Beyond Rated Life Expectancy	1.3%	2.6%	82.5%	90.8%	9.8%	58.7%

The Receiver has been told that MBC's purchase and sale of non-HIV related insurance policies has grown dramatically in recent years as compared to its purchase and sale of HIV related insurance policies, so that one would expect the experience of those two pools of insurance policies to be different. Nevertheless, the data suggests that there may be a relatively small pool of non-HIV related insurance policies with a very large aggregate face value and which have not exceed life expectancy.

#### **VI. ACTUARIAL AND INSURANCE EXPERTS**

It quickly became apparent that the Receiver will need substantial expert assistance in understanding and analyzing the portfolio of more than 7000 active insurance policies related to MBC and VBLLC and the premium obligations related to those policies. In addition to utilizing the Receiver's forensic accountants, the Receiver has begun interviewing experts in these areas and will be in a position to retain such experts, and seek court approval of such retention, in the immediate future.

#### **VII. ASSET IDENTIFICATION AND RECOVERY**

The Receiver and his professionals are seeking to identify assets of the Receivership Entities, the Defendants and the Relief Defendants, secure those assets to the extent this Court's TRO has not already done so, and to analyze the nature and extent of the Receivership Entities' interests in those assets.

The Receiver's professionals have contacted all the banks whose accounts were frozen by the TRO, seeking account information including the amounts in the accounts on the date the order was served, as well as account activity in the six weeks preceding the entry of the order. In addition, the Receiver's professionals are analyzing information found in the computer records of the

Receivership Entities, as well as information in documents located in the offices of key individuals who worked directly or indirectly for the Receivership Entities.

The Receiver's professionals have contacted, and in many instances, already met with, representatives of all banks at which Receivership Entity bank accounts are known to be located. The Receiver's professionals have also met with, or spoken with attorneys for, banks that hold other viatical related accounts - such as accounts in the name of trustees, which are used to pay viatical premiums. The Receiver's professionals have confirmed with all banks that are the subject of the TRO that they have frozen the accounts that are listed in the order and are in the process of arranging for change in control of those accounts to the Receiver. In certain instances, where the accounts are not in the name of the Receivership Entities, it may be necessary to seek an order of this Court authorizing the financial institution to respond to our inquiries regarding these accounts.

The Receiver has identified, taken control of, and confirmed cash balances in various accounts totaling \$217,882,912. These include bank accounts, purportedly holding money from investors which had not yet been invested in the purchase of life insurance policies, in the amount of \$104,567,058. These also include bank accounts, purportedly holding money for the payment of insurance policy premiums, in the amount of \$103,413,749. These also include bank accounts, purportedly holding money for ongoing operating expenses MBC and VSI, in the amount of \$8,757,875. As already stated, these balances have been confirmed with the banks holding these funds.

The Receiver also has identified, taken control of and confirmed cash balances in various accounts totaling \$12,577,367 frozen by the TRO related to the Relief Defendants and related parties.

As of this date the Receiver has identified several companies that may have received funds from MBC which funds could possibly be recoverable by the Receiver. Once the Receiver has identified account information relating to those companies as well as the facts relating to those accounts, the Receiver may seek an order of the Court extending the TRO to those accounts.

The Receiver has sent letters to all legal and accounting professionals that either currently provide, or previously provided, services to the Receivership Entities, seeking the turnover of all books and records of those entities, and where appropriate, any funds held on behalf of any of the Receivership Entities. The Receiver has heard from several law firms, most of whom have agreed to cooperate with his request. The Receiver, through counsel, intends to serve subpoenas on those law firms who have declined to share this information with him. Once the Receiver has the books and records he will review them to identify, among other things, any additional assets about which he is not currently aware.

By Monday, May 11, the Receiver will have issued subpoenas *duces tecum* for deposition to the following: Peter Lombardi, the President and sole record shareholder of MBC, Joel Steinger, Leslie Steinger, Steven Steiner, Michael J. McNerney, Esq. (former outside general counsel to MBC) and the relief defendants, Kensington Management, Inc., Rainey Consulting Corp., Twin Groves Investments, Inc., P.J.L. Consulting, Inc., SKS Consulting, Inc. and Camden Consulting, Inc. The Receiver has also demanded that some of the above-named individuals, where appropriate, turn over personal computers that MBC provided to them recently, and which computers are installed in their respective residences.

Assets determined not to be Receivership assets have been returned. For example, the Receiver has returned to brokers and agents undeposited checks that were found in the MBC offices,

representing funds from potential investors. We also directed Union Planters Bank, N.A. ("UPBNA") that receives some potential investor money by wire transfer, to refuse to accept wire transfers received after this Court's freeze order.

Other than seeking return of the personal computers referenced above, the Receiver has not yet taken steps to recover other Receivership assets, as most identified assets have been frozen in accordance with the TRO, or are otherwise already under the custody and control of the Receiver. Further recovery shall, for the most part, require litigation, which the Receiver is in the process of analyzing.

The Receiver and his professionals are in the process of analyzing and understanding the nature of the Receivership's interest, if any, in various cash and viatical assets, which requires a detailed review of many documents and agreements, many of which are voluminous. Pending completion of this analysis the Receiver has taken steps to maintain the status quo as to all identified assets. All funds currently in frozen accounts will remain frozen except as is necessary to pay premiums on policies and costs of operating the Receivership. Once the Receiver has completed a preliminary analysis of the nature and extent of the Receivership's interest in assets, the Receiver will need to determine whether, and in what manner, those assets will be liquidated, or distributed.

### **VIII. ON-GOING RECEIVERSHIP OPERATIONS AT MBC**

The MBC office was primarily set-up to advertise, market and administer the sale of viatical and life settlement insurance contracts. As a result of the State of Florida Office of Insurance Regulations' Emergency Cease and Desist Order suspending MBC's viatical settlement provider license and its ability to further conduct any activities associated with the sale or marketing of viatical and life settlement contracts, the Receiver has taken steps to suspend the marketing and sales

operations at the MBC main office. In order to reduce and control expenses, the Receiver immediately reduced the number of employees at the MBC office from 83 employees to 7 core employees with working knowledge of the operations of the key company departments: (1) policy acquisitions; (2) policy funding; (3) customer service; (4) legal and (5) informational technologies. The Receiver decided to pay all employees for the entire first week of Receivership. The employees were informed that for the immediate future they have been placed on unpaid leave. The Receiver has hired a labor and employment lawyer regarding the Receiver's obligation, if any, to compensate employees and the appropriate steps for terminating employees if this becomes necessary. The Receiver informed employees that health benefits would continue for the next 30 days pending review by the Receiver and his professionals.

The remaining MBC employees are preparing reports for the Receiver's review on pending transactions with potential investors and viators and are also finalizing or unwinding pending deals, as instructed by the Receiver. They are also assisting the Receiver in understanding the nature and extent of MBC's assets including bank accounts and viatical and life settlement contracts. The MBC employees are also working with VSI employees to make sure that premium payments are timely paid to maintain the insurance policies, at least until such time as the Receiver can analyze the books and records of the Receivership Entities. The MBC office is currently open from 9:00-5:30 p.m. on weekdays and is currently being used by the Receiver and his professionals as well as the core MBC employees.

#### **IX. ON-GOING RECEIVERSHIP OPERATIONS AT VSI**

VSI provides services to MBC, VBLLC and escrow agents and trustees for funds invested in policies marketed to investors. VSI has a critical role in protecting receivership assets – the life

insurance policies – in that it administers the payment of policy premiums, tracks the medical status and whereabouts of the insureds and, upon the death of an insured, submits claims to insurance companies to facilitate distribution of the death benefits.

Due to the critical nature of VSI's services, the Receiver has kept 12 employees on staff. The offices are open from 9:00 a.m. to 5:00 p.m. on weekdays. Employees who must access the file room are accompanied by a security guard to maintain the integrity of those files, which contain policies, beneficiary changes, medical records and update information. A representative of the Receiver with extensive experience in the viatical industry, as well as a member of Integrity Plus Services, is on the premises during working hours.

VSI oversees premium payments by calendaring the premium due date and issuing instructions to the appropriate bank holding the MBC accounts. Various bank accounts are used by MBC to pay premiums. VSI determines which account is to be used to pay a particular premium, and issues directions identifying the due date, amount due and the insurance company to receive payment. VSI follows up by confirming the premium payment has been issued.

The premium payments come from accounts that have been frozen by this Court's TRO. In order to ensure that all required premium payments have been made and avoid any policy lapses, the Receiver is working with VSI's staff and the relevant banks to open new bank accounts, identify any pre-Receiver'ship premium checks that could not be paid because of the freeze and promptly issue replacement checks.

The Receiver also learned that, in many cases, insurance companies pay death benefits directly to the investors as beneficiaries. VSI has identified approximately 100 insurance policies which have matured and are being processed by the insurance companies for distribution of benefits.



In light of the potential for claims by all investors to the benefits ostensibly payable to some investors, the Receiver has determined that, for the time being, it is appropriate to protect all investors' interests by requiring insurers to pay benefits directly to the Receiver. Accordingly, Receiver's counsel has contacted insurers presently processing benefit claims to prevent any distribution of benefits, and will be contacting all insurers known to have issued a policy sold to MBC and VBLLC investors with the same objective – to preserve all policy benefits until a determination is made as to competing interests to the benefits. It is contemplated that some of the insurers will interplead policy benefits with the Court.

VSI is compensated by receiving an administrative fee up front, i.e., when MBC finalizes a contract matching an investor with a policy or portion of a policy. VSI then services the policy for its duration without receiving any additional compensation. Accordingly, VSI maintains a large cash balance to ensure its ability to cover its expenses during the period it must service the policy. The amounts of VSI's cash balances are part of the operating accounts detailed in Section VII. VSI's employees have advised the Receiver that VSI has sufficient funds to continue servicing MBC policies for about two years. Before the Receivership VSI's expenses ran about \$90,000 per month, including a recently extended lease (through July, 2005) for \$8,000 per month. The Receiver will be looking at ways to reduce VSI's expenses.

VSI's employees have advised the Receiver that, based on its past experience, the MBC policies it services mature at a rate of approximately 250 per year. VSI's employees also estimate that \$4.5 million is needed to pay policy premiums for the next 30 days and approximately \$30 million is needed to pay policy premiums for the next year. The Receiver's forensic accountants are currently reviewing VSI's records to determine the accuracy of these numbers and to arrive at precise

cash flow requirements for the coming months.

#### X. VIATICAL BENEFACTORS, LLC

VBLLC is an entity encompassed by the Order Appointing Receiver, and the Receiver has taken control of its known bank accounts. Because those accounts have been frozen, the Receiver is in the process of establishing new accounts, corresponding to the frozen accounts, in order to resume making premium payments for policies handled by VBLLC.

While VBLLC previously operated offices at two locations in Ft. Lauderdale, including the same location as VSI's previous location, the Receiver has not located any business location for VBLLC in South Florida at present. The Receiver has discovered a business address for VBLLC in Atlanta, Georgia. An investigation indicates VBLLC is a tenant in two office buildings there. Interviews with the staff of MBC and VSI indicate the principal of VBLLC is Richard Meekins, a business associate of Steve Steiner. The Receiver's counsel and staff have contacted Mr. Meekins, but he has not provided any meaningful information about VBLLC.

The Receiver has been advised that VBLLC sells investments in life insurance policies, which MBC may have arranged, in specific states (such as Texas and California) where MBC may not do so. VBLLC's procedures for funding the investments, closing the investment contracts, escrowing investor funds, making premium payments and servicing policies mirror those of MBC.

Other than information relating to VBLLC's bank accounts found at MBC and VSI, the Receiver has yet to obtain any books or records pertaining to VBLLC. The Receiver intends to seek further information from Richard Meekins and Anthony Livoti, Jr., Esquire, who serves as trustee and owner of record for many of the policies purchased by investors through VBLLC.

## **XI. THIRD PARTY LITIGATION**

The Receivership Order stayed all third party private litigation involving the Receivership Entities and their investors and required that litigation be brought ancillary to the Receivership action. To effectuate this provision, the Receiver's counsel obtained lists of all such pending litigation from MBC's outside counsel who monitored such litigation. Those lists detailed 41 cases in 17 different states as well as 1 case in Canada.. The Receiver filed and served this Court's Receivership Order in each of those cases. In addition, the Receiver corresponded with MBC's counsel in each of these cases to obtain information concerning the status of these cases. These contacts led to numerous phone calls from MBC's counsel in many of these cases, as well as numerous phone calls from the opposing counsel in many of these cases. Receiver's counsel has undertaken to respond to these phone calls and answer the questions and concerns expressed by counsel.

## **XII. PRODUCTION OF DOCUMENTS RESPONSIVE TO SEC SUBPOENAS**

The SEC served the Receiver with multiple subpoenas seeking expedited discovery of computer files and records maintained at the MBC and VSI offices. The Receiver and his counsel have cooperated with the SEC and have produced responsive documents and computer files as kept in the ordinary course of business. To insure chain of custody integrity and compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) standards, the Receiver has assigned members of his team to coordinate with the SEC on production issues and has implemented procedures for retaining control over the documents.

## **XIII. CLAIMS ADMINISTRATION**

Immediately after the Receiver took possession and control of the Receivership Entities, the

Receiver set up a website at [www.mbreceiver.com](http://www.mbreceiver.com) to provide the public and investors with frequent updates as to the progress of the case. The website includes a “frequently asked questions” section that endeavors to provide some answers to basic questions that the Receiver anticipates investors and viators may have during the initial receivership period. The website also has links to access copies of some of the principal court filings. Also, e-mail messages may be sent to the Receiver by clicking on to the link established on the website. The website has been translated to the Spanish Language to assist interested investors from Spanish speaking countries. The website will be updated periodically.

Additionally, a hotline was set up in order to answer questions. The hotline number is 305-577-1099. Due to the large volume of telephone calls, calls are being returned within 48 hours.

The Receiver has been informed that there are in excess of 20,000 investors for the viatical and life settlement agreements currently in force. The Receiver has not yet been able to verify this figure. However, it is apparent from the hundreds of telephone calls and the large volume of correspondence received to date from investors and viators that the Receiver will need to employ the assistance of a professional specialist in contacting investors and others with potential claims against the Receivership Entities. This will allow for an orderly and manageable process that will inure to the benefit of investors. To that end, the Receiver is currently in the process of negotiating with a professional claims administrator that should be in place this week.

CONCLUSION

The Receiver has sought to comply with this Court's Orders through the foregoing efforts. The Receiver will continue to act consistent with the Orders and further directives of this Court. The Receiver will prepare and submit to the Court additional status reports at regular intervals, as directed by this Court.

DATED this 17<sup>th</sup> day of May, 2004.

Respectfully submitted,

By:

  
Roberto Martínez  
Receiver

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 17<sup>th</sup> day

of May, 2004 to the following:

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