

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

OKLAHOMA DEPARTMENT OF )  
SECURITIES *ex rel.*, IRVING L. )  
FAUGHT, ADMINISTRATOR, )

Plaintiff, )

v. )

ACCELERATED BENEFITS )  
CORPORATION, a Florida )  
corporation, et al., )

Defendants. )

FEB 28 2003

PATRICIA PRESLEY, COURT CLERK  
by \_\_\_\_\_  
Deputy

Case No. CJ-99-2500-66

**DEFENDANTS' RESPONSE TO APPLICATION FOR INSTRUCTIONS  
FROM THE COURT REGARDING DISBURSEMENT OF PROCEEDS  
FROM SALE OF CONSERVATORSHIP ASSETS**

Defendant, Accelerated Benefits Corporation ("ABC"), hereby objects to the Conservator's "Application for Instructions from the Court Regarding Disbursement of Proceeds from Sale of Conservatorship Assets" (hereafter the "Conservator's Application"). For the reasons set forth below, to the extent the Conservator's Application seeks any relief against ABC on behalf of investors, it should be denied.

## DISCUSSION

Concealed in the 16th and 17th paragraphs of the Conservator's Application is a "suggestion" by the Conservator that "ABC should be ordered to reimburse the ABC investors for all [premium payments] collected prior to the inception of the Conservatorship on February 6, 2002." (Conservator's Application, ¶ 16.) In ¶ 17 of the Conservator's Application, he states: "Under the purchase agreements, ABC warranted to the ABC investors that they would not have to pay any amounts beyond their investments in order to keep the viaticals in force."

Thus, in the space of two paragraphs, the Conservator seeks affirmative relief on behalf of thousands of investors who are not even parties to this proceeding. Moreover, neither the investors nor the Conservator have ever even filed a petition seeking such relief nor have they complied within any of the other procedural rules contained in the Oklahoma Pleading Code. Obviously no trial has ever been conducted on whether in fact "ABC warranted to the ABC investors [outside of Oklahoma] they would not have to pay any amounts beyond their investments." Nor has a trial been held to determine any of the other numerous legal and factual issues which would have to be determined in order to afford ABC simple due process. Thus, the Conservator's application should be summarily denied.

What is particularly disturbing about the Conservator's request is that it is buried in a motion that makes no mention, in its caption, that this particular relief is being sought. Such conduct is sanctionable and should not be countenanced. The Conservator's counsel should, at the very least, be admonished and should be denied any fees incurred in preparing and filing the Conservator's Application.

**CONCLUSION**

For the reasons stated above, to the extent the Conservator's Application seeks any relief against ABC, it should be denied.



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**CERTIFICATE OF SERVICE**

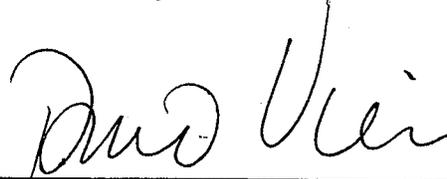
The undersigned hereby certifies that on this 28<sup>th</sup> day of February, 2003, a true and correct copy of the foregoing was mailed by first class U.S. Mail, postage prepaid thereon, to the following:

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