

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities,)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
vs.)
)
Accelerated Benefits Corporation, a Florida)
corporation, et al.,)
)
Defendants.)

Case No. CJ-99-2500-66
Judge Daniel L. Owens
FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

DEC - 6 2002

PATRICIA PRESLEY, COURT CLERK
By Deputy

NOTICE OF HEARING

Please be advised that a hearing on Conservator's Application for Order Directing Defendant Accelerated Benefits Corporation to Reimburse the Conservator for Advances for Premium Shortfalls has been set for the 10 day of Jan, 2003, at 9 o'clock a.m., before the Honorable Judge Daniel L. Owens.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 6096
Thomas P. Manning, OBA No. 16117
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Twelfth Floor, One Leadership Square
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ATTORNEYS FOR CONSERVATOR,
TOM MORAN

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

Oklahoma Department of Securities,)
ex rel. Irving L. Faught, Administrator,)

Plaintiff,)
FILED IN THE DISTRICT COURT
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vs.)
DEC - 6 2002 Case No. CJ-99-2500)
Judge Daniel L. Owens)

Accelerated Benefits Corporation, a Florida corporation, et al.,)
by PATRICIA PRESLEY, COURT CLERK)
~~Deputy~~)

Defendants.)

**APPLICATION FOR ORDER DIRECTING DEFENDANT ACCELERATED
BENEFITS CORPORATION TO REIMBURSE THE CONSERVATOR
FOR ADVANCES FOR PREMIUM SHORTFALLS**

Conservator, Tom Moran, hereby respectfully applies to the Court for an order directing Defendant, Accelerated Benefits Corporation, to reimburse the Conservator for advances made by the Conservatorship for payment of premium shortfalls during the month of July and August, 2002. In support of this application Conservator states as follows:

1. The core litigation underlying this matter was a fraud action brought by the Oklahoma Department of Securities against Defendants, Accelerated Benefits Corporation ("ABC"), American Title Company of Orlando ("ATCO"), C. Keith LaMonda and David S. Piercefield (collectively "Defendants"), and three Oklahoma residents (the "Oklahoma Defendants") who offered and sold investments in life settlement policies ("Viaticals") on Defendants' behalf. On December 17, 1999, the District Court entered an agreed order and judgment finding that the Oklahoma Defendants, acting as unregistered broker-dealers or agents, had sold unregistered securities in and from Oklahoma.

2. On February 6, 2002, the Court entered its Order Appointing Conservator and Transferring Assets (the "Conservatorship Order") and appointed Tom Moran as Conservator. The Conservatorship Order transferred certain assets of ABC and its agents, including LaMonda, ATCO and Piercefield, (the "Conservatorship Assets"). *See* Exhibit "A", Conservatorship Order.

3. The Conservatorship Order directed ABC to pay all costs of the Conservatorship until 75% of the Conservatorship Assets were transferred to the conservator. *See* Exhibit "A", Conservatorship Order.

4. The Court has specifically found that payment of premium shortfalls is an expense of the Conservatorship, as contemplated by the language of the Conservatorship Order. *See* Exhibit "B", Transcript of September 27, 2002 hearing, p. 33.

5. To date, there has been no finding by the Court that 75% of the assets subject to the Conservatorship Order have been transferred to the Conservatorship.¹

6. In spite of previous direction from the Conservator to the contrary, Defendants did not pay the policy premiums in July when due. Instead, Defendants ignored this direction and allowed the policies to enter the grace period, and with only a few days remaining before the policies would lapse for non-payment informed the Conservator that the premiums had not been paid and demanded that the Conservator pay premium shortfalls. The Conservator had no choice but to agree, under protest, to allow Conservatorship funds to be used to pay the shortfalls in order to prevent the lapse of the policies.

7. Similarly, on August 27, 2002, a mere three days before the lapse of policies would

¹ The Conservator has stipulated that as of November 1, 2002, approximately 75% of the policies subject to the Conservatorship Order were transferred to the Conservatorship.

occur, Defendants once again demanded that the Conservator pay premium shortfalls. Because of the timing, the Conservator once again had no choice but to agree, under protest, to allow Conservatorship funds to be used to pay the shortfalls in order to prevent a lapse in policies.

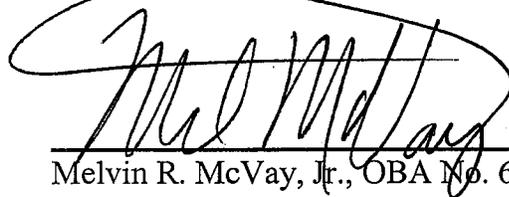
8. Since the payment of premium shortfalls has been found by the Court to be the responsibility of ABC under the terms of the Conservatorship Order, to which ABC agreed, the Conservatorship is entitled to be reimbursed for the amounts advanced.

9. The Conservator seeks reimbursement from ABC in the amount of \$88,576.12 for payment of premium shortfalls for the month of July, 2002.

10. The Conservator seeks reimbursement from ABC in the amount of \$84,869.70 for payment of premium shortfalls for the month of August, 2002.

WHEREFORE, premises considered, Conservator, Tom Moran, respectfully requests this Court enter an order directing ABC to reimburse the Conservatorship for funds advanced for the payment of premium shortfalls in the amount of \$173,445.82.

Respectfully submitted,



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Thomas P. Manning, OBA No. 16117

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ATTORNEYS FOR CONSERVATOR,

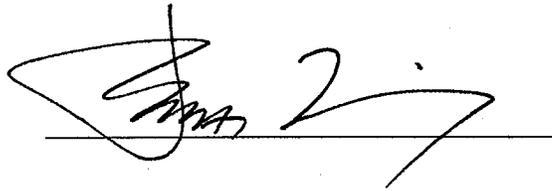
TOM MORAN

CERTIFICATE OF MAILING

The undersigned certifies that on the 6th day of December, 2002, a true and correct copy of the foregoing document was sent postage prepaid by first-class mail, to

Patricia A. Labarthe
Oklahoma Department of Securities
First National Center, Suite 860
120 North Robinson
Oklahoma City, OK 73102
Attorney for Plaintiff

Dino E. Viera, Esq.
William H. Whitehill, Jr., Esq.
Fellers, Snider, Blankenship,
Bailey & Tippens, P.C.
100 North Broadway Avenue, Suite 1700
Oklahoma City, Oklahoma 73102
Attorney for Defendants,
Accelerated Benefits Corporation,
American Title Company of Orlando,
C. Keith LaMonda and David S. Piercefield

A handwritten signature in black ink, appearing to read "W. Whitehill", is written over a horizontal line.

1. all life insurance policies owned or held beneficially, directly or indirectly, by or for the benefit of ABC and/or the ABC Investors, that were purchased from the date of inception of ABC through September 30, 2000 ("Policies");

2. all assets of ABC necessary to accomplish the objectives of the Conservatorship listed below including, but not limited to, computer hardware, databases, software, ABC Investor and viator files relating to the Policies, accounting and financial records pertaining to premium payments and receipt and distribution of proceeds on the Policies, any deposit of cash, bond or guarantee, filing cabinets, office supplies, the lease to office space at 105 East Robinson Street, Suite 320, Orlando, Florida 32801, and telephone systems;

3. all premium reserve accounts and bank accounts into which ABC Investor funds or proceeds from Policies have been deposited; and

4. the right to recoup from the proceeds of the Policies all funds advanced by ABC to finance the payment of premiums on the Policies.

IT IS FURTHER ORDERED that the Conservator is given directions and authority to accomplish the following:

1. to take custody, possession and control of the Conservatorship Assets as they are transferred to Conservator;

2. to manage all Conservatorship Assets pending further action by this Court including, but not limited to, the evaluation of the Policies, and to take the necessary steps to protect the ABC Investors' interests including, but not limited to, the liquidation or sale of the Policies to institutional buyers and the assessment to ABC Investors of future premium payments;

2- 8-02; 1:39PM; 1200788 # 4/ 8

3. to receive and collect any and all sums of money due or owing on the Policies to ABC or its agents whether the same are due or shall hereinafter become due and payable;

4. to seek the return of any cash, bond or guarantee on deposit with any regulatory agency or other entity on behalf of ABC or its agents;

5. to make such payments and disbursements as may be necessary and advisable for the preservation of the Conservatorship Assets and as may be necessary and advisable in discharging his duties as Conservator including, but not limited to, the timely payment of all premiums for Policies that have not yet matured;

6. to monitor the viators of the Policies by tracking the location of the viators and periodically checking the health of the viators;

7. to receive notice of the death of viators, file death claims on the viators, and collect the proceeds paid on the Policies as such mature;

8. to disburse to each ABC Investor his proportionate share of the proceeds paid on matured Policies, which amount may be reduced by the total amount of any premium payments advanced by ABC or the Conservator on behalf of such ABC Investor;

9. to establish open communication with ABC Investors with proper disclosure of available options and consequences including, but not limited to, notice to ABC Investors of this Conservatorship Order within thirty (30) days of the entry of this Order;

10. to retain and employ attorneys, accountants, computer consultants and other persons as may be advisable or necessary to the exercise of the duties of the Conservator. Conservator may immediately retain or employ such persons, and compensate such persons, all subject to application to and approval by the Court;

2- 8-02 1:59PM 120700 # 0 0 0

11. to open and inspect any and all mail and/or deliveries if same relate to the existence, location, identity and/or collection, preservation, maintenance or operation of Conservatorship Assets, and to notify any insurance company or third party administrator and the United States Postal Service to effect the forward delivery of any mail related to the Conservatorship Assets to a mail depository under the control of the Conservator;

12. to institute, prosecute, defend, intervene in or become party to such actions or proceedings in any state court, federal court or United States bankruptcy court as may in the Conservator's opinion be necessary or proper for the protection, maintenance and preservation of the Conservatorship Assets, or the carrying out of the terms of this Conservatorship Order; and

13. to exercise those powers necessary to implement his conclusions with regard to disposition of this Conservatorship pursuant to the orders and directives of this Court.

IT IS FURTHER ORDERED that ABC and its agents, including American Title Company of Orlando and David Piercefield, shall immediately begin the process of transferring the ownership and beneficial rights to the Conservatorship Assets to the Conservator until all Conservatorship Assets have been transferred. The transfer process shall conclude within ninety (90) days of the execution of this Order. If for any reason any Conservatorship Asset has not been transferred on or before end of the ninety (90) day period, ABC and/or its agents, including American Title Company of Orlando and David Piercefield, shall provide a list to the Conservator of the Conservatorship Assets that have not been transferred and the reasons therefor.

IT IS FURTHER ORDERED that this order supercedes the order of this Court dated May 10, 2001, that prohibited the assessment or collection of future premium payments from ABC Investors.

2- 8-02; 1:59PM; 723700

IT IS FURTHER ORDERED that ABC pay and maintain all office expenses, salaries, and other costs of the Conservatorship until at least seventy-five percent (75%) of all Conservatorship Assets have been transferred to the Conservator.

IT IS FURTHER ORDERED that all persons and entities, including ABC, its subsidiaries, affiliates, officers, directors, agents, servants, employees, attorneys, and all persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, and further including any banks or financial institutions, wherever chartered or located, life insurance companies, federal and state agencies, viators, viatical settlement providers, and viatical settlement brokers who receive actual notice of this Conservatorship Order, by personal service, facsimile transmission or otherwise, shall promptly deliver and surrender to the Conservator:

1. all Conservatorship Assets in the possession of or under the control of any one or more of them; and
2. all books and records of any kind pertaining to the Conservatorship Assets, to the ABC Investors, or to the viators whose lives are insured by the Policies.

IT IS FURTHER ORDERED that all persons and entities, including ABC, its subsidiaries, affiliates, officers, directors, agents, servants, employees, attorneys, and all persons acting on their behalf, under their direction and control, and/or in active concert or participation with them, and further including any banks or financial institutions, wherever chartered or located, life insurance companies, federal and state agencies, viators, viatical settlement providers, and viatical settlement brokers who receive actual notice of this Conservatorship Order, by personal service, facsimile transmission or otherwise, fully cooperate with and assist the Conservator and that they take no action, directly or indirectly, to hinder or obstruct the

Conservator in the conduct of his duties or to interfere in any manner, directly or indirectly, with the custody, possession or control exercised by said Conservator.

IT IS FURTHER ORDERED that the Conservator is authorized, without breaching the peace, to enter and secure any premises under the control of ABC or its agents, wherever located or situated, in order to take possession, custody or control of, or to identify the location or existence of, any Conservatorship Assets.

IT IS FURTHER ORDERED that the Conservator may apply to the Court for compensation, from time to time, in a reasonable sum to be determined by the Court and from such sources as approved by the Court and for reimbursement for reasonable expenses incurred in connection with his duties as Conservator. The fees and expenses of the Conservator shall have priority over any other claims made against ABC. The Conservator shall not be required to give any bond. The Oklahoma Department of Securities shall have the authority to seek removal of the Conservator for cause and upon approval of this Court.

IT IS FURTHER ORDERED that except by leave of Court during the pendency of this Conservatorship, all creditors and other persons seeking money, damages or other relief from ABC or its agents, including American Title Company of Orlando and David Piercefield, and all others acting on behalf of any such creditor or other persons, including sheriffs, marshals, and other officers and their deputies, and their respective attorneys, servants, agents, and employees, are hereby stayed and restrained from doing any act or thing whatsoever to interfere with ABC or its agents, including American Title Company of Orlando and David Piercefield, in the orderly transfer of the Conservatorship assets or the Conservator or to the possession of or management by the Conservator of the Conservatorship Assets, or to interfere in any manner during the pendency of this proceeding with the exclusive jurisdiction of this Court over ABC. This

Conservatorship Order shall not stay or restrain any pending or future action whatsoever by any government agency or any representative on behalf of any government.

IT IS FURTHER ORDERED that any Conservatorship Assets remaining at the conclusion of the Conservatorship shall be transferred to ABC.

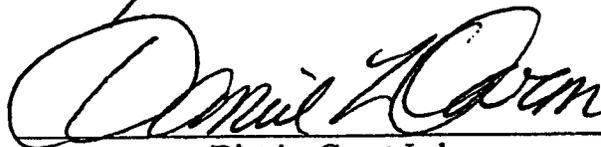
IT IS FURTHER ORDERED that ABC and its agents, including American Title Company of Orlando and David Piercefield, be held harmless from any and all liability, costs and damages arising in connection with each Conservatorship Asset after each such asset has been transferred to the Conservator.

IT IS FURTHER ORDERED that the Conservator be held harmless from any and all liability, costs and damages arising from acts of ABC and its agents, including American Title Company of Orlando and David Piercefield, before Conservatorship Assets have been transferred to the Conservator.

IT IS FURTHER ORDERED that the Conservator may rely on applicable exclusions or exemptions from registration under the Act in connection with the offer and/or sale of securities to institutional buyers in and/or from the state of Oklahoma.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over this matter and ABC for all purposes.

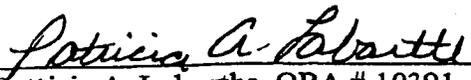
Dated this 6th day of February, 2002.

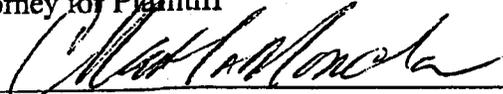


District Court Judge

I, PATRICIA PRESLEY, Court Clerk for Oklahoma County, Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the District Court Clerk's Office of Oklahoma County, Okla., this 7 day of FEBRUARY, 2002.
By [Signature] PATRICIA PRESLEY, Court Clerk Deputy

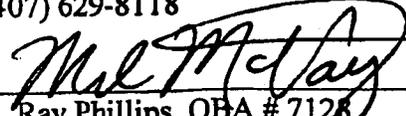
Approved as to form and substance:


 Patricia A. Labarthe, OBA # 10391
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 (405) 280-7700 Ext 7735
 Attorney for Plaintiff


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 American Title Company of Orlando
 230 Lookout Place, Suite 200
 Maitland, Florida 32751
 (407) 629-8118


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 Attorneys for Conservator

1 IN THE DISTRICT COURT OF OKLAHOMA COUNTY, STATE OF OKLAHOMA
2 OKLAHOMA DEPARTMENT OF)
3 SECURITIES, ex rel., IRVING L.)
4 FRAUGHT, ADMINISTRATOR,)
5)
6 Plaintiff,)
7)
8 vs.) CASE NO. CJ-99-2500
9)
10 ACCELERATED BENEFITS CORPORATION,)
11 a Florida corporation, et al.,)
12)
13 Defendant.)

COPY

14 * * * * *

15 SEVENTH JUDICIAL DISTRICT OF OKLAHOMA

16 MOTION HEARING

17 TRANSCRIPT OF PROCEEDINGS

18 HAD ON THE

19 27TH DAY OF SEPTEMBER, 2002

20 BEFORE THE HONORABLE DANIEL L. OWENS

21 DISTRICT JUDGE

22 * * * * *

23 Reported By:

24 Cynthia Kay Jones, RMR
25 Official Court Reporter
321 W. Park, Room 304
Oklahoma City, Oklahoma 73102
(405) 713-1149



1 those documents and that's the FBI and that causes a problem
2 well.

3 MR. MANNING: We did not get ATCO's records. We
4 got ABC's records. ATCO has records-- whatever records they
5 have they still have. That's correct.

6 MR. VIERA: Someone at the back of the room said
7 that.

8 THE COURT: Yeah. And here's where we're at.
9 I'm being asked to construe the order this Court has signed
10 relating to the payment and I believe the order is clear on its
11 face as to what the intent was.

12 Until 75 percent of those assets are transferred to the
13 conservatorship ABC is to pay the expenses which would include
14 premium payment. But I think the other part of that is, there
15 should be some funds left which ABC will be reimbursed.

16 My concern is, I can't understand ATCO sitting there with
17 400,000 in cash and there ever being a shortfall. Poor
18 accounting is not an excuse. Not for me. Because we have
19 investors who are relying on these premium payments to be made
20 to make sure these policies remain in full force and affect as
21 well as Mr. LaMonda, although he is a portion of this and has
22 been put into a conservatorship, has a right to expect a proper
23 accounting of these funds.

24 Evidently it was his choice to deal with ATCO knowing
25 their abilities to do certain things and their reputation for