



against all Defendants pursuant to Section 406.1 of the Oklahoma Securities Act ("Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2001 & Supp. 2003).

The Department petitions this Court to halt further violations of the Act, to protect the rights of the Department in its obligation to safeguard the public interest, to prevent any dissipation or loss of investor funds and property and to remedy actions that Defendants have already committed.

The Department moves this Court to issue *instanter* a temporary restraining order, order freezing assets, and an order for an accounting until the Court may afford the parties a hearing, and additionally moves for the entry of a temporary injunction and other equitable relief at such hearing against Defendants. The entry of such orders are necessary for the reasons set forth below, to preserve the *status quo*, and to protect the Department's rights enforcing the Act.

#### I. THE DEFENDANTS

Trade Partners, Inc. ("TPI") is a Michigan corporation. At all times material hereto, TPI issued, offered and sold securities in and/or from Oklahoma as described herein. On April 15, 2003, the United States District Court for the Western District of Michigan, Southern Division, Civil Action Number 1:03CV-0236, issued an Agreed Order Appointing Receiver for TPI.

TPI Management LLC ("TPI Management") is a Michigan limited liability company and affiliate of TPI. At all times material hereto, TPI Management issued, offered and sold securities in and/or from Oklahoma as described herein.

Trade LLC ("Trade LLC") is a Michigan limited liability company and affiliate of TPI. At all times material hereto, Trade LLC issued, offered and sold securities in and/or from Oklahoma as described herein.

Thomas J. Smith ("Smith"), an individual, is the President of TPI and controlled all acts of TPI, TPI Management and Trade LLC. At all times material hereto, Smith offered and sold securities in and/or from Oklahoma as described herein.

Christine M. Zmudka ("Zmudka"), an individual, is the Vice-President of TPI and controlled all acts of TPI, TPI Management and Trade LLC. At all times material hereto, Zmudka offered and sold securities in and/or from Oklahoma as described herein.

Sojkara, L.L.C. a/k/a Sojkara ISP India L.L.C. ("Sojkara") is a Michigan limited liability company and affiliate of TPI. At all times material hereto, Sojkara issued, offered and sold securities in and/or from Oklahoma as described herein.

Robert J. Seitters ("Seitters"), an individual, is the President and Managing Member of Sojkara and controlled all acts of Sojkara. At all times material hereto, Seitters offered and sold securities in and/or from Oklahoma as described herein.

InterGlobal Waste Management, Inc. ("IWM") is purported to be a California corporation and is an affiliate of TPI. At all times material hereto, IWM issued, offered and sold securities in and/or from Oklahoma as described herein.

Harold A. Katersky ("Katersky") is the Chief Executive Officer of IWM and controlled all acts of IWM. At all times material hereto, Katersky offered and sold securities in and/or from Oklahoma as described herein.

Elkins & Associates Inc. ("Elkins & Associates") is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma. At all times material hereto, Elkins & Associates offered and sold securities in and/or from Oklahoma as described herein.

Heartland Viaticals, Inc. ("Heartland Viaticals") is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma. At all times material hereto, Heartland Viaticals offered and sold securities in and/or from Oklahoma as described herein.

Eddie Elkins ("Elkins") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of Elkins & Associates, Heartland Viaticals, TPI, Sojkara and/or IWM. At all times material hereto, Elkins offered and sold securities in and/or from Oklahoma as described herein.

James S. Stanley ("Stanley") is an individual who, at all times material hereto, was a resident of Oklahoma doing the acts complained of in his own name and/or in the name of the Stanley Agency, Inc., and/or TPI. At all times material hereto, Stanley offered and sold securities in and/or from Oklahoma as described herein.

## **II. NATURE OF THE CASE**

### **TRADE PARTNERS' VIATICAL INVESTMENT CONTRACTS**

Beginning in or around October, 1997, Defendants TPI, TPI Management, Smith, Zmudka, Elkins & Associates, Heartland Viaticals, Elkins and Stanley (collectively, "TPI Viatical Defendants") issued, offered and/or sold securities, in and/or from the state of Oklahoma to investors ("TPI Viatical Investors"), in the nature of interests in the death benefits of one or more viatical settlement contracts ("TPI Viatical Investment Contracts"). The purchase of TPI Viatical Investment Contracts was evidenced by the execution by TPI Viatical Investors of an Agency/Policy Funding Agreement ("Agreement") prepared and/or distributed by the TPI Viatical Defendants. The Agreement defined viatical settlement contracts to be discounted life insurance policies of terminally ill persons, or viators ("Viatical Settlement Contracts").

The Agreement stated that certain of the TPI Viatical Defendants would engage in the identification, qualification, purchase and/or sale of the Viatical Settlement Contracts and would perform the purchasing, marketing, administrative/legal, tracking and customer service duties on behalf of TPI Viatical Investors. The TPI Viatical Investment Contracts were to be managed and proceeds invested by certain of the TPI Viatical Defendants. TPI Viatical Investors were promised a return of 12% to 60% per year.

TPI Viatical Investors were told by TPI Viatical Defendants that certain of the TPI Viatical Defendants had specialized knowledge and expertise to make the investments profitable. TPI Viatical Investors had no role in the success or outcome of the investments or in affecting the promised profit on their TPI Viatical Investment Contracts. Instead, TPI Viatical Investors relied completely on the judgment and discretion of certain of the TPI Viatical Defendants for the promised profit. TPI is now in a receivership and TPI Viatical Investors are in danger of losing their money.

The TPI Viatical Defendants' representations were made through the use of oral communications and written sales materials.

#### **TRADE PARTNERS MONTHLY INCOME PROGRAMS**

Beginning in or around July, 1998, Defendants TPI, TPI Management, Smith, and Zmudka (collectively, "LLC Defendants") issued, offered and/or sold securities in and/or from the state of Oklahoma to investors ("LLC Investors"), in the nature of membership interests in various Michigan limited liability companies including, but not limited to, TPI Monthly Income I LLC; TPI Monthly Income IV LLC; TPI Monthly Income VI LLC; TPI Monthly Income VIII LLC; TPI Monthly Income IX LLC; and TPI Monthly Income XII LLC (collectively, "LLC Interests"). The purchase of LLC Interests was evidenced by the execution of a Subscription for

Membership Agreement (“Subscription Agreement”) prepared by the LLC Defendants. In the Subscription Agreement, the LLC Defendants represented to LLC Investors that their investments would be secured by life insurance policies that insured the lives of terminally ill persons.

The funds paid by LLC Investors for the LLC Interests were to be managed and invested by the LLC Defendants who promised LLC Investors an annual return of 11%, paid monthly, for a guaranteed 24 month period. LLC Defendants represented that LLC Investors would realize high guaranteed annual yields from investments that were fully collateralized. LLC Defendants represented that all fees, including insurance policy premium payments, would be paid by LLC Defendants.

LLC Investors had no control over or responsibility for their funds once the funds were remitted to the LLC Defendants. In addition, the Subscription Agreement gave the LLC Defendants the authority to execute any and all documents or instruments on behalf of the LLC Investors.

The LLC Defendants’ representations were made through the use of oral communications and written sales materials.

### **TPI PROMISSORY NOTES**

Beginning in or around May, 2000, Defendants TPI, Smith, Zmudka, Elkins & Associates and Elkins (collectively, “TPI Note Defendants”) issued, offered and/or sold securities in and/or from the state of Oklahoma to investors (“TPI Note Investors”). The securities were in the nature of TPI promissory notes executed by certain of the TPI Note Defendants (“TPI Notes”). The TPI Note stated that Defendant TPI promised to repay principal plus interest at the rate of 11% per annum and that the TPI Note was secured by an “Assignment

of Borrower's Interest in Viatical Settlement Contracts." The "Assignment of Borrower's Interest in Viatical Settlement Contracts" was prepared and executed by certain of the TPI Note Defendants.

TPI Note Investors were told by the TPI Note Defendants that certain of the TPI Note Defendants had specialized knowledge and expertise to make the investments profitable. TPI Note Investors had no role in the success or outcome of the investments or in affecting the promised profit on their TPI Notes. Instead, TPI Note Investors relied completely on the judgment and discretion of the TPI Note Defendants for the promised profit.

The TPI Note Defendants' representations were made through the use of oral communications and written sales materials.

### SOJKARA

Beginning in or around August, 2001, TPI, Trade LLC, Smith, Zmudka, Sojkara, Seitters, Elkins & Associates, Elkins, and Stanley (collectively, "Sojkara Defendants") issued, offered and/or sold securities, in and/or from the state of Oklahoma, to investors ("Sojkara Investors"), in the nature of promissory notes in the "Sojkara Secured Income Note Program" ("Sojkara Notes"). Sojkara was represented to Sojkara Investors to be an "international multi-million dollar telecommunications company." Sojkara Investors were promised annual interest rates of 13% to 18%. The Sojkara Notes were represented to be secured by the assignment of a cash flow participation agreement between Trade LLC and Sojkara ("Note Agreement"). The Note Agreement was represented to be supported by and subject to a collateral assignment of telecommunications licenses and rights executed by Sojkara in favor of Trade LLC ("Collateral Assignment").

Sojkara Investors were told that certain of the Sojkara Defendants had specialized knowledge and expertise to make the investment profitable. The Sojkara Investors had no role in the success or outcome of the investment or in affecting the promised profit on their Sojkara Notes. Instead, Sojkara Investors relied completely on the judgment and discretion of the Sojkara Defendants for the promised profit.

The Sojkara Defendants' representations were made through the use of oral communications and written sales materials.

### INTERGLOBAL WASTE MANAGEMENT

Beginning in or around August, 2001, TPI, Smith, Zmudka, IWM, Katersky, Elkins & Associates, and Elkins (collectively, "IWM Defendants") issued, offered and/or sold securities, in and/or from the state of Oklahoma, to investors ("IWM Investors"). The securities were in the nature of promissory notes in the "InterGlobal Waste Management, Inc. Program" and common stock in InterGlobal Waste Management, Inc. (collectively, "IWM Notes and Stock"). IWM was represented to be "positioned to be the global leader in wastewater treatment." IWM Investors were promised annual interest rates of 13%. The IWM Notes and Stock were represented by the IWM Defendants to be secured by a pledge agreement from IWM to the IWM Investors.

IWM Investors were told by the IWM Defendants that certain of the IWM Defendants had specialized knowledge and expertise to make the investments profitable. The IWM Investors had no role in the success or outcome of their investments or in affecting the promised profit on their IWM Notes and Stock. Instead, IWM Investors relied completely on the judgment and discretion of the IWM Defendants for the promised profit.

The IWM Defendants' representations were made through the use of oral communications and written sales materials.

### **III. VIOLATIONS OF THE OKLAHOMA SECURITIES ACT**

#### **A. Failure to Register Securities**

The TPI Viatical Investment Contracts are securities as defined by Section 2 of the Act. The LLC Interests are securities as defined by Section 2 of the Act. The TPI Notes are securities as defined by Section 2 of the Act. The Sojkara Notes are securities as defined by Section 2 of the Act. The IWM Notes and Stock are securities as defined by Section 2 of the Act.

The securities offered and sold by Defendants are not and have not been registered under the Act as required by Section 301 of the Act. *See Exhibit "A."* The securities offered and sold by Defendants are not entitled to an exemption from registration pursuant to Section 401 of the Act.

By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate, Section 301 of the Act.

#### **B. Failure to Register as Broker-Dealers or Agents**

Defendants TPI, TPI Management, Trade LLC, Sokjara and IWM are issuers as defined in Section 2 of the Act. Defendants Elkins & Associates and Heartland Viaticals, by engaging in the business of effecting transactions in securities for the account of others or for their own account, are broker-dealers as defined in Section 2 of the Act. Defendants Smith, Zmudka, Seitters, Katersky, Elkins and Stanley, by virtue of their efforts and activities in this state in effecting or attempting to effect transactions in securities, are issuer agents as defined in Section 2 of the Act. Defendants Elkins & Associates and Heartland Viaticals are not registered under the Act as broker-dealers, as required by Section 201. *See Exhibit "B."* Defendants Smith, Zmudka, Seitters, Katersky, Elkins and Stanley are not registered under the Act as issuer agents, as required by Section 201. *See Exhibit "C."* Defendants TPI, TPI Management, Trade LLC,

Sokjara and IWM employed agents who were not registered under the Act to offer and sell securities.

By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate Section 201 of the Act.

**C. Untrue Statements of Material Facts and Omissions of Material Facts  
in Connection with TPI Viatical Investment Contracts**

TPI Viatical Defendants, in connection with the offer and sale of TPI Viatical Investment Contracts, directly and indirectly, made untrue statements of material facts, including, but not limited to, the following:

- a. that TPI Viatical Investment Contracts would bear no investment risk when TPI is now in receivership and the life insurance policies are in danger of lapsing;
- b. that TPI Viatical Investment Contracts would provide guaranteed profits or returns when the time of payment and the actual rate of return are dependent on when each viator dies;
- c. that funds needed for future premium payments would be placed in a trust fund with restricted access when funds adequate or sufficient to pay such premiums were not so placed;
- d. that TPI Viatical Investors would not incur costs of any type beyond the amount tendered as their purchase price when adequate or sufficient premium reserves were not established and the TPI Viatical Investors may have to make future premium payments to prevent life insurance policies from lapsing; and
- e. that TPI Viatical Investors would be named as beneficiaries on the life insurance policies by the issuing insurance company when TPI Viatical Investors were not so named.

TPI Viatical Defendants, in connection with the offer and sale of TPI Viatical Investment Contracts, directly and indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:

- a. any general or specific risk factors associated with the investment;
- b. that the TPI Viatical Investment Contracts are securities under the Act;
- c. that the TPI Viatical Investment Contracts were not registered as securities under the Act or exempt from registration;
- d. that the agents who offered and sold the TPI Viatical Investment Contracts were not registered under the Act;
- e. the background or business experience of TPI officers, directors, or control persons;
- f. the impact on each TPI Viatical Investor's rate of return if premium payments are not maintained or if the viator lives beyond his estimated life expectancy; and
- g. information about how the life insurance policies were monitored or funded.

By reason of the foregoing, the TPI Viatical Defendants, have violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

**D. Untrue Statements of Material Facts and Omissions of Material Facts  
in Connection with LLC Interests**

LLC Defendants, in connection with the offer and sale of LLC Interests, directly and indirectly, made untrue statements of material facts, including, but not limited to, the following matters:

- a. that LLC Interests would bear no investment risk when TPI is now in receivership and the life insurance policies securing the LLC Interests are in danger of lapsing; and
- b. that LLC Interests were secured by life insurance policies when the availability of proceeds from such policies is dependent on the death of the viators.

LLC Defendants, in connection with the offer and sale of LLC Interests, directly and indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:

- a. any general or specific risk factors associated with the investment;
- b. that the LLC Interest is a security;
- c. that the LLC Interests were not registered as securities under the Act or exempt from registration;
- d. that the agents who offered and sold the LLC Interests were not registered under the Act;
- e. the background or business experience of TPI officers, directors, or control persons; and
- f. the impact on each LLC Investor's return if premium payments are not maintained on the life insurance policies securing the LLC Interests or if the viators live beyond their estimated life expectancy.

By reason of the foregoing, the LLC Defendants, have violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

**E. Untrue Statements of Material Facts and Omissions of Material Facts  
In Connection with TPI Notes**

The TPI Note Defendants, in connection with the offer and sale of TPI Notes, directly and indirectly, made untrue statements of material facts, including, but not limited to, that TPI Notes would bear no investment risk when TPI is now in receivership.

The TPI Note Defendants, in connection with the offer and sale of TPI Notes, directly and indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:

- a. any general or specific risk factors associated with the investment;
- b. that an TPI Note is a security;
- c. that the TPI Notes were not registered as securities under the Act or exempt from registration;

- d. that the agents who offered and sold the TPI Notes were not registered under the Act; and
- e. the background or business experience of TPI officers, directors, or control persons.

By reason of the foregoing, the TPI Note Defendants have violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

#### **F. Omissions of Material Facts In Connection with Sojkara Notes**

Sojkara Defendants, in connection with the offer and sale of Sojkara Notes, directly and indirectly, omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made not misleading, including, but not limited to, the following:

- a. that a Sojkara Note is a security;
- b. that the Sojkara Notes were not registered as securities under the Act or exempt from registration;
- c. that the agents who offered and sold the Sojkara Notes were not registered under the Act;
- d. that there was substantial risk to the Sojkara Investors' principal and accrued interest;
- e. that the Sojkara Investors would not receive their funds from the Sojkara Defendants in promised monthly payments of interest or their principal at the end of the term of the Sojkara Notes; and
- f. that some Sojkara Investors were allowed to participate without an actual infusion of money to Sojkara.

By reason of the foregoing, the Sojkara Defendants, have violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

### **G. Omissions of Material Facts In Connection with IWM Notes and Stock**

IWM Defendants omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading to IWM Investors in connection with the offer, sale and purchase of IWM Notes and Stock including, but not limited to, the following:

- a. that IWM Notes and Stock are securities;
- b. that the IWM Notes and Stock were not registered as securities under the Act or exempt from registration;
- c. that the agents who offered and sold the IWM Notes and Stock were not registered under the Act;
- d. that there was substantial risk to the IWM Investors' principal and accrued interest;
- e. that the IWM Investors would not receive their funds in promised monthly payments of interest from the IWM Defendants or their principal at the end of the term of the IWM Notes; and
- f. that some IWM Investors were allowed to participate without an actual infusion of money to IWM.

By reason of the foregoing, the IWM Defendants, have violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

### **H. Engaging in any Act, Practice, or Course of Business which Operates or Would Operate as a Fraud or Deceit upon any Person**

Defendants, in connection with the offer, sale and/or purchase of securities, and through the use of the untrue statements of material facts and the omissions of material facts described above, engaged in an act, practice, or course of business which operated as a fraud or deceit upon the TPI Viatical Investors, the LLC Investors, the TPI Note Investors, the Sojkara Investors and the IWM Investors.

By reason of the foregoing, the Defendants, have violated, and unless enjoined, will continue to violate Section 101(3) of the Act.

### **I. Unlawful Distribution of Sales Literature**

In connection with the offer and sale of the TPI Viatical Investment Contracts, the LLC Interests, the TPI Notes, the Sojkara Notes and the IWM Notes and Stock, Defendants provided promotional literature to the TPI Viatical Investors, the LLC Investors, the TPI Note Investors, the Sojkara Investors and the IWM Investors in and/or from the state of Oklahoma.

The promotional literature used by Defendants in connection with the offer and sale of the TPI Viatical Investment Contracts, the LLC Interests, the TPI Notes, the Sojkara Notes and the IWM Notes and Stock was not filed with the Department prior to its use in accordance with Section 402(a) of the Act.

By reason of the foregoing, Defendants have violated, and unless enjoined, will continue to violate Section 402(a) of the Act.

## **IV. NEED FOR TEMPORARY RESTRAINING ORDER, ASSET FREEZE ACCOUNTING AND TEMPORARY INJUNCTION**

### **A. Temporary Restraining Order**

Section 406.1 of the Act provides in part:

- (a) Upon a showing by the Administrator that a person has violated or is about to violate the Oklahoma Securities Act, except under the provisions of Section 202.1 or 305.2 of this title, or a rule or order of the Administrator under the Oklahoma Securities Act or that a person has engaged or is about to engage in dishonest or unethical practices in the securities business, the Administrator, prior to, concurrently with, or subsequent to an administrative proceeding, may bring an action in the district court of Oklahoma County or the district court of any other county where service can be obtained on one or more of the defendants and **the district court may grant or impose one or more of the following appropriate legal or equitable remedies:**

- (1) Upon a showing of a violation of the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act or conduct involving dishonest or unethical practices in the securities business:
  - (i) a temporary restraining order, permanent or temporary prohibitory or mandatory injunction, or a writ of prohibition or mandamus;
  - (ii) a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or of Fifty Thousand (\$50,000.00) for multiple violations in a single proceeding or a series of related proceedings;
  - (iii) a declaratory judgment;
  - (iv) restitution to investors;
  - (v) the appointment of a receiver or conservator for the defendant or the defendant's assets, and
  - (vi) other relief the court deems just (**emphasis added**).

A temporary restraining order (TRO) has the object of preserving the *status quo*, in order to prevent irreparable injury until such time as the Court may determine Plaintiff's application for temporary injunction. *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 439, 94 S.Ct. 1113, 1124 (1974); *Morse v. Earnest, Inc.*, 547 P.2d 955 (Okla. 1976). Issuing a TRO is in the public interest because the failure to grant this relief allows dishonest businesses and individuals to continue to take advantage of vulnerable investors. The protection of the public interest is paramount in this matter, as is the Department's right to safeguard the public interest.

Defendants have engaged in acts and practices in violation of the Act and have, as a result of these activities, received a substantial amount of money from numerous investors through a number of different schemes. A danger exists that the money received from the investors and/or held by Defendants will be lost, removed or transferred. A temporary

restraining order to issue *instanter* against Defendants is necessary to preserve these funds, securities, and the records relating thereto, and to prevent further violations of the Act.

In addition, no injury will befall Defendants by granting such relief since Defendants have no right to act in the state of Oklahoma in violation of the Act by engaging in fraudulent conduct in connection with securities activities. The interference with Defendants' rights by granting the temporary restraining order will be minimal, if any, while protecting the public from immediate and irreparable injury or loss.

### **B. Asset Freeze and Accounting**

Section 406.1 of the Act specifically grants this Court the power to fashion appropriate equitable relief to provide effective enforcement of the Act. Once the equity powers of the court are invoked, the court possesses the power to fashion appropriate interim remedies. *SEC v. Manor Nursing Centers*, 458 F. 2d 1082, 1103 (2<sup>nd</sup> Cir. 1972). Within this power is the authority to grant effective equitable relief by temporarily freezing specific assets. *SEC v. General Refractories Co.*, 400 F.Supp. 1248, 1259 (D.D.C. 1975); *SEC v. International Swiss Investments Corp.*, 895 F.2d 1272, 1276 (9<sup>th</sup> Cir. 1990); *SEC v. Manor Nursing Centers, supra* at 1105-06 (upholding district court's order freezing assets in part because "...at the time the court's order was entered, a great deal of uncertainty existed with respect to the total amount of proceeds received and their location.") Within the equity power of the court is the authority to order an accounting by the Defendants. *SEC v. R.J. Allen & Associates*, 386 F. Supp. 866, 880 (S.D.N.Y. 1974); *SEC v. Manor Nursing Centers, supra* at 1103-1104.

Defendants made use of untrue statements of material fact and omitted to state material facts as alleged in Plaintiff's verified petition, in violation of Section 101 of the Act. The whereabouts of the money raised from violations of the Act is not known at this time. These

circumstances make it necessary that the court freeze specific assets to preserve the status quo by preventing the dissipation of assets and to account for the money raised through violations of the Act so as to protect Investors and to provide effective relief.

### **C. Temporary Injunction**

Once the plaintiff has shown the Defendants' past conduct is in violation of the Act, the proper test for the issuance of a statutory injunction is whether there is a reasonable expectation of future violations by Defendants. *SEC v. Manor Nursing Centers, Inc., supra; SEC v. Culpepper, 270 F.2d 241, 249 (2d Cir. 1959)*. In considering this issue, past illegal conduct is strong support for the likelihood of future violations. *Oklahoma Securities Commission v. CFR International, Inc., 622 P.2d 293, 295 (Okla. Ct. App. 1980)*. Here, the Defendants have violated the Act which created a presumption of likelihood of future violations. Because the Plaintiff has conclusively demonstrated the existence of past violations, injunctive relief is appropriate and the burden of showing there is no reasonable expectation of future violations will shift to the Defendants and their burden "is a heavy one." *SEC v. Culpepper, supra; Oklahoma Securities Commission v. CFR International, Inc., supra*.

Unlike private actions for injunctions, the Department's action is based on statute and no showing of irreparable injury or the inadequacy of other remedies is required. *Oklahoma Securities Commission v. CFR International, Inc., supra, (citing Bradford v. SEC, 278 F.2d 566 (9<sup>th</sup> Cir. 1960))*. Although not required, the Department has also shown that the public will suffer irreparable injury if Defendants are not enjoined from further violations of the Act.

### **D. An Ex Parte Order Should be Issued**

While Courts have been cautious with the use of ex parte orders, they may be issued in appropriate cases. *Covington, Knox, Inc. v. Texas, 577 S.W. 2d 323 (Tex. App. Houston [14<sup>th</sup>*

*Dist.] 1979, no writ).* The Department alleges facts that demonstrate a strong likelihood of ongoing violations of the Act by Defendants.

In addition, there is a great risk that Defendants will take measures to dissipate assets if provided notice of this action before a temporary restraining order is issued. Providing advance notice of this action to Defendants would lead to loss of investor funds, and consequently cause irreparable injury to the Department's ability to safeguard the public interest by providing monetary redress and preventing irreparable loss and injury to potential investors. The issuance of a temporary restraining order, asset freeze and order for an accounting *instanter* will help maximize the relief to investors and the protection of the public interest.

#### V. Conclusion

The Department, pursuant to Section 405 of the Act, conducted an investigation into Defendants' activities in and/or from the state of Oklahoma. The investigation produced evidence that clearly indicates Defendants issued, offered and/or sold unregistered securities, acted as unregistered agents, and/or employed unregistered agents. The investigation also revealed that Defendants, in connection with the offer, sale and/or purchase of securities: (1) made untrue statements of material fact; (2) omitted to state material facts; and (3) engaged in a course of business which has operated as a fraud or deceit upon investors. Defendants have engaged in substantial violations of the Act, including fraudulent practices. The Department submits that the evidence firmly establishes a *prima facie* case for the issuance of a temporary restraining order, an asset freeze, an order for an accounting by all Defendants, and a temporary injunction.

In light of the facts presented and the authorities cited, the Department respectfully requests that this Court issue a temporary restraining order, an order freezing the assets of

Defendants Elkins & Associates Inc., Heartland Viaticals, Inc., Eddie Elkins, and James S. Stanley, and an order for an accounting, until such time as the Court may afford the parties a hearing on the Plaintiff's motion for temporary injunction, all to halt Defendants' unlawful practices and to provide effective relief to Investors and to the Department.

Respectfully submitted,



Patricia A. Labarthe OBA #10391  
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AFFIDAVIT

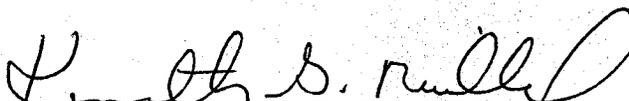
STATE OF OKLAHOMA     )  
  ) SS.  
COUNTY OF OKLAHOMA    )

I, Kenneth G. Maillard, Director of Registrations of the Oklahoma Department of Securities (Department), swear that I have conducted an examination of the registration and exemption files of the Department pertaining to current and past registrations and exemptions from registration for the offer or sale of securities in Oklahoma and that nowhere therein was found a record of an application for the registration of securities pursuant to Section 301 of the Oklahoma Securities Act (Act), OKLA. STAT. tit. 71, §1-413, 501, 701-703 (2001 & Supp. 2003), for Trade Partners, Inc., Trade Management LLC, Trade LLC, TPI Monthly Income I LLC, TPI Monthly Income IV LLC, TPI Monthly Income VI LLC, TPI Monthly Income VIII LLC, TPI Monthly Income IX LLC, TPI Monthly Income XII LLC, Sojkara, L.L.C., Sojkara ISP India L.L.C., Sojkara Secured Income Note Program or InterGlobal Waste Management, Inc.

I further swear that nowhere within the registration files for the Department was found a record of a registration of securities for Trade Partners, Inc., Trade Management LLC, Trade LLC, TPI Monthly Income I LLC, TPI Monthly Income IV LLC, TPI Monthly Income VI LLC, TPI Monthly Income VIII LLC, TPI Monthly Income IX LLC, TPI Monthly Income XII LLC, Sojkara, L.L.C., Sojkara ISP India L.L.C., Sojkara Secured Income Note Program or InterGlobal Waste Management, Inc. pursuant to Section 301 of the Act.

I further swear that nowhere within the exemption files for the Department was found a record of a notice of intent to claim exemption from Sections 301 and 402 of the Act for Trade Partners, Inc., Trade LLC, Sojkara, L.L.C., Sojkara ISP India L.L.C., Sojkara Secured Income Note Program or InterGlobal Waste Management, Inc. pursuant to any subsection of Section 401 of the Act.

(SEAL)



Kenneth G. Maillard  
DIRECTOR OF REGISTRATIONS  
OKLAHOMA DEPARTMENT OF SECURITIES  
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Oklahoma City, Oklahoma 73102  
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Subscribed and sworn to before me this 29<sup>th</sup> day of July, 2004.

(NOTARIAL SEAL)

Anna M. Sterling  
NOTARY PUBLIC

My Commission Expires:

December 21, 2007

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, Oklahoma 73102  
Telephone (405) 280-7700

AFFIDAVIT

STATE OF OKLAHOMA     )  
                                  )  
COUNTY OF OKLAHOMA    )     SS.

I, John K. Ulrey, Director of Licensing of the Oklahoma Department of Securities, swear that I have caused to be examined the registration files of the Oklahoma Department of Securities pertaining to current and past registered broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives and issuer agents and that nowhere therein was found a record of the registration pursuant to Section 201 of the Oklahoma Securities Act for the following:

Elkins & Associates  
Heartland Viaticals

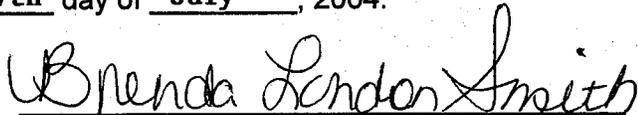
(SEAL)



\_\_\_\_\_  
John K. Ulrey, Director of Licensing of the  
OKLAHOMA DEPARTMENT OF SECURITIES

Subscribed and sworn to before me this 27th day of July, 2004.

(NOTARIAL SEAL)



\_\_\_\_\_  
Notary Public

My Commission Expires: **August 26, 2005**  
My Commission No.: **01013792**

STATE OF OKLAHOMA  
DEPARTMENT OF SECURITIES  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, Oklahoma 73102  
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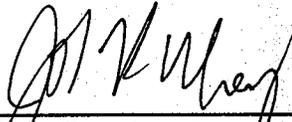
AFFIDAVIT

STATE OF OKLAHOMA     )  
                                  )  
COUNTY OF OKLAHOMA    )     SS.

I, John K. Ulrey, Director of Licensing of the Oklahoma Department of Securities, swear that I have caused to be examined the registration files of the Oklahoma Department of Securities pertaining to current and past registered broker-dealers, broker-dealer agents, investment advisers, investment adviser representatives and issuer agents and that nowhere therein was found a record of the registration pursuant to Section 201 of the Oklahoma Securities Act for the following individuals representing Trade Partners, Inc., TPI Management LLC, Trade LLC, Sojkara, L.L.C., InterGlobal Waste Management, Inc., Elkins & Associates, or Heartland Viaticals:

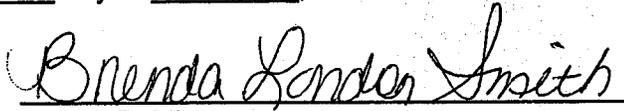
Thomas J. Smith  
Christine M. Zmudka  
Robert J. Seitters  
Harold A. Katersky  
Eddie Elkins  
James S. Stanley

(SEAL)

  
\_\_\_\_\_  
John K. Ulrey, Director of Licensing of the  
OKLAHOMA DEPARTMENT OF SECURITIES

Subscribed and sworn to before me this 27th day of July, 2004.

(NOTARIAL SEAL)

  
\_\_\_\_\_  
Notary Public

My Commission Expires: August 26, 2005  
My Commission No.: 01013792

## CERTIFICATE OF MAILING

The undersigned certifies that on the 2nd day of August, 2004, a true and correct copy of the foregoing was mailed via First Class Mail, postage prepaid, to the following:

Trade Partners, Inc.  
220 Lyon Street NW, Suite 570  
Grand Rapids, MI 49503

TPI Management LLC  
220 Lyon Street NW, Suite 570  
Grand Rapids, MI 49503

Trade LLC  
220 Lyon Street NW, Suite 570  
Grand Rapids, MI 49503

Thomas J. Smith  
220 Lyon Street NW, Suite 570  
Grand Rapids, MI 49503

Thomas J. Smith  
4748 Knapp NE  
Traverse City, MI 49686

Christine M. Zmudka  
220 Lyon Street NW, Suite 570  
Grand Rapids, MI 49503

Sojkara, LLC aka Sojkara ISP India LLC  
2375 Traversefield Drive  
Traverse City, MI 49686

Robert J. Seitters  
11525 Eastern Avenue  
Traverse City, MI 49686

InterGlobal Waste Management, Inc.  
820 Calle Plano  
Camarillo, CA 93012

Harold A. Katersky  
820 Calle Plano  
Camarillo, CA 93012

Elkins & Associates Inc.  
6400 N. Santa Fe, Suite A  
Oklahoma City, OK 73116

Heartland Viaticals, Inc.  
Michael Entz, Service Agent  
4901 NW Expressway  
Oklahoma City, OK 73132

Eddie Elkins  
6400 N. Santa Fe, Suite A  
Oklahoma City, OK 73116

James S. Stanley  
3017 Browne Stone Road  
Oklahoma City, OK 73120

*Patricia A. Lott*

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