

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

DEC - 8 2011

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

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  
Judge Daniel L. Owens

**CONSERVATOR'S REPORT FOR THE PERIOD  
OF AUGUST 1, 2011 THROUGH OCTOBER 31, 2011**

COMES NOW Tom Moran, Conservator of certain assets of Accelerated Benefits Corporation pursuant to the Court's Order Appointing Conservator and Transferring Assets dated February 6, 2002, and files with the Court his report for the period of August 1, 2011 through October 31, 2011. Included herein and attached as Exhibits A, B and C, respectively, are: 1) Balance Sheets dated August 31, 2011, September 30, 2011 and October 31, 2011; 2) General Ledger report for the period of August 1, 2011 through October 31, 2011; and 3) bank statements for the period of August 1, 2011 through October 31, 2011.

**I. REPORT TO THE COURT CONCERNING APPEAL OF IRS PENALTIES.**

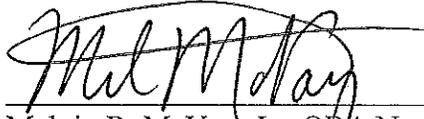
During this reporting period, Conservator received a Notice of Intent to Levy from the Internal Revenue Service notifying HTM Conservator LLC ("HTM") that penalties have been imposed upon HTM in the total amount of \$120,693.71, plus interest pursuant to IRC § 6721. The IRS made a determination that HTM failed to timely file informational returns for calendar year 2005. Specifically, the IRS alleges that HTM failed to timely deliver IRS Form 1099-Bs to the IRS in order to report distributions made to Accelerated Benefits Corporation's investors. The Conservator requested a hearing with the IRS Appeals Division disputing the penalties and

stating that good cause existed as to why the informational returns were not timely received by the IRS.

The IRS Appeals Divisions denied the Conservator's attempt to dispute the penalties and issued a Notice of Determination. The Notice of Determination, dated September 22, 2011, provided that in order to dispute the imposition of penalties the Conservator must file a petition in the United States Tax Court within thirty days from the date of the Notice of Determination. On October 21, 2011, the Conservator, through its counsel, mailed a Petition to the United States Tax Court setting forth a reasonable cause defense pursuant to IRC § 6724. Conservator contends that no penalty should be due to the IRS because of the Conservator's actions to avoid or mitigate a failure to timely file. In addition, the Conservator contends that the penalties imposed on HTM are subject to a \$50,000 limitation pursuant to IRC § 6721(d)(2).

Upon the filing of the Petition, the IRS will receive notice and an opportunity to respond within sixty of the date of service of the Conservator's Petition. At that time, it is anticipated that the IRS Chief Counsel's office will file an Answer. The Conservator intends to fully defend the imposition of penalties imposed by the IRS through the United States Tax Court.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 06096

Kenneth A. Tillotson, OBA No. 19237

PHILLIPS MURRAH P.C.

Corporate Tower / Thirteenth Floor

101 North Robinson

Oklahoma City, Oklahoma 73102

Telephone: (405) 235-4100

Facsimile: (405) 235-4133

*Attorneys for Conservator, Tom Moran*

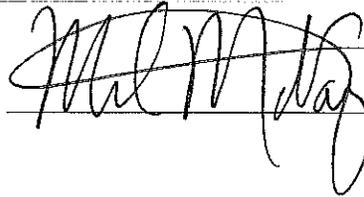
**CERTIFICATE OF MAILING**

This hereby certifies that on the ~~9<sup>th</sup>~~ day of December, 2011, a true and correct copy of the foregoing was mailed, U.S. First-Class, postage prepaid, to the following:

Patricia A. Labarthe, Esq.  
OKLAHOMA DEPARTMENT OF SECURITIES  
First National Center, Suite 860  
120 North Robinson  
Oklahoma City, OK 73102  
*Attorney for Plaintiff*

William H. Whitehill, Jr., Esq.  
FELLERS, SNIDER, BLANKENSHIP,  
BAILEY & TIPPENS, P.C.  
100 North Broadway Ave, Suite 1700  
Oklahoma City, OK 73102  
*Attorney for Defendants,  
Accelerated Benefits Corporation and  
American Title Company of Orlando*

---



---

A handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be "W. H. Whitehill, Jr.".