

JAN 20 2006

PATRICIA PRESLEY, COURT CLERK
by ~~OKLAHOMA COUNTY~~
Deputy

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

**CONSERVATOR'S REPLY TO DEFENDANTS' RESPONSE TO MOTION
FOR ORDER ALLOWING CONSERVATOR TO RETAIN FUNDS**

Conservator, Tom Moran ("Conservator"), offers the following reply to Defendants' Response to Conservator's Motion for Order Allowing Conservator to Retain Funds.

On December 22, 2005, the Conservator filed his Motion for an Order Allowing the Conservator to Retain Funds (the "Conservator's Motion") relating to Defendant, Accelerated Benefits Corporation ("ABC") and American Title Company of Orlando ("ATCO"), C. Keith LaMonda ("LaMonda") and David S. Piercefield ("Piercefield") (collectively the "ABC Parties"). ABC and ATCO filed a response on January 11, 2006, objecting, in part, to the requested order on the basis that, with regard to the funds at issue herein, ATCO, Piercefield and LaMonda are merely individual "investors" entitled to the same rights and protection as all other ABC investors who were defrauded by the actions of any or all of the ABC Parties.

As stated in the Conservator's Motion, the Order Appointing Conservator and Transferring Assets entered by the Court on February 6, 2002 (the "Conservatorship Order") transferred certain assets of ABC and its agents, including but not limited to, ATCO and

Piercefield, (the "Conservatorship Assets"), including:

- a. All life insurance policies owned or held beneficially, directly or indirectly, by or for the benefit of ABC and/or ABC Investors, that were purchased prior to October 1, 2000 (the "Policies");

See Exhibit "A", Conservatorship Order attached to the Conservator's Motion.

The Conservatorship Order further authorized the Conservator to:

- c. Receive and collect any and all sums of money due or owing on the Policies to ABC or its agents;

See Exhibit "A", Conservatorship Order attached to the Conservator's Motion.

In their response brief, Defendants allege that "[a]ny maturity proceeds due ABC, as purchaser of an interest in the policy, is not part of the Conservatorship pursuant to the February 2, 2002 [sic] Order." However, Defendants make no effort to support this allegation, which is completely contrary to the clear language of the Conservatorship Order cited above.

In their response, Defendants concede that any monies owed to ABC, individually, which are not a part of the Conservatorship Assets, should be applied as an offset against the debt owed by ABC to the Conservatorship under the Courts orders dated November 20, 2002 and January 10, 2003. The Conservator's position is that these monies are Conservatorship Assets. However, to the extent that the Court determines that any retained funds belonging to ABC are not Conservatorship Assets, the Conservator agrees that such funds should be applied against the debt owed by ABC.

The "investments" in which ABC is listed as a purchaser are clearly part of the Conservatorship Assets because they represent interests in "life insurance policies owned or held beneficially, directly or indirectly, by or for the benefit of ABC and/or ABC Investors." *Id.*

(emphasis added). Also, any funds relating to ABC "investments" in viaticals are clearly "sums of money due or owing on the Policies to ABC or its agents." Therefore, those funds related to ABC "investments" are clearly Conservatorship Assets which the Conservator should be allowed to retain.

As stated in the Conservator's Motion, the funds which the Conservator seeks to retain were not the result of any actual investment of capital by ABC, ATCO, Piercefield, LaMonda or the LaMonda brokerage. Instead, these "investments" were the result of ABC's assignment of the unmatched fractional interests retained by ABC after all actual investors had been matched to viaticals. See Exhibit "B" attached to the Conservator's Motion, Affidavit of H. Thomas Moran, ¶¶5-7.

According to the records of ABC, fractional interests in certain Viaticals are owned by ABC, Piercefield, ATCO, LaMonda and LaMonda Brokerage. The Conservator's Motion listed the following funds which the Conservator believes should be retained by the Conservatorship for the benefit of the ABC investors:

ABC (3289P)	-	\$ 16.71
David Piercefield/ATCO (5571P)	-	\$ 11,211.38
David Piercefield/Underwriting Account (3815P)	-	\$.17
Keith LaMonda (313P)	-	\$ 5,108.23
Lamonda Brokerage (5677P)	-	\$ 851.75
		<hr/> <hr/>
Total		\$ 17,188.24

See Exhibit "B," Affidavit of H. Thomas Moran, ¶18.

Since the filing of the Conservator's Motion, the Conservator has further investigated these "investments" and found that the amount listed in the Conservator's Motion for "David

Piercefield/ATCO (5571P)” should actually be listed as an ABC/ATCO account with “David Piercefield” listed only as the trustee and the contact person. See Exhibit “A,” Amended Affidavit of H. Thomas Moran, ¶¶18-19, attached hereto. David Piercefield, therefore, is not an individual investor relating to these funds. Instead, these funds merely represent additional interests of ABC which became Conservatorship Assets under the Conservatorship Order as set forth above.

Additionally, under the language of the Conservatorship Order cited above, the Conservatorship Assets also included assets owned by agents of ABC. As the Court is well aware, LaMonda was an agent of ABC. He was the person directing the operation of ABC and controlled the company. ATCO and Piercefield were the agents specifically listed in the Conservatorship Order because they were the escrow agents holding title to the Viaticals. Since LaMonda was also an agent of ABC, the “investment” held by LaMonda as agent of ABC should also be deemed to be assets of the Conservatorship under the terms of the Conservatorship Order, which LaMonda signed, thereby agreeing to its terms.

Finally, as noted in the Conservator’s Motion , on July 13, 2005, LaMonda was indicted by the U.S. Attorney’s office in the Middle District of Florida, Orlando Division, in Case No. 6:05-cr-131-ORL-19KRS, which alleges that LaMonda directed and controlled ABC’s activities and owned ABC through various entities. See Exhibit “B,” First Superseding Indictment, attached hereto. The indictment further alleges that LaMonda, as part of a scheme and conspiracy to defraud the ABC investors, diverted \$1.25 million dollars from premium reserve monies collected from ABC investors to make personal investments in an oil and gas exploration

project. As part of the criminal case against LaMonda, the United States Government seeks the forfeiture of assets belonging to LaMonda.

LaMonda, individually, should not be allowed to profit from distributions on policies from the Conservatorship to the detriment of the defrauded ABC investors. So, to the extent that the Court determines that any of the funds in which LaMonda, individually, is listed as a purchaser are not deemed to be Conservatorship Assets, the Court should order that such funds be retained pending completion of the Federal criminal case against LaMonda and any subsequent forfeiture order.

CONCLUSION

The funds which the Conservator seeks to retain are the property of the Conservatorship under the terms of the Conservatorship Order. To the extent that the Court determines that any or all of the funds belonging to ABC are not Conservatorship Assets, the Conservator is entitled retain such funds as a set off against the debt owed by ABC to the Conservator under the Court's prior orders dated November 20, 2002 and January 10, 2003 as set forth in the Conservator's Motion, which ABC has conceded in its response.

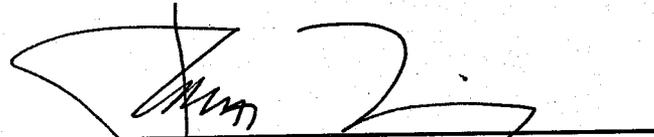
In the alternative, to the extent that the Court determines that any or all of the funds are not deemed to be Conservatorship Assets, or otherwise subject to offset against the debt owed by ABC, the Conservator requests that the Court order that the funds be retained pending completion of the Federal criminal case against LaMonda and any forfeiture order thereunder.

WHEREFORE, premises considered, Conservator, Tom Moran, respectfully requests this Court enter an Order allowing the Conservator to retain and apply the funds, which might

otherwise be disbursed to ABC, ATCO, Piercefield, LaMonda and LaMonda Brokerage, as assets of the Conservatorship.

In the alternative, should the Court determine that there is not a basis at this time to allow the Conservator to apply all or some of the retained funds as assets of the Conservatorship, Conservator, Tom Moran, respectfully requests this Court enter an Order allowing the Conservator to retain such funds, pending completion of the Conservatorship or further order of the Court.

Respectfully submitted,



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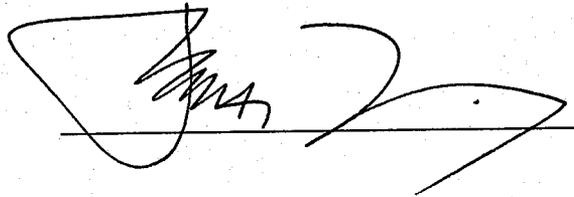
H. THOMAS MORAN

CERTIFICATE OF MAILING

The undersigned certifies that on the 20th day of January, 2006, a true and correct copy of the foregoing document was mailed via First Class Mail, postage prepaid, to the following:

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American Title Company of Orlando,
C. Keith LaMonda and
David S. Piercefield

A handwritten signature in black ink, appearing to read "Dino E. Viera", is written over a horizontal line. The signature is stylized and cursive.