

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT  
OKLAHOMA COUNTY, OKLA.

MAR - 3 2005

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

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

Case No.: CJ-99-2500-66  
Judge Daniel L. Owens

**CONSERVATOR'S REPORT TO THE COURT  
REGARDING DISTRIBUTION OF AKIN POLICY PROCEEDS**

COMES NOW H. Thomas 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 hereby reports to the Court regarding the distribution of maturity proceeds from the viatical policy insuring the life of Jean Marie Akin. The Conservator would show the Court as follows:

1. On February 6, 2002, the Court entered its Order Appointing Conservator and Transferring Assets (the "Conservatorship Order").
2. Under the Conservatorship Order, H. Thomas Moran was appointed Conservator of certain assets of Accelerated Benefits Corporation ("ABC") and its agents, including American Title Company of Orlando ("ATCO") and David Piercefield (the "Conservatorship Assets").
3. Included in the Conservatorship Assets was a life insurance policy in the face amount of \$2,000,000.00, insuring the life of Jean Marie Akin (the "Akin Policy"), issued on or about November 22, 1985 by Prudential Insurance Company of America ("Prudential"). *See* Exhibit "1," Affidavit of H. Thomas Moran, ¶4.

4. Pursuant to the Conservatorship Order, the Conservator took possession of the Conservatorship Assets which included the Akin Policy. In addition to becoming the owner of the Akin Policy, under the Conservatorship Order, the Conservator also became the owner of the interest held by ABC in the Akin Policy. See Exhibit "1," Affidavit of H. Thomas Moran, ¶5.

5. Unlike most of the viatical policies which comprised the bulk of the Conservatorship Assets, ABC named the investors matched to the Akin Policy as irrevocable beneficiaries which meant that, upon the death of Ms. Akin, the beneficiaries, including the ABC investors, would be paid directly by Prudential.<sup>1</sup> See Exhibit "1," Affidavit of H. Thomas Moran, ¶6.

6. ABC retained a 16.802699896 percent beneficial interest in the Akin Policy. See Exhibit "1," Affidavit of H. Thomas Moran, ¶7.

7. Jean Marie Akin died on or about January 29, 2003. However, the Conservator did not receive notice of such death until June 18, 2003. See Exhibit "1," Affidavit of H. Thomas Moran, ¶8.

8. On October 16, 2003, as a result of various claims being made against the death benefit proceeds of the Akin Policy, including a dispute between the Conservator and ABC over the rights to the 16.802699896 percent interest held by ABC, Prudential filed an interpleader action in the United States District Court for the Western District of Oklahoma, Case No, CIV-03-1444, seeking a judicial resolution of the competing claims to the net proceeds of the Akin Policy. See Exhibit "1," Affidavit of H. Thomas Moran, ¶9.

9. On July 20, 2004, an Agreed Journal Entry of Judgment was entered by United States District Judge Joe Heaton ordering the disbursement of all but 16.802699896 percent of the proceeds

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<sup>1</sup> Most of the viatical policies were owned by ATCO as escrow agent for ABC. ATCO was also named as 100 percent beneficiary under the policies, which would allow it to collect and disburse the maturity proceeds.

of the Akin Policy. Judge Heaton ordered the Conservator and ABC to submit briefs setting forth their claims to the remaining 16.802699896 percent of the proceeds of the Akin Policy. See Exhibit "1," Affidavit of H. Thomas Moran, ¶10.

10. On or about August 10, 2004, the Conservator filed a motion in federal court seeking disbursement to him of the remaining 16.802699896 percent of the proceeds of the Akin Policy. The Conservator's brief set forth his agreement that he owned the remaining proceeds through application of the express language of the Conservatorship Order. ABC, conversely, argued that the language of the Conservatorship Order was ambiguous and requested that Judge Heaton stay its ruling pending completion of an appeal of a state court order construing the Conservatorship Order. See Exhibit "1," Affidavit of H. Thomas Moran, ¶11.

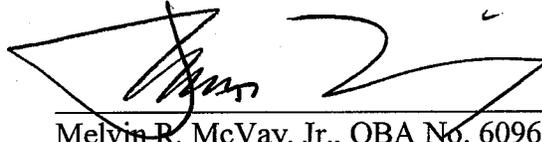
11. On September 27, 2004, Judge Heaton granted the Conservator's Motion for Order of Disbursement of Interplead Funds. See Exhibit "2," Order.

12. On October 25, 2004, Judge Heaton entered a Journal Entry of Judgment, over ABC's objection, ordering the disbursement of the remaining 16.802699896 percent of the proceeds of the Akin Policy to the Conservator within 30 days. See Exhibit "3," Journal Entry of Judgment.

13. Pursuant to the Journal Entry of Judgment, Prudential has disbursed the remaining 16.802699896 percent of the proceeds of the Akin Policy, totaling \$292,674.92, to the Conservator. See Exhibit "1," Affidavit of H. Thomas Moran, ¶14.

14. To date, the Conservator has used the funds disbursed to pay court-approved Conservatorship expenses, including Conservator fees and expenses, and attorney's fees. See Exhibit "1," Affidavit of H. Thomas Moran, ¶15.

Respectfully submitted,



Melvin R. McVay, Jr., OBA No. 6096

Thomas P. Manning, OBA No. 16117

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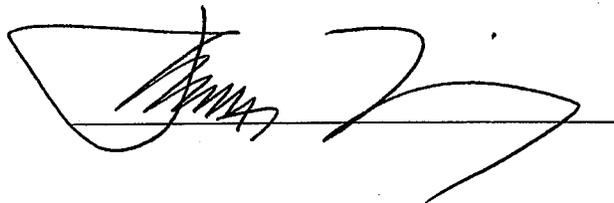
H. THOMAS MORAN

**CERTIFICATE OF MAILING**

The undersigned certifies that on the 3<sup>rd</sup> day of March, 2005, a true and correct copy of the foregoing document was sent postage prepaid by first-class mail, to:

Patricia A. Labarthe, Esq.  
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Attorney for Plaintiff

Dino E. Viera, Esq.  
Fellers, Snider, Blankenship,  
Bailey & Tippens, P.C.  
100 North Broadway Avenue, Suite 1700  
Oklahoma City, OK 73102  
Attorney for Defendants,  
Accelerated Benefits Corporation and  
American Title Company of Orlando

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