

JAN 11 2006

PATRICIA FREEMAN, COURT CLERK
by _____
Deputy

OKLAHOMA DEPARTMENT OF)
SECURITIES *ex rel.*, IRVING L.)
FRAUGHT, ADMINISTRATOR,)

Plaintiff,)

v.)

Case No. CJ-99-2500-66

ACCELERATED BENEFITS)
CORPORATION, a Florida)
corporation, et al.,)

Defendants.)

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

Defendant Accelerated Benefits Corporation ("ABC") and American Title Company of Orlando ("ATCO") hereby respond to the Conservator's Motion For Order Allowing Conservator to Retain Funds. The Conservator is asking to retain funds from the maturity of a policy or policies of which the Conservator alleges each 1) ABC; 2) David Piercefield/ATCO; 3) David Piercefield/Underwriting Account; 4) Keith LaMonda; and 5) LaMonda Brokerage were purchasers of interests in the matured policy or policies.

The Conservator provides no analysis, but simply states that it believes the funds are the property of the Conservator pursuant to this Court's February 6, 2002 Order. Alternatively, the Conservator states that the funds should be retained by the Conservator and offset against funds owed the Conservator pursuant to Orders dated November 20, 2002, and January 10, 2003. Those Orders require the payment of funds by ABC, and no other person.

ABC would agree that any amounts owed to ABC should be an offset to any amounts owed to the Conservator by ABC. Any maturity proceeds due ABC, as a purchaser of an interest in the policy, is not part of the Conservatorship pursuant to the February 2, 2002 Order. ABC, like all other purchasers are "ABC Investors" and, accordingly, like any other purchaser, are entitled to any proceeds of any maturity. However, because the Orders dated November 20, 2002, and January 10, 2003 require the payment of amounts by ABC to the Conservator in excess of the amounts due ABC, then ABC would agree that the amounts due ABC can be offset against the amounts owed pursuant thereto.

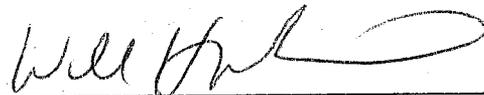
With respect to the remaining amounts, despite an elaborate affidavit, the Conservator provides no information from which policies (assuming there is more than one policy) these funds were collected. This information is critical. Unless ATCO or David Piercefield were holding the funds for the benefit of ABC, there is nothing in the February 6, 2002 Order or the later orders of the Court that allows the Conservator to retain the funds. ATCO and David Piercefield are "ABC Investors" under the February 6, 2002 Order. The February 6, 2002 Order requires the Conservator "to disburse to each ABC Investor his proportionate share of the proceeds paid on matured Policies..." See, February 6, 2002 Order, page 3, paragraph 8. Having failed to show that the maturity proceeds were held for the benefit of ABC, the Conservator must disburse the proceeds to ATCO and David Piercefield. In addition, David Piercefield is not a party to the February 6, 2002 Order. Thus, there is no basis for the Conservator to withhold any funds from Mr. Piercefield.

Finally, there is absolutely no basis to withhold the funds from Keith LaMonda or LaMonda Brokerage. Neither are parties to this lawsuit and are merely "ABC Investors." Those funds should likewise be distributed immediately pursuant to the February 2, 2002 Order. In addition, the Court

has no jurisdiction to order that those funds be retained because neither Keith LaMonda nor LaMonda Brokerage (as well as David Piercefield) is a party to this action, and have not received legally sufficient notice of the Conservator's attempt to not pay monies owed to those parties. Finally, the Court, by Order dated May 16, 2003, has previously held that Keith LaMonda is not personally liable for the debts of ABC. See, Attached Exhibit "A." And, there certainly is no judgment against Keith LaMonda, LaMonda Brokerage or David Piercefield. Immediate remittance of those funds by the Conservator is required.

CONCLUSION

For the reasons set forth above, the Conservator's Motion should be denied, except to the extent it requests that any funds owed ABC be used as an offset to any amounts owed the Conservator by ABC, and the Conservator should be ordered to immediately distribute any maturity proceeds in the name of ATCO, David Piercefield, Keith LaMonda or LaMonda Brokerage.



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American Title Company of Orlando

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of January, 2006, a true and correct copy of the foregoing was mailed by first class U.S. Mail, postage prepaid thereon, to the following:

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF)
SECURITIES *ex rel.*, IRVING L.)
FAUGHT, ADMINISTRATOR,)

Plaintiff,)

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Case No. CJ-99-2500-66

ACCELERATED BENEFITS)
CORPORATION, a Florida)
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Defendants.)

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

JUN - 4 2003

PATRICIA PRESLEY, COURT CLERK
by _____
Deputy

ORDER

On this 16th day of May, 2003, there came on for consideration Plaintiff's motion for summary judgment against Defendants, C. Keith LaMonda and Jess LaMonda (hereafter "Defendants"), and Defendants' cross motion for summary judgment, on the issue of whether Defendants may be held personally liable for certain debts of Defendant Accelerated Benefits Corporation. In support of the parties' respective motions, Plaintiff filed its "Motion to Add Party Defendants, and For Temporary Restraining Order, Asset Freeze, Accounting, Appointment of a Receiver, and Temporary Injunction and Brief in Support"; "Plaintiff's Reply to Defendants' Response to Motion for Order Holding Individual Defendants Personally Liable for Debt of Defendant Accelerated Benefits Corporation"; and "Plaintiff's

EXHIBIT A

Motion for Summary Judgment, Brief in Support and Response to Defendants' Motion for Summary Judgment"; and Defendants filed their "Response to Motion for Order Holding Individual Defendants Personally Liable for Debt of Defendant Accelerated Benefits Corporation and Defendants' Cross-Motion for Summary Judgment and Brief in Support." The Court, having considered the parties' respective motions, briefs, arguments and evidentiary materials, and otherwise being fully advised in the premises, finds that the Plaintiff's motion for summary judgment against Defendants on the issue of whether Defendants may be held personally liable for certain debts of Defendant Accelerated Benefits Corporation should be overruled and that Defendants' cross motion for summary judgment on said issue should be sustained.

IT IS SO ORDERED this 16 day of May, 2003.

DANIEL L. OWENS

DANIEL L. OWENS, DISTRICT JUDGE

PATRICIA PRESLEY, Court Clerk
By *Patricia*
Deputy Court Clerk

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 17 day of June, 2003.
By *Patricia* PATRICIA PRESLEY, Court Clerk
Deputy

SUBMITTED FOR APPROVAL:

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