

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 04-60573-CIV-MORENO/SIMONTON

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP., et al.,

Defendants,

VIATICAL BENEFACTORS, LLC, et al.,

Relief Defendants.

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**RECEIVER'S MOTION FOR AUTHORIZATION TO PAY CERTAIN COSTS  
RELATING TO SETTLEMENT WITH BRINKLEY, MCNERNEY, MORGAN  
SOLOMON & TATUM LLP**

Roberto Martínez, Esq., as Court-appointed Receiver of Mutual Benefits Corp. ("MBC"); Viatical Benefactors, LLC ("VBLLC"); Viatical Services, Inc. ("VSI"); and Anthony Livoti, Jr. individually and Anthony Livoti, Jr. P.A., solely in their capacity as trustee (collectively, the "Receivership Entities"), hereby moves this Court for authority to pay certain of the costs and expenses incurred by The Garden City Group, Inc., the claims administrator for the joint settlement reached by the Receiver and the Investors Class Action with the Brinkley, McNeerney, Morgan, Solomon & Tatum LLP ("BMMS&T") law firm. The Receiver states as grounds:

**Colson Hicks Eidson**

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1. On December 2, 2005, this Court entered an Order and Final Judgment in the case of *Scheck Investments, L.P., et al. v. Kensington Management, Inc., et al.*, Case No. 04-21160-Civ-Moreno (the "Investors Class Action") approving a joint settlement reached by the Receiver and Lead Counsel in the Investors Class Action with the law firm of BMMS&T, former outside counsel for MBC. The amount of the settlement was \$10,000,000. A copy of the Order and Final Judgment is attached as Exhibit A.

2. In connection with the Order and Final Judgment, the Court made an award of attorney's fees and expenses to Lead Counsel for the Investors Class Action. At the time, the expenses incurred by the claims administrator for the settlement, The Garden City Group, Inc., had not yet been finalized.

3. Paragraph 36 of the Order and Final Judgment provides: "Any and all reasonable expenses that are not included in Class Counsel's fee and expense request related to the dissemination of the Notice or administration of the Settlement Fund shall be paid out from the Settlement Fund upon Court approval. The Settlement Fund, after deducting the monies awarded in this Final Judgment, shall remain in escrow earning interest until the Court approves a plan of allocation and distribution."

4. The fees and expenses charged by The Garden City Group, Inc. have since been finalized and amount to \$ 47,292.98 (\$46,905.26 in fees + \$19,387.72 in expenses - \$19,000 advance payment). A copy of Garden City Group, Inc.'s invoice is attached as Exhibit B. Both Lead Counsel for the Investors Class Action and counsel for the Receiver submit that the amount is reasonable, particularly in light of the size and worldwide

distribution of the settlement class and the large number of calls and other inquiries received by members of the settlement class.

5. With the Court's authorization, the Settlement Fund was previously transferred to an interest-bearing account under the Receiver's control where it is being held pending the submission and approval by the Court of a final plan of distribution of the Receivership Estate. Accordingly, the Receiver, as opposed to Lead Counsel for the Investors Class Action, is filing this motion.

WHEREFORE, the Receiver respectfully requests that the Court enter the attached proposed Order authorizing the Receiver to pay \$47,292.98 in costs and expenses to The Garden City Group, Inc. for its work as the claims administrator for the settlement with BMMS&T.

Respectfully submitted,

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By: s/ Curtis B. Miner  
CURTIS MINER  
Florida Bar No. 885681

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail to the parties on the attached Receiver's Service List in *SEC v. Mutual Benefits Corp. et al*, Case No. 04-60573-Civ-Moreno, on this 22<sup>nd</sup> day of January 2007.

s/ Curtis B. Miner

Curtis B. Miner

**SERVICE LIST OF RECEIVER**

Case No.: 04-60573 CIV-Moreno

<b>VIA ELECTRONIC MAIL</b>		
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