

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 04-60573 CIV-MORENO

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 RESPONSE TO INVESTOR'S LETTER**

Roberto Martínez, the Court-appointed receiver of Mutual Benefits Corp. ("MBC"), Viatical Benefactors, LLC, Viatical Services, Inc. ("VSI"), and Anthony Livoti, Jr. and Anthony Livoti, Jr., P.A. in their capacity as trustee, hereby responds to the letter of investor Mitchell Gelnick dated February 12, 2009, as directed by the Court in its Notice of Filing and Order Requiring Receiver to Respond to Investor's Letter [Doc. 2241].

Mitchell Gelnick is an investor in several policies issued by MBC that total over \$1.1 million in potential death benefits due to him when the policies mature. Mr. Gelnick opted during the disposition process in this Receivership to keep his interests in those policies (a "Keep Investor") instead of selling them and with that decision took on the obligation to pay his share of the premiums on those policies as well as a small administrative fee for each policy. Mr. Gelnick states that has "reached his limits" in what he can pay for premiums.

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Mr. Gelnick has contacted the Receiver's staff in the past and has now written a letter to the Court and the Receiver requesting that he be given a loan from the Receiver, which he proposes to repay with interest from the proceeds of his policy interests when the policies mature in the future. The Receiver understands the financial situation Mr. Gelnick finds himself in, and he is certainly not alone. Given the nature of MBC's fraud, investors were misled to believe that their investments would mature sooner – and often far sooner – than they actually have or will mature. Many investors have contacted the Receiver's staff over the past year to complain about having to continue to pay premium shares and to report their financial difficulties or inability to do so. Presumably, the number of Keep Investors who will find it difficult or even impossible to pay their share of premiums will increase over the next year as a result of the recession in the U.S. economy among other causes. But while the Receiver is sympathetic with the situation these investors find themselves in, the proposal by Mr. Gelnick is simply not workable.

First, and most basically, the Receivership is not a bank. MBC has been wound down, and VSI simply does not have the infrastructure or business model to begin making loans to investors. As Mr. Gelnick acknowledges, if a loan is offered to him, then in fairness it would need to be offered to all of the Keep Investors, of which there are roughly 16,000. Presumably the vast majority of Keep Investors would want to have a loan from the Receiver if they did not have to repay it unless and until their policy matured and only had to pay an above-market interest rate (which is close to 1% presently). This would convert what is intended to be a wound-down Receivership into an ongoing entity making and collecting upon loans until all of the policies on which loans were made have matured.

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Second, Mr. Gelnick's proposal would make it impossible to distribute the pool of assets collected by the Receiver as planned. The Receiver has filed a Motion for Approval of Plan of Distribution, and the Receiver's goal is to conduct the distribution of the assets by May 2009. If loans are made out of the pool of assets, this would delay and disrupt the distribution. The Receiver would first have to administer a process to see how many Keep Investors want loans out of the pool of assets and then make those loans before being able to distribute what assets remain, if any. The Receiver would then, presumably, have to wait for some unspecified period of time for the loans to be repaid before making additional distributions. This would completely disrupt investor expectations about receiving a distribution of the Receivership assets as soon as practicable.

In short, while the Receiver understands that many investors have found it extremely difficult to pay their share of premiums, and that many will find it so in the future, the idea of turning the Receivership into a bank that makes loans on the pool of assets intended for distribution is simply not workable.

Respectfully submitted,

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By: /s/ Curtis B. Miner  
Curtis B. Miner  
Fl. Bar No. 0885681

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via CM/ECF in accord with the attached Receiver's Service List on March 5, 2009.

By:           /s/ Curtis B. Miner            
Curtis B. Miner  
Fl. Bar No. 0885681

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**SERVICE LIST OF RECEIVER**

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