

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 MOTION FOR INCLUSION OF UNDISTIRBUTABLE  
DEATH BENEFITS IN RECEIVERSHIP ESTATE**

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 an order permitting the Receiver to include certain death benefits proceeds in the Receivership estate for distribution to all victim investors. As will be discussed below, these death benefit proceeds have been received on matured policies, but the Receiver has been unable to distribute them to the investor to whom they are due despite having made all reasonable efforts to locate the investor.

In support of this Motion, the Receiver states as follows:

1. On May 5, 2004, this Court entered its Order Appointing Receiver. The Order, among other things, authorized the Receiver to take immediate possession of all property of the Receivership Entities, including bank accounts, and administer such property consistent with the Orders of this Court.

2. Over the course of this Receivership, VSI has continued to submit claims for death benefits when insurance policies have matured and has distributed those death benefits to the investors who had fractional interests in the underlying insurance policies. Since May 2004, VSI has distributed nearly \$200 million in death benefits to approximately 5,436 investors all over the world.

3. In a comparatively tiny number of instances, the Receiver has been unable to distribute the death benefits to the investors to whom the funds are due. Attached as Exhibit A is a schedule of the investors who cannot be located – 3 of whom are in the United States, and 8 of whom are in foreign countries (Colombia, Taiwan, Singapore, Great Britain and Guatemala). The death benefits for these particular investors were all received more than one year ago and in some cases more than three years ago.

4. The total amount of death benefits that is due to these investors is \$535,050.58.

5. The Receiver has taken all reasonable steps to try to locate these investors, including sending notices to their last known addresses, attempting to determine forwarding addresses, and using the services of a private investigator, but has been unable to do so. (There are additional investors that the Receiver has not been able to locate to date to distribute death benefits to, but is still taking steps to try to find them.)

6. The Receiver does not believe that it makes sense to continue to hold these funds while attempting to find the investors or hoping that they surface on their own. Reasonable efforts to track them down have already been taken. In addition, VSI will soon be sold to a new owner and exit the Receivership. Accordingly, the Receiver suggests that the best course is to include the "undistributable" death benefits with the pool of funds to be distributed to all of the MBC investors who had recognized claims in the Court-approved claims process.

7. In light of the large amount of death benefit funds that have been successfully distributed, it is not surprising that this comparatively small amount has turned out to be "undistributable." Indeed, this represents only 12 "lost" investors out of 5,448 total investors to whom death benefits were due – a "lost investor" rate of only 0.2%.

WHEREFORE, the Receiver respectfully requests that the Court enter the accompanying proposed order authorizing the Receiver to include the "undistributable" death benefits in the pool of assets to be distributed to the pursuant to the Court-approved claims process and plan of distribution in this case.

Respectfully submitted,

COLSON HICKS EIDSON  
255 Aragon Avenue  
Coral Gables, FL 33134-5008  
Telephone: (305) 476-7400  
Facsimile: (305) 476-7444  
E-mail: [curt@colson.com](mailto:curt@colson.com)

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 served via CM/ECF 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 23rd day of June 2009.

s/ Curtis B. Miner

Curtis B. Miner

**SERVICE LIST OF RECEIVER**

<b>VIA ELECTRONIC MAIL</b>		
<p>Amie Riggle Berlin, Esq. Senior Trial Counsel Securities &amp; Exchange Commission 801 Brickell Avenue, Suite 1800 Miami, Florida 33131 Fax: (305) 536-4154 E-mail: <a href="mailto:berlina@sec.gov">berlina@sec.gov</a></p> <p><i>Counsel for Securities &amp; Exchange Commission</i></p>	<p>Michael A. Hanzman, Esq. Kenvin Love, Esq. Hanzman Criden Chaykin &amp; Rolnick 7301 S.W. 57<sup>th</sup> Ct, Suite 515 South Miami, FL 33143 Fax: (305) 357-9050 E-mail: <a href="mailto:klove@hanzmancriden.com">klove@hanzmancriden.com</a> <i>Counsel for Scheck Investments LP.</i></p>	<p>Glenn S. Gitomer McCausland Keen &amp; Buckamn 259 N. Radnor-Chester Road Suite 160 – Radnor Court Radnor, PA 10987-5240</p>
<p>John H. Genovese, Esq. Genovese Joblove &amp; Battista, P.A. 100 S.E. 2<sup>nd</sup> Street, 36<sup>th</sup> Floor Miami, Florida 33131 Fax: (305) 349-2310 <i>Counsel for Great West Growth, LLC, et al.</i></p>	<p>Victor M. Diaz, Jr., Esq. Podhurst Orseck Josefsberg et al. City National Bank Building 25 West Flagler St., Suite 800 Miami, FL 33130 Fax: (305) 358-2382 E-mail: <a href="mailto:vdiaz@podhurst.com">vdiaz@podhurst.com</a> <i>Counsel for Scheck Investments LP.</i></p>	<p>J. David Hopkins, Esq. Lord, Bissell &amp; Brook LLP Suite 1900, The Proscenium 1170 Peachtree Street, N.E. Atlanta, Georgia 30309 Fax: (404) 872-5547 E-mail: <a href="mailto:dhopkins@lordbissell.com">dhopkins@lordbissell.com</a> <i>Counsel for Traded Life Policies Ltd.</i></p>
<p>Craig Rasile, Esq. Hunton &amp; Williams E-Mail: <a href="mailto:azaron@hunton.com">azaron@hunton.com</a> <a href="mailto:crasile@hunton.com">crasile@hunton.com</a> <a href="mailto:ggitomer@mkbattorneys.com">ggitomer@mkbattorneys.com</a> <i>Counsel for Charitable Concepts, Inc.</i></p>	<p>Robert C. Gilbert, Esq. 7301 S.W. 57<sup>th</sup> Ct, Suite 515 Fax: (305) 529-1612 E-mail: <a href="mailto:rgilblaw@aol.com">rgilblaw@aol.com</a> <i>Special Counsel for Scheck Investments LP, et al.</i></p>	<p>Hilarie Bass, Esq. Jacqueline Becerra, Esq. Greenberg Traurig P.A. 1221 Brickell Avenue Miami, Florida 33131 Fax: (305) 579-0717 E-mail: <a href="mailto:becerraj@gtlaw.com">becerraj@gtlaw.com</a> <a href="mailto:bassh@gtlaw.com">bassh@gtlaw.com</a> <i>Counsel for Union Planters Bank, N.A</i></p>
<p>Pelayo M. Duran, Esq. Law Office of Pelayo Duran, PA 4640 NW 7<sup>th</sup> Street Miami, FL 33126 Tel: (305) 266-9780 <a href="mailto:ecf@durandassociates.net">ecf@durandassociates.net</a> <i>Counsel for Mr. Felipe Ortiz-Cabrera</i></p>	<p>Edward M. Mullins, Esq. Daniella Friedman, Esq. Astigarraga Davis Mullins &amp; Grossman, P.A. 701 Brickell Ave., 16<sup>th</sup> Floor Miami, FL 33131 Fax: (305) 372-8202 E-mail: <a href="mailto:emullins@astidavis.com">emullins@astidavis.com</a> <a href="mailto:dfriedman@astidavis.com">dfriedman@astidavis.com</a> <i>Co-counsel for Life Settlement Holding, A.G.</i></p>	<p>David Levine, Esq. Jeffrey Schneider, Esq. Tew Cardenas LLP The Four Seasons Tower, 15<sup>th</sup> Floor 1441 Brickell Avenue Miami, FL 33131 Fax: (305) 536-1116 E-mail: <a href="mailto:jcs@tewlaw.com">jcs@tewlaw.com</a> <a href="mailto:dnl@tewlaw.com">dnl@tewlaw.com</a> <i>Counsel Patricia Cook, et al</i></p>
<p>Brian J. Stack, Esq. Stack Fernandez Anderson &amp; Harris, P.A. 1200 Brickell Avenue, Suite 950 Miami, FL 33131-3255 Fax: (305) 371-0002 E-mail: <a href="mailto:bstack@stackfernandez.com">bstack@stackfernandez.com</a> <i>Counsel for Traded Life Policies Ltd.</i></p>	<p>Christopher J. Klein Baur &amp; Klein, P.A. 100 N. Biscayne Blvd. 21st Floor Miami, FL 33132 Fax: (305) 371-4380 E-mail: <a href="mailto:cklein@worldwidelaw.com">cklein@worldwidelaw.com</a> <i>Co-counsel for Life Settlement Holding, A.G.</i></p>	<p>Eric Ellsley, Esq. Krupnick Campbell Malone Roselli Buser et al 700 SE 3rd Ave Ste 100 Fort Lauderdale Florida 33161 E-Mail: <a href="mailto:eellsley@krupnicklaw.com">eellsley@krupnicklaw.com</a> <i>Counsel for Certain Investors</i></p>

<p>William J. Gallwey, III, Esq.                  Shutts &amp; Bowen LLP                  201 So. Biscayne Blvd., Suite 1500                  Miami, FL 33131                  Tel: (305) 347-7312  <a href="mailto:wgallwey@shutts.com">wgallwey@shutts.com</a>  <i>Counsel for Hartford Life &amp; Annuity Ins. Co.</i></p>	<p>Daniel S. Mandel, Esq.                  Mandel, Weisman, Heimberg &amp; Brodie, P.A.                  Boca Corporate Center                  2101 N.W. Corporate Blvd                  Boca Raton, FL 33431  <a href="mailto:Dmandel@mandelweisman.com">Dmandel@mandelweisman.com</a></p> <p>Joseph A. Patella, Esq.                  450 Lexington Avenue                  New York, New York 10017  <a href="mailto:JosephPatella@andrewskurth.com">JosephPatella@andrewskurth.com</a>  <i>Counsel for American Express Tax &amp; Business Services, Inc.</i></p>	<p>Andrea S. Hartley, Esq.                  Akerman Senterfitt                  One Southeast Third Avenue, 25<sup>th</sup> FL                  Miami, Florida 33131                  Tel: (305) 374-5600  <a href="mailto:Andrea.hartley@akerman.com">Andrea.hartley@akerman.com</a>  <i>Counsel for Franklin Trade Graphics, LLC</i></p>
<p>John W. Kellogg                  Moye White LLP                  16 Market Square, 6<sup>th</sup> FL                  1400 16<sup>th</sup> Street                  Denver, CO 80202                  Tel: (303) 292-2900  <a href="mailto:John.Kellogg@moyewhite.com">John.Kellogg@moyewhite.com</a>  <i>Counsel Friedlob Sanderson Paulson &amp; Tourillott, LLC</i></p>		

# **EXHIBIT A**

To Receiver's Motion for Inclusion of Undistributable Death Benefits in Receivership Estate

UNPAID DEATH BENEFITS PENDING FROM 2005-2007

DOMESTIC- NO FURTHER CONTACT

NAME	RELATIONSHIP	DATE OF BIRTH	DATE OF DEATH	DATE OF BENEFIT PENDING	DATE OF BENEFIT PENDING	LAST KNOWN ADDRESS	
CARLA M SIMMONS TRUST	US	75-13818	50-49	1/8/2007	APR 07	APR 07	None available.
ROYCE CHARITABLE REMAINDER	US	04-1305	99-358	6/30/2004	JAN 05	MAR 06	None available.
DAVID COSEY TRUST	US	31-36225	99-8545	3/6/2006	JUNE 06	SEPT 06	124 Bahama Rd & 114 Bahama Rd, Key Largo Fl, 33057

INTERNATIONAL- NO FURTHER CONTACT

NAME	RELATIONSHIP	DATE OF BIRTH	DATE OF DEATH	DATE OF BENEFIT PENDING	DATE OF BENEFIT PENDING	LAST KNOWN ADDRESS	
ABEL ZEA BARRERA	CO	31-15487	99-1630	10/7/2005	SEPT 05	SEPT 05	Carrera 79 A #31-26, Bogota, Colombia
ABEL ZEA BARRERA	CO	31-15487	10-510	6/14/2006	AUG 07	AUG 07	Carrera 79 A #31-26, Bogota, Colombia
PATRICIA TELLEZ	CO	31-15544	90-220	4/15/2007	JUNE 07	AUG 07	Carrera 8 #89-16, Bogota, Colombia
MARCELA PILAR SARMENTO PINEDA	CO	31-32839	99-7940	1/21/2006	MAY 07	MAY 07	Carrera 12 # 107A-06, Apto 901, Bogota, Colombia
TENG-SHUNG LEE	TW	31-20471	99-7490	7/7/2006	MAR 07	MAR 07	4F, No. 19-1, Alley 3 Lane 18, Sec 2, Heping E. Rd, Daan Chin, Taipei, Taiwan ROC 106
TENG-SHUN LIN	TW	31-39379	99-7490	7/7/2006	MAR 07	MAR 07	10F-1, No. 7 Alley 7, Lane 217, Chung-Hsiao E. Rd, Sec 3, Taipei, Taiwan ROC 106
TENG-SHUN LIN	TW	31-39379	99-7401	10/14/2004	JUL Y 07	JUL Y 07	10F-1, No. 7 Alley 7 Lane 217, Chung-Hsiao E. Rd, Sec 3, Taipei, Taiwan ROC 106
MS KAH WAN	SG	31-19200	99-7390	12/22/2005	MAY 07	MAY 07	BH-632 Veerasamy Road #24-106, Singapore 200632
SHARAH GARDNER BROWN	SG	31-22388	10-594	10/31/2006	MAY 07	MAY 07	116 Weyhill Close, Singapore, 138896
HOC HOLDINGS LTD ROGER WILLIAMSON	GB	31-23707	99-7564	8/5/2005	MAR 07	MAR 07	2 Old Skompton Rd, Sec 444, London SW73DQ, Great Britain
ANA MARLA GOMEZ AGUILAR	GT	31-20157	99-7406	8/17/2006	JUNE 07	JUL Y 07	9A Avenida 9-34 Zona 1, Quetzal Tamango, Guatemala



**PROPOSED ORDER**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573-CIV-MORENO

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

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MUTUAL BENEFITS CORPORATION, *et al.*,

Defendants,

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Relief Defendants.

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**ORDER GRANTING RECEIVER'S MOTION FOR INCLUSION OF  
UNDISTRIBUTABLE DEATH BENEFITS IN RECEIVERSHIP ESTATE**

THIS CAUSE is before the Court on the Receiver's Motion for Inclusion of Undistributable Death Benefits in Receivership Estate. This Court, having reviewed the filings, and being otherwise fully advised in the premises, it is hereby:

**ORDERED** and **ADJUDGED** that the Receiver's Motion is **GRANTED**. The death benefits due to the investors set forth in Exhibit A to the Receiver's Motion may be considered undistributable and shall be included in the general pool of assets to be distributed to the victim investors in this matter consistent with the Court's prior orders.

**DONE** and **ORDERED** in Chambers in the Southern District of Florida on this \_\_\_\_ day of June 2009, in Miami, Florida.

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THE HON. FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE