

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573 CIV-MORENO
Magistrate Judge Garber

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP.,
JOEL STEINGER a/k/a JOEL STEINER,
LESLIE STEINGER a/k/a LESLIE STEINER,
and PETER LOMBARDI,

Defendants,

VIATICAL BENEFACTORS, LLC,
VIATICAL SERVICES, INC.,
KENSINGTON MANAGEMENT, INC.,
RAINY CONSULTING CORP.,
TWIN GROVES INVESTMENTS, INC.,
P.J.L. CONSULTING, INC.,
SKS CONSULTING, INC., and
CAMDEN CONSULTING, INC.,

Relief Defendants.

**COLSON HICKS EIDSON'S
SECOND REQUEST FOR INTERIM COMPENSATION
TO PAY ATTORNEYS' FEES AND COSTS
AND THE RECEIVER'S FEES
AND MEMORANDUM IN SUPPORT**

(June 19, 2004 through September 30, 2004)

Pursuant to Court Order, all objections to this
Application must be filed and served within ten (10)
days of this Application.

Colson Hicks Eidson

255 Aragon Avenue, 2nd Floor, Coral Gables, Florida 33134-5008 Telephone: (305) 476-7400 Fax: (305) 476-7444

Roberto Martínez, court-appointed receiver (the "Receiver") of Mutual Benefits Corp. ("MBC"), Viatical Benefactors, LLC ("VBLLC") and Viatical Services, Inc. ("VSI"), (collectively the "Receivership Entities"), through undersigned counsel and pursuant to the Court's Order Appointing Receiver dated May 4, 2004, (the "OAR") hereby requests the Court to enter an order authorizing him to pay to Colson Hicks Eidson ("CHE") (i) reasonable attorneys' fees and costs incurred by CHE; and (ii) the Receiver's fees, between June 19, 2004 and September 30, 2004, and in support thereof states the following:

1. Attached as Exhibit 1 is a Summary of the Fees incurred by CHE in its representation of the Receiver, and the Receiver's fees, from June 19, 2004, through September 30, 2004 (the "Application Period"). Costs are posted through September 30, 2004. Costs incurred after September 30, 2004 will be included in the next interim fee application

2. Attached as Exhibit 2 is a summary of all CHE timekeepers, including the Receiver, their billing rates and the total hours charged by each timekeeper. Exhibit 3 is a summary of each timekeeper broken down by category.¹ All time has been billed at the reduced agreed upon rate. Lawyers are billed at \$350/hour or \$300/hour, representing a reduction from their normal hourly rates of 30% for Mr. Martinez, 27% for Mr. Cooper, 20% for Ms. Lefebvre and Ms. Silverman, 15% for Ms. Kane and Mr. Miner, and 12.5% for Mr. Beason. In addition, the paralegal fees have been reduced by 15%. The total

¹ In certain instances time billed to one category could have been appropriately billed to a different category or several different categories, however, in some instances it was very difficult, if not impossible, to divide the time between categories.

savings to the receivership reflected in these negotiated discounts for this time period is \$74,957.50.²

3. Attached as Exhibit 4 is a breakdown of the costs. Total costs for which CHE seeks reimbursement are \$9,771.19.

4. The services rendered in each major category can be summarized as follows:

I. Colson Hicks Eidson Lawyers and Paralegals

a. Asset Analysis and Recovery. \$4,477.00. Time included in this category reflects the efforts of CHE professionals to identify and locate assets.

b. Business Operations. \$4,635.00 CHE professionals assisted the Receiver on site at the MBC office in administering the operations of the Receivership Entities, including addressing personnel issues, analyzing insurance policies and the premium obligations, assuring the uninterrupted payment of premiums for the policies and other operating expenses, effectuating bank transfers, and putting in place systems to keep matters organized.

c. Investor and Agent Communications. \$76,479.50. Although the Receiver was able to retain a claims administrator, the Garden City Group, who, among other things, did take over the function of answering thousands of e-mails and voice mails in English and Spanish and several other languages; the Receiver, however, continues to receive thousands of inquiries, in the form of telephone calls, letters, e-mails, and numerous unannounced visits at his office, from investors, sales agents, lawyers,

² CHE maintains detailed time records that are kept contemporaneously with the services performed. CHE will file, within 10 days, these detailed time records under seal with the Court for review *in camera*.

promoters, and others, from North America, South America, Asia and Europe, inquiring as to a variety of matters, including the status of the investments, the maturity of the policies, requesting the return of monies, or seeking general information about the receivership and the status of the SEC litigation. These inquiries, whenever possible, have been handled by professionals and staff members working with the receivership, including, primarily, the timekeepers at CHE, and many of them have been provided written responses that set forth general information about the receivership. The Garden City Group also has received numerous written communications, which have been forwarded to CHE for individual written responses.

d. Employee Matters. \$165.00. Paralegal Mari Rodriguez assisted the Receiver as requested in addressing personnel matters and working with the labor lawyers to provide them with appropriate information and follow up on matters related to employee relations.

e. Litigation-Third Party. \$52,568.00. As detailed in the Receiver's reports, the OAR stayed all third party private litigation involving the Receivership Entities and their investors and required that litigation be brought ancillary to the Receivership action. To effectuate this provision, counsel at CHE filed and served this Court's order in 47 cases in 19 different states as well as 1 case in Canada.

After filing the order, CHE counsel contacted MBC's outside counsel in each of these cases to determine the nature and status of each case. There are presently 55 active cases in 25 different states. The Receiver's counsel has continued to coordinate with MBC's outside counsel in each of these cases to ensure that this Court's stay order is enforced.

Additionally, counsel for the Receiver also has participated and managed all ancillary proceedings filed subsequent to the Receivership.

f. Litigation - SEC. \$63,997.00. All time associated directly to the pending SEC litigation is included in this category including review and modification of the freeze order, review of pleadings, preparation of receiver reports, attendance at hearings, and production of documents and responses to other discovery requests.

g. Litigation – Regulatory/Criminal. \$16,582.00. CHE timekeepers continue to meet and confer regularly with regulatory and criminal law enforcement agencies in connection with ongoing regulatory and criminal law enforcement actions and have worked to abate and manage those actions during the receivership. In addition, considerable time has been spent by CHE paralegals in responding to numerous discovery requests from the regulators.

As stated in the Receiver's reports, the OAR did not stay litigation or other regulatory actions involving state and federal regulators and law enforcement agencies. Counsel at CHE obtained lists of all such actions from MBC's outside counsel. Those lists detailed 25 regulatory actions in 18 different states. CHE counsel filed and served this Court's order in those actions and corresponded with MBC's counsel in each of these cases to obtain information concerning each of these actions. Again, these contacts led to numerous phone calls from MBC counsel as well as numerous phone calls from state regulatory agencies. Counsel at CHE has undertaken to respond to these phone calls and answer the questions and concerns expressed by counsel.

In addition, CHE counsel continues to maintain lines of communication with state regulators throughout the United States, working with the North American Association of

Securities Administrators (NAASA) to establish a way of communicating with all state securities regulators so as to address their concerns and at the same time minimize the costs of such communication to the Receivership and also working with the National Association of Insurance Commissioners (NAIC) to establish similar lines of communication with all state insurance regulators. One goal of these communications is to eliminate, or at least minimize, the need to respond to regulatory requests and regulatory actions from securities administrators and insurance commissioners in each of the states in which the Receivership Entities did business.

Furthermore, counsel at CHE, together with MBC's outside counsel, continue to take steps necessary to maintain the status quo with respect to the State of Florida Department of Insurance Cease and Desist Order.

h. Fee Applications: \$1,014.00. All the time associated with preparing the fee applications.

II. Receiver

The Receiver is responsible for administering the Receivership Entities pursuant to the terms of the OAR and overseeing the work of the professionals and staff working on the receivership. The Receiver has spent considerable time reviewing documents, records, and contracts, conducting witness interviews, corresponding, e-mailing and communicating with various entities, lawyers, bankers, employees, dealing with employee issues, as well as managing and overseeing the assets. Since his appointment, the Receiver has worked extensively on litigation, regulatory, and criminal law enforcement issues, including meeting and communicating with lawyers, drafting reports and memoranda, preparing for court hearings, and involved in motion practice. The

Receiver has participated extensively in court proceedings, litigation decisions, meetings and conferences regarding strategy and case administration as well as case management decisions.

Because of the nature of the businesses of the Receivership Entities, the Receiver has spent a substantial amount of his time dealing with the management of the inventory of insurance policies. This has included many meetings with the principals and employees of VSI, the entity involved in tracking the insureds, directing the payments of premiums, and submitting death claims to the insurance companies upon the maturity of the policies.

The Receiver is requesting **\$67,987.50** for his hours.

5. For this application period CHE seeks reimbursement for 779.65 hours of time for lawyers, including the Receiver, and 429.00 hours of paralegal time. The total amount of fees sought during the application period is \$287,905.00 reflecting the reductions totaling approximately \$74,957.50. Total expenses sought by CHE for the application period \$9,771.19.

6. I have carefully reviewed the attached exhibits and I am responsible for supervising all of the attorneys in my firm on the case. I certify that the hours expended and the costs incurred were necessary and reasonable to represent the Receiver during the Application Period.

MEMORANDUM OF LAW

When determining the award of attorneys' fees, the Court should give consideration to the factors for compensation that the 11th Circuit articulated in *In re Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292 (11th Cir. 1988) - (1)

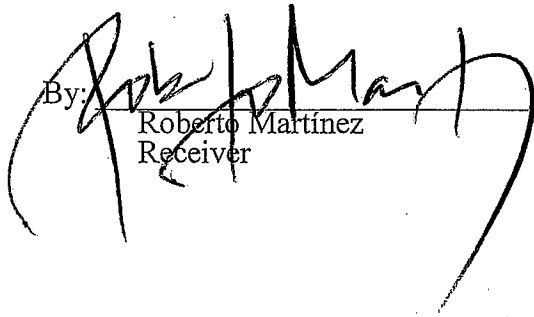
the time and labor properly employed by the attorneys in processing the case; (2) the quality of services rendered; (3) the scope of the activity and conspiracy under attack; (4) the financial risk involved; (5) the magnitude, complexity and novelty of the issues involved; (6) the beneficial results obtained; and (7) the degree to which, if any, effort were supported by prior governmental action. CHE respectfully suggests that its application meets all the criteria for this interim request for compensation. The Receiver, with the assistance of CHE, has stabilized operations, secured assets, and, to the extent possible, maintained the status quo, while communicating regularly with all parties in interest.

WHEREFORE, COLSON HICKS EIDSON, by and through the undersigned counsel, respectfully requests that this Court enter an order Authorizing the Payment of \$287,905.00 in fees and reimbursement of \$9,771.19 in costs for the Application Period. A proposed form of order is attached.

DATED this 23rd day of December, 2004 at Miami, Florida.

Respectfully submitted,


By:


Roberto Martinez
Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Application, with all exhibits, was forwarded by undersigned counsel for the Receiver, via facsimile and U.S. Mail to all parties on the attached Service List this 21st day of December, 2004.

COLSON HICKS EIDSON
Attorneys for Receiver
255 Aragon Avenue, 2nd Floor
Coral Gables, FL 33134
Ph. No. 305-476-7400

By: 
Curtis Miner

SERVICE LIST OF RECEIVER

December 10, 2004

Case No.: 04-60573 CIV-Moreno

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EXHIBIT 1

**SUMMARY OF INTERIM APPLICATION FOR COMPENSATION OF
FEES AND COSTS OF COLSON HICKS EIDSON, P.A.**

1. Name of Applicant	Colson Hicks Eidson, P.A.	
2. Role of Applicant	Receiver	
3. Name of certifying professional	Roberto Martínez	
4. Date receiver appointed	May 4, 2004	
5. Date of application for employment	May 26, 2004	
6. Date of order approving employment	June 3, 2004	
7. Dates of services recovered	June 19, 2004 through September 30, 2004	
8. Total fee requested for this period		\$287,905.00
9. Total expense reimbursement requested for this period		<u>9,771.19</u>
10. Total fee and expense award requested		<u>\$297,676.19</u>

EXHIBIT 2
SUMMARY OF TIME BY TIMEKEEPER

PROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Roberto Martínez	\$350.00	194.25	\$ 67,987.50
Marc Cooper	\$350.00	119.40	41,790.00
Julie Braman Kane	\$300.00	117.20	35,160.00
Maureen Lefabvre	\$300.00	29.00	8,700.00
Barbara Silverman	\$300.00	2.50	750.00
Curtis Miner	\$300.00	246.40	73,920.00
Oral Beason	\$175.00	70.90	12,407.50
TOTAL BY PROFESSIONAL		779.65	\$240,715.00

PARAPROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Ellie G. Futterman	\$110.00	141.90	\$ 15,609.00
Maria A. Rodriguez	\$110.00	146.30	16,093.00
Jennie Hausler	\$110.00	140.80	15,488.00
TOTAL BY PARAPROFESSIONAL		429.00	\$47,190.00

LEGAL SERVICES RENDERED (TOTAL)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Total Professional		779.65	\$240,715.00
Total Paraprofessional		429.00	47,190.00
TOTAL LEGAL SERVICES		1,208.65	\$287,905.00

Colson Hicks Eidson

255 Aragon Avenue, 2nd Floor, Coral Gables, Florida 33134-5008 Telephone: (305) 476-7400 Fax: (305) 476-7444

EXHIBIT 3**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL
TIME BY ACTIVITY CODE CATEGORY**

ACTIVITY CODE CATEGORY: Asset Analysis & Recovery			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Ellie Futterman	\$110.00	40.70	4,477.00
ACTIVITY CODE TOTAL		40.70	\$4,477.00

ACTIVITY CODE CATEGORY: Business Operations			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Marc Cooper	\$350.00	4.50	\$ 1,575.00
Curtis Miner	\$300.00	8.00	2,400.00
Mari Rodriguez	\$110.00	5.60	660.00
ACTIVITY CODE TOTAL		18.10	\$ 4,635.00

ACTIVITY CODE CATEGORY: Investor/Agent Communications			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Marc Cooper	\$350.00	0.60	\$ 210.00
Julie Braman Kane	\$300.00	108.80	32,640.00
Curtis Miner	\$300.00	3.90	1,170.00
Oral Beason	\$175.00	70.90	12,407.50
Mari Rodriguez	\$110.00	132.40	14,564.00
Jennie Hausler	\$110.00	140.80	15,488.00
ACTIVITY CODE TOTAL		457.40	\$ 76,479.50

EXHIBIT 3**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL
TIME BY ACTIVITY CODE CATEGORY**

ACTIVITY CODE CATEGORY: Employee Matters			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Mari Rodriguez	\$110.00	1.50	165.00
ACTIVITY CODE TOTAL		1.50	\$ 165.00

ACTIVITY CODE CATEGORY: Litigation – Third Party			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Marc Cooper	\$350.00	41.7	\$ 14,595.00
Julie Kane	300.00	1.0	300.00
Maureen Lefabvre	300.00	29.0	8,700.00
Barbara Sullivan	300.00	1.8	540.00
Curtis Miner	\$300.00	83.3	24,990.00
Ellie Futterman	\$110.00	31.3	3,443.00
ACTIVITY CODE TOTAL		188.1	\$52,568.00

ACTIVITY CODE CATEGORY: Litigation SEC			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Marc Cooper	\$350.00	53.10	\$ 18,585.00
Julie Braman Kane	\$300.00	0.30	90.00
Barbara Silverman	\$300.00	0.70	210.00
Curtis Miner	\$300.00	144.80	43,440.00
Ellie Futterman	\$110.00	15.20	1,672.00
ACTIVITY CODE TOTAL		\$ 214.10	\$63,997.00

EXHIBIT 3**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL
TIME BY ACTIVITY CODE CATEGORY**

ACTIVITY CODE CATEGORY: Litigation-Regulatory/Criminal			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Marc Cooper	\$350.00	19.50	\$ 6,825.00
Julie Braman Kane	\$300.00	7.10	2,130.00
Curtis Miner	\$300.00	6.10	1,830.00
Ellie Futterman	\$110.00	52.70	5,797.00
ACTIVITY CODE TOTAL		85.40	\$16,582.00

ACTIVITY CODE CATEGORY: Fee Applications			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	0.30	90.00
Ellie Futterman	\$110.00	2.00	220.00
Mari Rodriguez	\$110.00	6.40	704.00
ACTIVITY CODE TOTAL		8.70	\$1,014.00

ACTIVITY CODE CATEGORY: Receiver			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Roberto Martínez	\$350.00	194.25	\$67,987.50
ACTIVITY CODE TOTAL		194.25	\$67,987.50

EXHIBIT 4**SUMMARY OF COSTS****Postage & mailings:**

Overnight courier	\$ 415.74
Local courier	1,105.25
Copies and supplies paid to third parties	642.61
Internal copy charges at \$0.10 each	3,154.60
Postage	412.33
Parking	10.50
Filing fees	77.00
Legal research costs	1,034.08
Long distance charges	56.15
Other	<u>2,862.93</u>
 TOTAL	 <u>\$9,771.19</u>