

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573 CIV-MORENO/SIMONTON

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

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.

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

**(October 1, 2005 through December 31, 2005)**

**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, as court-appointed receiver (the "Receiver") of Mutual Benefits Corp. ("MBC"), Viatical Benefactors, LLC ("VBLLC"), Viatical Services, Inc. ("VSI") and Anthony Livoti, Jr. and Anthony Livoti, Jr., P.A. solely in their capacity as trustee (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 the Receiver to pay to Colson Hicks Eidson ("CHE") (i) reasonable attorneys' fees and costs incurred by CHE; and (ii) the Receiver's fees, between October 1, 2005 and December 31, 2005, 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 October 1, 2005 through December 31, 2005 (the "Application Period"). Costs are posted through December 31, 2005.

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.

3. Attached as Exhibit 3 is a summary of each timekeeper broken down by category. In many instances, time billed to one category could also 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. 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, 15% for Ms. Kane and Mr. Miner. In addition, the paralegal fees have been reduced by 15%. The total savings to the receivership reflected in these negotiated discounts for this time period is **\$44,062.50**. In addition, CHE has written off approximately \$5,302.00 of unbilled time resulting in a total savings to the receivership of **\$49,364.50**. Furthermore, Mr. Martínez has

not charged for numerous hours spent in responding to a variety of e-mails and telephone calls received daily from investors and other interested parties relating to the receivership

4. Attached as Exhibit 4 is a breakdown of the costs. Total costs for which CHE seeks reimbursement are **\$26,936.15**.

5. The services rendered in each major category can be summarized as follows:<sup>1</sup>

**I.**  
**COLSON HICKS EIDSON**  
**LAWYERS and PARALEGALS**

a. Asset Analysis and Recovery. **\$57,381.00**. Time included in this category reflects the efforts of CHE professionals to identify and locate assets that properly belong to, or should be returned to, the Receivership Entities. Among other things, CHE professionals have investigated the books and records of MBC and VBLLC and have identified several million dollars in payments directly from MBC and VBLLC to vendors for the personal benefit of certain of the individual Defendants in the SEC Action. Many of these payments were disguised in MBC's and VBLLC's books and records as being for "purchaser commissions," when in fact they were for horse- and farm-related expenses for the personal benefit of certain of the individual Defendants.

In addition to carrying out these investigations, CHE professionals have taken steps to recover these assets by bringing (1) an action against the insider Defendants to seek to recover the millions of dollars in MBC and VBLLC assets that they drained from the companies in "consulting" fees or converted from the company for their personal uses, (2) fraudulent conveyance actions against Joel Steingers' horse farms, (3) an action against

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<sup>1</sup> CHE maintains detailed time records that are kept contemporaneously with the services performed. CHE will file together with this request these detailed time records under seal with the Court for review *in camera*.

Steven Steiner for the recovery of a loan, (4) issuing demand letters and preparing actions to be filed against a number of businesses that were the recipients of fraudulent transfers from MBC and VBLLC, and (5) issuing demand letters and preparing actions to be filed against a number of former sales agents who received advances on commissions for money that was deposited by investors into the Union Planters Bank "pre-closing" purchaser escrow account and that has now been returned to the investors. CHE professionals have also been involved in investigating the viability of additional actions against third parties for the recovery of assets for the benefit of the Receivership estate, by subpoenaing relevant documents, reviewing documents, and conducting investigations.

b. Asset Disposition: **\$5,565.00** . Time included in this category primarily reflects the efforts of CHE personnel to comply with this Court's Order on Disposition of Policies and Proceeds. In particular, counsel has had numerous telephone conferences with insurers' counsel regarding the distribution of death benefits and pending interpleader actions, and numerous telephone conferences with investors and their counsel regarding the procedures for distribution of death benefits. In addition, counsel has spent substantial amounts of time working with the staff of MBC and VSI to implement procedures to carry out the disposition process.

c. Business Operations. **\$6,115.00**. CHE professionals continue to assist the Receiver in administering the business operations of the Receivership Entities, including addressing personnel issues, advising on miscellaneous bookkeeping and accounting 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 generally keeping in place systems to keep matters organized. In particular,

myriad issues have arisen in connection with VSI's dealings with insurers, ranging from the payment of death benefits to changes of beneficiaries to the resolution of disputes, which require the attention of CHE professionals.

d. Litigation - SEC. \$39,165.00. All time associated with the pending SEC litigation is included in this category. Although the SEC has entered into final settlements with Joel Steinger, Leslie Steinger and Peter Lombardi, it continues to prosecute its action against Steven Steiner. While time recorded in this category includes work specifically related to the SEC's action, it also includes work more generally related to the carrying out of the Receiver's responsibilities that must be carried out through Court proceedings in the SEC Action. This includes, generally, the review of pleadings, motions and memoranda, the preparation of motions and memoranda, assisting the Receiver in the preparation of reports, attendance at hearings, and production of documents and responses to other discovery requests. This category also includes, to some extent, work associated with efforts to make sure that death benefits are paid promptly by insurance companies and addressing related motions, disputes and interpleader actions that have arisen as a result of certain insurance companies' reluctance to pay out death benefits to the Receiver on matured policies.

e. Litigation-Third Party. \$52,106.00. The Receiver has filed a number of proactive lawsuits seeking to recover funds for the benefit of MBC's investors and creditors. In particular, the following lawsuits initiated by the Receiver are currently pending: (1) *Receiver v. Joel Steinger, et al.*, Case No. 05-61471 (action to recover the millions of dollars in payments wrongfully diverted from MBC to its former principals and insiders); (2) *Receiver v. Steven Steiner*, Case No. 05-60276 (action to recover a \$1,160,000 loan that was made from MBC to Steven Steiner); (3) *Receiver v. Triple Crown Farms, LLC*, Case No.

05-21910, and *Receiver v. Majestic Farms, LLC*, Case No. 05-60833 (actions to recover fraudulent conveyances made from MBC and VBLLC to fund Joel and Leslie Steinger's personal horse farms); and (4) *Receiver v. Fixed Return Investments, LLC*, Case No. 06-60125 (action for breach of contract to recover advanced commissions paid to a sales agent on investors' pre-closing money that has now been returned to the investor by Union Planters Bank). Each of these actions has required the Receiver's professionals to engage the various activities involved in pursuing federal civil actions, ranging from discovery and the taking of depositions to motion practice and oral arguments to trial preparation.

Counsel for Receiver has also participated and managed all ancillary proceedings filed against the Receivership Entities subsequent to the Receivership. In particular, an action was filed by a group of insurance companies, captioned *American United Life Insurance Co., et al. v. Mutual Benefits Corp, et al.*, seeking to void an unspecified number of policies currently being administered by the Receivership Entities. In addition, an action was filed by an insured, captioned *Gerald Krigel v. Anthony Livoti, Jr., P.A., et al.*, seeking to rescind the sale of a \$1,000,000 life insurance policy to MBC on the grounds that it was procured without the insured's knowledge and in violation of the Florida Viatical Settlement Act.

The Receivership Entities continue to receive subpoenas in connection with arbitrations and court actions related to MBC and its former sales agents, though not directly against the Receivership Entities. Finally, CHE professionals have had to periodically address matters that have arisen in the numerous civil lawsuits that remain pending, albeit stayed, against the Receivership Entities around the United States. There are presently 65 cases in 27 different states involving the Receivership Entities.

f. Litigation – Regulatory/Criminal. **\$6,080.00**. 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 investigations. Although the majority of the regulatory matters involving MBC or VBLLC have been brought to a conclusion by the Receiver, the Receiver continues to receive numerous inquiries and requests for information from regulators around the country who are involved in proceedings against MBC's former sales agents. One of the actions that remains pending at this time is the Office of Statewide Prosecution's criminal action against MBC; the Receiver and his professionals are working towards bringing this action to a conclusion and have been involved in discussions to that end during this billing period. In addition, the Receiver has received criminal law enforcement inquiries and requests for information that have required the attention of his professionals. Finally, the Receiver's professionals spent time during this period to bring to a resolution the Receiver's involvement in a forfeiture action captioned *United States v. \$4,000,000*, Case No. 05-61399-Civ-Huck, which resulted in a settlement that will bring \$169,166 into the Receivership for the benefit of investors.

g. Investor and Agent Communications. **\$11,913.50**. The Receiver and his professionals during this time period continued to receive hundreds of telephone calls, letters and e-mails, as well as numerous unannounced visits at his office. These varied inquiries were from investors, sales agents, lawyers and others, from North America, South America, Asia and Europe, inquiring about the status of the investments, the maturity of individual policies, how to obtain the return of monies, or obtaining general information about the receivership and the status of the SEC litigation. Whenever possible, these inquiries are forwarded to MBC or VSI staff members working with the receivership in order to minimize

the cost. However, on an almost daily basis, CHE professionals still need to respond to inquiries from counsel for investors around the United States.

h. Fee Applications: **\$8,330.00**. All the time associated with preparing the fee applications. This includes the review of fee applications by all professionals retained by the Receiver.

i. Claims Administration & Objections: **\$767.00**. All time associated with setting up a process for the handling of claims and objections

## 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.

Since the last fee application the Receiver's administrative duties have included the following: pursuing litigation against, and conducting settlement conferences with, the former principals of MBC; preparing affirmative litigation against some of the former professionals of MBC; performing extensive preparations to implement the Court's policy disposition plan; preparing the Ninth and Tenth Receiver's Reports; conducting conversations with law enforcement officials; presiding over the receivership's weekly operational meetings; preparing for, and attending, the Fairness Hearing; reviewing and editing the draft financial statements; attending the order to show cause hearing; performing performance and compensation review of the MBC/VSI employees; and, attending an Eleventh Circuit mediation.



The Receiver is requesting \$27,720.00 for his hours.

6. For this application period CHE seeks reimbursement for 517.70 hours of time for lawyers, including the Receiver, and 507.25 hours of paralegal time. The total amount of fees sought during the application period is \$215,142.50 reflecting the reductions totaling approximately \$44,062.50. Total expenses sought by CHE for this application period is \$26,936.15.

7. 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.

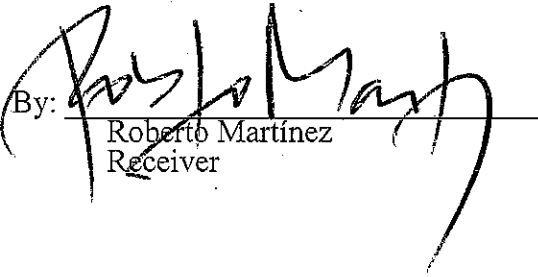
#### MEMORANDUM OF LAW

When determining the award of attorneys' fees, the Court should give consideration to the factors for compensation that the 11<sup>th</sup> Circuit articulated in *In re Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292 (11<sup>th</sup> 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 \$242,078.65 representing \$215,142.50 in fees and reimbursement of \$26,936.15 in costs for this Application Period. A proposed order is attached.


DATED: March 6<sup>th</sup>, 2006 at Miami, Florida.

Respectfully submitted,

By:   
Roberto Martinez  
Receiver

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that on March 7, 2006, the foregoing was filed with the Clerk of the Court, and a copy of *Colson Hicks Eidson's Sixth Request for Interim Compensation to Pay Attorneys' Fees and Costs and the Receiver's Fees and Memorandum in Support* was sent via E-mail to all those individuals on the attached Service List.

By:   
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Fla. Bar No. 0885681  
Attorney for Receiver

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SERVICE LIST OF RECEIVER

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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	October 1, 2005 through December 31, 2005	
8. Fees requested for this period		\$215,142.50
9. Total expense reimbursement requested for this period		<u>26,936.15</u>
10. Total fee and expense award requested		<u>\$242,078.65</u>

**HISTORY OF FEE APPLICATIONS**

(See Attached Chart)

## EXHIBIT 2

SUMMARY OF TIME BY TIMEKEEPER

<b>PROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Roberto Martínez	\$350.00	79.20	27,720.00
Marc Cooper	\$350.00	1.50	525.00
Julie Braman Kane	\$300.00	23.80	7,140.00
Curtis Miner	\$300.00	413.20	123,960.00
<b>TOTAL BY PROFESSIONAL</b>		<b>517.70</b>	<b>\$159,345.00</b>

<b>PARAPROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Maria A. Rodriguez	\$110.00	81.40	8,954.00
Jennie Hausler	\$110.00	26.05	2,865.50
Carol Endres	\$110.00	399.80	43,978.00
<b>TOTAL BY PARAPROFESSIONAL</b>		<b>507.25</b>	<b>\$55,797.50</b>

<b>LEGAL SERVICES RENDERED (TOTAL)</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Total Professional		517.70	159,345.00
Total Paraprofessional		507.25	55,797.50
<b>TOTAL LEGAL SERVICES</b>		<b><u>1024.95</u></b>	<b><u>\$215,142.50</u></b>

**EXHIBIT 3**

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

<b>ACTIVITY CODE CATEGORY: Asset Analysis &amp; Recovery</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Julie Braman	\$300.00	.80	240.00
Curtis Miner	\$300.00	86.85	26,055.00
Carol Endres	\$110.00	282.60	31,086.00
<b>ACTIVITY CODE TOTAL</b>		<b>370.25</b>	<b>\$57,381.00</b>

<b>ACTIVITY CODE CATEGORY: Asset Disposition</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	18.55	5,565.00
<b>ACTIVITY CODE TOTAL</b>		<b>18.55</b>	<b>\$5,565.00</b>

<b>ACTIVITY CODE CATEGORY: Business Operations</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Marc Cooper	\$350.00	1.50	525.00
Julie Kane	\$300.00	1.20	360.00
Curtis Miner	\$300.00	12.30	3,690.00
Maria A. Rodriguez	\$110.00	10.70	1,177.00
Carol Endres	\$110.00	3.30	363.00
<b>ACTIVITY CODE TOTAL</b>		<b>29.00</b>	<b>\$6,115.00</b>



<b>ACTIVITY CODE CATEGORY: Litigation SEC</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	99.20	29,760.00
Carol Endres	\$110.00	85.50	9,405.00
<b>ACTIVITY CODE TOTAL</b>		<b>184.70</b>	<b>\$39,165.00</b>

<b>ACTIVITY CODE CATEGORY: Litigation – Third Party</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	163.75	49,125.00
Carol Endres	\$110.00	27.10	2,981.00
<b>ACTIVITY CODE TOTAL</b>		<b>190.85</b>	<b>\$52,106.00</b>

<b>ACTIVITY CODE CATEGORY: Litigation-Regulatory/Criminal</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	19.90	5,970.00
Carol Endres	\$110.00	1.00	110.00
<b>ACTIVITY CODE TOTAL</b>		<b>20.90</b>	<b>\$6,080.00</b>

<b>ACTIVITY CODE CATEGORY: Investor/Agent Communications</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Julie Kane	\$300.00	19.50	5,850.00
Curtis Miner	\$300.00	10.55	3,165.00
Carol Endres	\$110.00	.30	33.00
Jennie Hausler	\$110.00	26.05	2,865.50
<b>ACTIVITY CODE TOTAL</b>		<b>56.40</b>	<b>\$11,913.50</b>

<b>ACTIVITY CODE CATEGORY: Fee Applications</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	2.10	630.00
Mari Rodriguez	\$110.00	70.00	7,700.
<b>ACTIVITY CODE TOTAL</b>		<b>72.10</b>	<b>\$8,330.00</b>

<b>ACTIVITY CODE CATEGORY: Claims Administration &amp; Objections</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Julie Kane	\$300.00	2.30	690.00
Mari Rodriguez	\$110.00	.70	77.00
<b>ACTIVITY CODE TOTAL</b>		<b>3.00</b>	<b>\$767.00</b>

<b>ACTIVITY CODE CATEGORY: Receiver</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Roberto Martínez	\$350.00	79.20	27,720.00
<b>ACTIVITY CODE TOTAL</b>		<b>79.20</b>	<b>\$27,720</b>