

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,  
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.

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

**(February 1, 2005 through May 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 February 1, 2005 and May 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 February 1, 2005, through May 31, 2005 (the “Application Period”). Costs are posted through May 31, 2005 as well.

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. In certain 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, 27% for Mr. Cooper, 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 savings to the receivership reflected in these negotiated discounts for this time period is **\$61,194.25**. In addition, Mr. Martínez and Mr. Miner have not charged for

numerous hours spent in responding to a variety of e-mails and telephone calls received daily relating to the receivership.

3. Attached as Exhibit 4 is a breakdown of the costs. Total costs for which CHE seeks reimbursement are \$16,565.65.

4. 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. **\$64,857.00.** 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 initiated legal actions to recover these assets by bringing certain fraudulent conveyance actions, by bringing an action against Steven Steiner for the recovery of a loan and by moving to expand the receivership to include a farm belonging to the individual defendants that appears to have been funded entirely with funds converted from MBC and VBLLC. CHE professionals have also been involved in efforts to

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<sup>1</sup> 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*.

obtain the return of outstanding attorney retainers and other pre-paid expenses that have resulted in the return or commitment to return \$352,557.28 to the Receivership Estate to date.

b. Business Operations. **\$12,415.00** CHE professionals assisted the Receiver on site at the MBC office in administering the 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. During this application period in particular, CHE professionals provided assistance to the Receiver and the Receiver's operational representatives in myriad issues related to the negotiation of a new lease for the Receivership Entities, the return of various leased office equipment and the arrangements for moving the Receivership Entities into new, less expensive space.

c. Investor and Agent Communications. **\$69,674.75.** While the Receiver did retain a claims administrator, the Garden City Group, who took over the function of answering thousands of e-mails and voice mails in English, Spanish and several other languages, the Receiver and his professionals during this time period continued to receive thousands of telephone calls, letters, e-mails, and numerous unannounced visits at his office. These varied inquiries were from investors, sales agents, lawyers, promoters, 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. These inquiries, whenever possible, have been handled by professionals and staff members working with the receivership, including primarily the timekeepers at CHE. Many of the

inquiring parties have been provided written responses that set forth general information about the receivership. The Garden City Group also has received numerous written communications that have been forwarded to CHE for individual written responses.

d. Employee Matters. **\$33.00.** Counsel at CHE has 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. **\$27,438.00.** 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. CHE professionals have nonetheless had to periodically appear at status conferences or otherwise provide reports to the courts regarding the status of the SEC Action. There are presently 65 cases in 27 different states involving the Receivership Entities. 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. In addition, new actions continue to be filed periodically against the Receivership Entities, particularly individual investor actions. CHE professionals have been involved in insuring that these actions are either stayed or dismissed without prejudice in light of the ongoing Receivership proceedings and pending Investor Class Action in which lead counsel was appointed by the Court.

In addition, the Receivership Entities have received subpoenas in connection with arbitrations and court actions related to MBC and its former sales agents, though not directly against the Receivership Entities. CHE professionals have been involved in preparing appropriate responses to such subpoenas.

Counsel for the Receiver also has participated and managed all ancillary proceedings filed 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. The Receiver moved to dismiss this action, which motion the Court was granted with leave for the insurance companies to amend their complaint to add greater specificity. The insurance companies have filed an amended complaint, which the Receiver has also moved to dismiss.

f. Litigation - SEC. \$113,009.50. All time associated directly with the pending SEC litigation is included in this category. This includes, generally, the review of pleadings, motions and memoranda, 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 also includes 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. During this period, CHE professionals also spent time investigating the Receivership Entities' relationship with The Life Settlement Alliance, Inc., a viatical broker, and based on that investigation, have jointly brought with the SEC a motion for an order to show cause why Joel and Leslie Steinger should not be held in contempt for violation of this Court's asset freeze order. In addition, during this application period, CHE professionals have spent significant time assisting the Receiver and working with co-counsel at Kozyak Tropin & Throckmorton P.A. to analyze and prepare the Receiver's proposal to the Court for

procedures to be used in the disposition of the MBC insurance policy portfolio in light of the finite pool of premium funds available.

g. Litigation – Regulatory/Criminal. **\$7,907.50**. 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. Since the entry of the Court's orders authorizing the Receiver to enter into consent orders and/or to allow MBC's and VBLLC's licenses to lapse, CHE professionals have been dealing with numerous regulatory agencies around the country as and when they contact the Receiver regarding upcoming hearing dates in an effort to resolve the numerous pending regulatory matters involving the Receivership Entities. In addition, CHE professionals and paralegals have spent considerable time in responding to numerous discovery requests from regulators around the country relating to MBC's former sales agents.

h. Fee Applications: **\$3,289.00**. 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, administering changes in beneficiary designations as required by the tax laws, and submitting death claims to the insurance companies upon the maturity of the policies.

The Receiver is requesting **\$21,700.00** for his hours.

5. For this application period CHE seeks reimbursement for 816.71 hours of time for lawyers, including the Receiver, and 817.70 hours of paralegal time. The total amount of fees sought during the application period is **\$320,323.75** reflecting the reductions totaling approximately \$61,194.25. Total expenses sought by CHE for the application period **\$16,565.65**.

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**

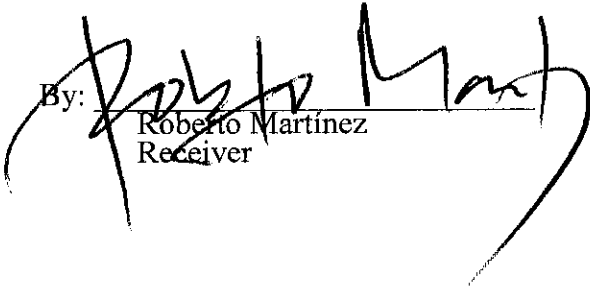
When determining the award of attorneys' fees, the Court should give consideration to the factors for compensation that the 11<sup>th</sup> Circuit articulated in *In re Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292 (11<sup>th</sup> Cir. 1988) - (1) the time and labor properly employed 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 **\$320,323.75** in fees and reimbursement of **\$16,565.65** in costs for this Application Period. A proposed order is attached.

DATED this 19<sup>th</sup> day of July 2005 at Miami, Florida.


Respectfully submitted,

By:

  
Roberto Martínez  
Receiver

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that on July 20<sup>th</sup>, 2005, the foregoing was electronically filed with the Clerk of the Court, and a notice of electronic filing was sent to all those individuals on the attached Service List.

By:   
CURTIS B. MINER  
Fla. Bar No. 0885681  
Attorney for Receiver

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

**SERVICE LIST OF RECEIVER**

Case No.: 04-60573 CIV-Moreno

<b>VIA ELECTRONIC MAIL</b>		
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# EXHIBIT 1

**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	February 1, 2005 through May 31, 2005
8. Fees requested for this period	<b>\$320,323.75</b>
9. Total expense reimbursement requested for this period	<b><u>16,565.65</u></b>
10. Total fee and expense award requested	<b><u>\$336,889.40</u></b>

**HISTORY OF FEE APPLICATIONS**

App. No.	Application Period	Date Submitted	Fees Requested	Costs Requested	Amount Requested	Amount Awarded	Date Awarded	Amount Paid
1	5/4/04 – 6/18/04	7/2/2004	\$220,751.50	\$6,709.88	\$227,461.38	\$80,709.00	10/22/2002	\$80,709.00
						\$146,751.00	12/15/2004	\$146,751.00
2	6/19/04 – 9/30/04	12/15/2004	\$287,905.00	\$9,771.19	\$297,676.19	\$297,676.19	6/1/2005	
3	10/1/04 – 1/31/05	3/17/2005	\$371,496.00	\$30,264.16	\$401,760.16	\$401,760.16	6/1/2005	
4	2/1/05 - 5/31/05	7/19/2005	\$320,323.75	\$16,565.65	\$336,889.40			
<b>TOTAL</b>			<b>\$1,200,476.25</b>	<b>\$63,310.88</b>	<b>\$1,263,787.13</b>	<b>\$926,896.35</b>		<b>\$227,460.00</b>

**Colson Hicks Eidson**

## EXHIBIT 2

**EXHIBIT 2****SUMMARY OF TIME BY TIMEKEEPER**

<b>PROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Roberto Martínez	\$350.00	62.00	\$ 21,700.00
Marc Cooper	\$350.00	20.80	7,280.00
Julie Braman Kane	\$300.00	46.55	13,965.00
Curtis Miner	\$300.00	537.15	161,145.00
Oral Beason	\$175.00	150.21	26,286.75
<b>TOTAL BY PROFESSIONAL</b>		<b>816.71</b>	<b>\$230,376.75</b>

<b>PARAPROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Ellie G. Futterman	\$110.00	62.10	\$ 6,831.00
Maria A. Rodriguez	\$110.00	30.50	3,355.00
Jennie Hausler	\$110.00	244.40	26,884.00
Carol Endres	\$110.00	480.70	52,877.00
<b>TOTAL BY PARAPROFESSIONAL</b>		<b>817.7</b>	<b>\$89,947.00</b>

<b>LEGAL SERVICES RENDERED (TOTAL)</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Total Professional		816.71	\$230,376.75
Total Paraprofessional		817.70	89,947.00
<b>TOTAL LEGAL SERVICES</b>		<b><u>1,634.41</u></b>	<b><u>\$320,323.75</u></b>



## EXHIBIT 3

**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>
Curtis Miner	\$300.00	82.10	\$ 24,630.00
Ellie G. Futterman	\$110.00	30.10	3,311.00
Carol Endres	\$110.00	335.60	36,916.00
<b>ACTIVITY CODE TOTAL</b>		<b>447.8</b>	<b>\$64,857.00</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	2.50	\$ 875.00
Curtis Miner	\$300.00	22.15	6,645.00
Carol Endres	\$110.00	44.50	4,895.00
<b>ACTIVITY CODE TOTAL</b>		<b>69.15</b>	<b>\$12,415.00</b>

<b>ACTIVITY CODE CATEGORY: Investor/Agent Communications</b>			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Julie Braman Kane	\$300.00	46.55	\$ 13,965.00
Curtis Miner	\$300.00	7.95	2,385.00
Oral Beason	\$175.00	150.21	26,286.75
Mari Rodriguez	\$110.00	1.40	154.00
Jennie Hausler	\$110.00	244.40	26,884.00
<b>ACTIVITY CODE TOTAL</b>		<b>450.51</b>	<b>\$69,674.75</b>

**EXHIBIT 3 – Continued**

<b>ACTIVITY CODE CATEGORY: Employee Matters</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Mari Rodriguez	\$110.00	.30	\$ 33.00
<b>ACTIVITY CODE TOTAL</b>		<b>0.30</b>	<b>\$ 33.00</b>

<b>ACTIVITY CODE CATEGORY: Litigation – Third Party</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Marc Cooper	\$350.00	3.20	\$ 1,120.00
Curtis Miner	\$300.00	85.05	25,515.00
Carol Endres	\$110.00	7.30	803.00
<b>ACTIVITY CODE TOTAL</b>		<b>95.55</b>	<b>\$27,438.00</b>

<b>ACTIVITY CODE CATEGORY: Litigation SEC</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Marc Cooper	\$350.00	10.60	\$ 3,710.00
Curtis Miner	\$300.00	321.45	96,435.00
Ellie Futterman	\$110.00	27.25	2,997.50
Maria Rodriguez	\$110.00	.40	44.00
Carol Endres	\$110.00	89.30	9,823.00
<b>ACTIVITY CODE TOTAL</b>		<b>449.00</b>	<b>\$113,009.50</b>

**EXHIBIT 3 – Continued**

<b>ACTIVITY CODE CATEGORY: Litigation-Regulatory/Criminal</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Marc Cooper	\$350.00	4.50	\$ 1,575.00
Curtis Miner	\$300.00	17.90	5,370.00
Oral Beason	\$175.00	4.75	522.50
Carol Endres	\$110.00	4.00	440.00
<b>\ACTIVITY CODE TOTAL</b>		<b>31.15</b>	<b>\$7,907.50</b>

<b>ACTIVITY CODE CATEGORY: Fee Applications</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Curtis Miner	\$300.00	0.55	\$ 165.00
Mari Rodriguez	\$110.00	28.40	3,124.00
<b>ACTIVITY CODE TOTAL</b>		<b>28.95</b>	<b>\$3,289.00</b>

<b>ACTIVITY CODE CATEGORY: Receiver</b>			
<b><u>NAME</u></b>	<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>TOTAL FEES</u></b>
Roberto Martínez	\$350.00	62.00	\$21,700.00
<b>ACTIVITY CODE TOTAL</b>		<b>62.00</b>	<b>\$21,700.00</b>

**PROPOSED ORDER**

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,  
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.

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**ORDER GRANTING  
COLSON HICKS EIDSON'S  
FOURTH REQUEST FOR INTERIM COMPENSATION**

**THIS CAUSE** came before the Court on Colson Hicks Eidson's Fourth Request for Interim Compensation to Pay Attorneys' Fees and Costs and the Receiver's Fees. The Court has heard comments by interested parties, carefully reviewed the Petition and case file and is otherwise fully advised in the premises.

**ORDERED** and **ADJUDGED** that Colson Hicks Eidson's Fourth Interim Petition for Fees and Costs is hereby **GRANTED** and Receiver, Roberto Martínez is hereby authorized to pay to Colson Hicks Eidson the sum of \$ \_\_\_\_\_, (which represents reasonable fees of \$ \_\_\_\_\_ and costs of \$ \_\_\_\_\_), incurred during this Application Period.

**DONE** and **ORDERED** in Chambers at Miami, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2005.

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FEDERICO A. MORENO  
United States District Judge

Copies furnished to all counsel  
on the attached Service List.

**SERVICE LIST OF RECEIVER**

Case No.: 04-60573 CIV-Moreno

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CASE NO. 04-60573 CIV-MORENO/SIMONTON

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