

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 04-60573-CIV-MORENO/SIMONTON

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 10-DAY STAY  
OF ENFORCEMENT OF FINAL JUDGMENTS**

Roberto Martínez, court-appointed receiver (the "Receiver") of Mutual Benefits Corp. ("MBC"); Viatical Benefactors, LLC ("VBLLC"); Viatical Services, Inc. ("VSP"); and Anthony Livoti, Jr. individually and Anthony Livoti, Jr. P.A., solely in their capacity as trustee (collectively, the "Receivership Entities"), moves for a 10-day stay of the enforcement and effect of the Final Judgments entered by the Court in this action against defendants Joel Steinger, Leslie Steinger, Peter Lombardi and their related consulting companies, and states as follows:

1. On Thursday, December 1, 2005, the SEC filed a Notice of Settlement and of Filing Consents, in which it requested that the Court enter Final Judgments of Permanent Injunction and Other Relief against defendants Joel Steinger, Leslie Steinger, Peter Lombardi and their associated consulting companies. Because the Notice of Settlement was served by mail, it was not received by the Receiver's office until Monday, December 5, 2005.

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2. Immediately upon receiving the Notice, the Receiver filed that same afternoon a Notice of Intent to File Response Relating to SEC's Notice of Settlement, giving notice that he intended to file a response to the Notice of Settlement and asking for ten days to do so. As it turns out, the Final Judgments had already been signed by the Court before the Receiver received a copy of the Notice of Settlement. The Receiver received copies of the signed Final Judgments through the Clerk's fax-back system beginning at 5:31 pm on December 5, 2005. To the Receiver's knowledge, none of the investors or other interested parties who have filed Notices of Appearance in this action have been served with the Notice of Settlement.

3. The SEC's proposed settlement is subject to this Court's review and approval. As one Court has described the standard of review, "[a] Court reviews such a settlement proposal not on the basis of what it might itself determine is the appropriate penalty but on the basis of whether the settlement is fair, reasonable, and adequate." *SEC v. Worldcom, Inc.*, 273 F. Supp. 2d 431, 436 (S.D.N.Y. 2003). See also *SEC v. Levine*, 881 F.2d 1165, 1181 (2d Cir. 1989) ("[I]f [the court] found, for example, that the proposed decree would not further the objectives of the law on which the complaint was based, he could properly decline to approve the proposed judgment. But if he elected to disapprove unless a certain term that he thought appropriate were included, the parties would have the options of including the term or declining to proceed with the consent judgment." (citation omitted)); *SEC v. Randolph*, 736 F.2d 525, 529 (9th Cir. 1984) ("The initial decision to approve or reject a settlement proposal is committed to the sound discretion of the trial judge.").

4. The Receiver respectfully requests a 10-day stay of the enforcement and effect of the Final Judgments so that the Receiver has an opportunity to file a response to the proposed settlements. The Receiver's response will address whether the settlement is sufficient and should be approved in light of the applicable standard of review and whether additional relief should be imposed, such as a continued asset freeze, to protect the interests of MBC's defrauded investors. The Receiver will file his response no later than Monday, December 12, 2005.

5. In particular, the Receiver is concerned about the provision in the Final Judgment that lifts the Court's Asset Freeze Order (even before the Defendants' payments to the SEC are due). The Receiver's experience to date with defendants Joel and Leslie Steinger and the Asset Freeze Order has confirmed two things. First, the Steingers have engaged in violations of the Asset Freeze Order since the inception of this case. Second, it appears that Defendants Joel and Leslie Steinger have substantial undisclosed assets. For example, Joel Steinger's wife, Diana Steinger, recently filed a verified divorce petition in which she stated that "there are marital funds located in offshore accounts."

6. The Defendants have never provided a sworn accounting in this action, and the settlement does not require the Defendants to make any disclosures of their assets or representations as to their net worth. This does not necessarily mean that the settlement amount is unreasonable. However, in the absence of such information, it *does* mean that the only way to ensure that MBC's investors receive the maximum recoveries available to them under the law from the prime perpetrators of the fraud against them is to continue the Asset Freeze Order.

7. Rule 62(a) (Automatic Stay) of the Federal Rules of Civil Procedure provides: "Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action . . . shall not be stayed during the period after its entry . . . ." In light of the fact that the Final Judgments entered by the Court provide for both injunctive *and* other relief, the Receiver submits that the automatic stay of Rule 62(a) should apply here. In an abundance of caution, however, the Receiver respectfully requests that the Court enter an order confirming the 10-day stay.

8. This request is not made for the purposes of delay or any other improper purpose. The Receiver requests this short period of time in order to carefully review the proposed settlement and to insure that he has taken all appropriate measures to protect the interests of MBC's investors and creditors in this regard.

WHEREFORE, the Receiver respectfully requests that the Court stay the enforcement and effect of the signed Final Judgments against defendants Joel Steinger, Leslie Steinger and Peter Lombardi for ten (10) days until December 15, 2005 (10 business days from December 1, 2005, the date the orders were signed).

Respectfully submitted,

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By: \_\_\_\_\_



Curtis B. Miner, Esq.  
Fl. Bar No. 885681

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing motion was served by electronic mail in accord with the attached Receiver's Service List on December 6, 2005.



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Curtis B. Miner, Esq.

**SERVICE LIST OF RECEIVER**

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