

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Case No.: 04-60573-CIV-MORENO

IN RE:

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

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

Defendants,

and

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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**EIGHTH INTERIM APPLICATION FOR COMPENSATION OF FEES  
AND COSTS OF ACCOUNTANTS FOR RECEIVER**

**Pursuant to Court Order, any objections to this Application  
must be filed on or before ten days from the date of service  
indicated on the Certificate of Service attached hereto.**

Berkowitz Dick Pollack & Brant, Certified Public Accountants and Consultants,  
LLP ("BDPB"), accountant to 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"), hereby requests the Court to enter an order authorizing the Receiver to pay the reasonable accountant's fees and costs incurred by BDPB for the three-month period, from October 1, 2006 through December 31, 2006, inclusive from the receivership estate, and in support thereof states the following.

By this Application, BDPB requests compensation for services rendered October 1, 2006 through December 31, 2006 (the "Application Period") in the amount of \$248,706.00 for fees and \$2,487.98 for expenses to be paid by the Receivership Entities. This fee application includes fees of approximately \$150,000.00 incurred by BDPB's information technology professionals in connection with the design and development of a Premium Billing and Tracking System, created to enable VSI to allocate the billing of administrative fees and policy premiums to investors, track the collection of these fees and premiums, and reallocate fees and premiums among investors as required. Excluding this extraordinary project, BDPB incurred average monthly fees of approximately \$33,000.00 for the three month period, substantially below the \$62,077 average monthly fees incurred by BDPB in the 29 months preceding this fee application. This request reflects the application of a ten percent (10%) discount to our standard rates for all professionals and paraprofessionals working on this matter totaling \$27,634.00.

### **DESCRIPTION OF SERVICES**

During the Application Period, BDPB has rendered extensive and necessary services for and on behalf of the receivership estate. BDPB was particularly involved in assisting the Receiver with the implementation of this Court's Disposition Order, which required BDPB to evaluate the services that will need to be provided by VSI, assist in establishing policies, procedures and internal controls and to design information systems to administer the billing, collection and payment of insurance premiums. BDPB has also had particular involvement accounting for death benefits received in connection with matured policies, providing for the distribution of death benefit proceeds to investors and identifying additional opportunities to generate asset recoveries for investors.

In addition to the above, BDPB rendered the following services:

- Accounting services for MBC including processing and printing of checks, preparation of bank reconciliations, posting of entries into accounting system and recording of bills and invoices.
- Assist Receiver in the preparation of financial statements for Receivership entities to be filed with the Court.
- Analysis of various tax issues in connection with the preparation and filing of State and Federal tax returns.

### **COMPENSATION:**

The determination of fees to be awarded is largely within the discretion of the trial court. *Monaghan v. Hill*, 140 F.2d 31 (9th Cir. 1944). This discretion is, however,

predicated on the assumption that careful consideration is given to all evidence of the value of the accountants' services in the light of the factors relevant to a determination. These factors are set forth in *In re Gypsum Cases*, 386 F.Supp. 959 (N.D. Cal. 1974) and *In re Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292 (11th Cir. 1988), as follows: (1) the time and labor properly employed in the servicing of 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 (6) the degree to which, if any, efforts were supported by prior governmental action. BDPB requests the Court to consider these factors in determining reasonable compensation for the services rendered to date by BDPB, as summarized below:

a. Time and Labor Required - The exhibits attached to this application include: The Summary of Third Interim Application for Compensation of Fees and Costs of Accountants for the Receiver (Exhibit 1); Summary of Professional and Paraprofessional Time (Exhibit 2); the Summary of Professional and Paraprofessional Time by Activity Code Category (Exhibit 3); and Summary of Requested Reimbursement of Expenses (Exhibit 4).<sup>1</sup>

b. Novelty and Difficulty of Services and Skills Requisite to the Accounting.

The issues presented in this case are novel given the size of the Receivership entities, the difficulty of dealing with the records and the unique nature of the Receivership Entities' businesses. Additionally, certain key accounting staff left the

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<sup>1</sup> BDPB maintains detailed time records that are kept contemporaneously with the services performed. Receiver's counsel (CHE) will retain BDPB's detailed time records and will provide them to the Court for review *in camera* at the request of this Court.

employ of MBC prior to or in connection with the appointment of the Receiver, and were not available to assist the Receiver during this application period.

The extensive experience and capabilities of the professionals involved with this case possess the accounting, financial analysis, tax and consultation skills required for the successful completion of the objectives of the Receiver.

c. The Skill Requisite to Perform the Services Properly. BDPB has staffed the engagement with personnel experienced in accounting, auditing, financial analysis, reporting and disclosure, tax compliance and information technology.

d. The Preclusion of Other Employment by the Professional Due to Acceptance of this Case. BDPB has not been precluded from any other employment due to the acceptance of this case.

e. The Customary Fee. The customary fee for services of the type rendered herein -- BDPB charges commercial clients on one or more of the following criteria: reasonable fee for services rendered, hourly charges, or fixed fee. To the extent hourly charges are relevant, BDPB commands from commercial clients hourly rates ranging from \$95 an hour to \$400 per hour depending on the level of professional skill required.

f. Whether the Fee is Fixed or Contingent. The fee is contingent inasmuch as the Receiver relies upon a Court Order approving the fee. BDPB has not entered into any agreement to fix a fee.

g. Time Limitations Imposed by the Client or Other Circumstances. BDPB was directed to commence work by the Receiver on May 4, 2004 to assist the Receiver as forensic accountants with respect to any and all litigation consulting services,

investigatory accounting services, forecasts, advise on the accounting aspects of litigation matters, tax considerations, valuations and other services as required.

h. The Amount Involved and the Results Obtained - The above summary, together with exhibits, details the time, nature and extent of the professional services rendered by BDPB for the benefit of the investors and creditors.

i. The Experience, Reputation, and Ability of the Professional. BDPB is an established accounting firm comprised of thirteen directors and over 100 personnel. Its professionals and staff working on this case are experienced in matters of this kind.

j. Undesirability of Case. This case is not undesirable. BDPB is privileged to have the opportunity to serve the Receiver and appear before the Court in this proceeding.

k. Nature and Length of Professional Relationship With Client. BDPB's relationship with the Receiver began on May 4, 2004.

l. Awards in Similar Cases. The amount requested by BDPB is reasonable in terms of awards in cases of similar magnitude and complexity. The compensation which BDPB requests comports with the mandate of the Bankruptcy Code, which directs that services be evaluated in light of comparable services performed in non-bankruptcy cases in the community. Considering the results obtained thus far, this fee request is appropriate. Likewise, as with all major accounting firms, BDPB's overhead expenses are substantial. Much of the fee, which the Court awards BDPB, will merely defray such significant overhead expenses already incurred and paid during the pendency of this case.

k. Government Support - Although the SEC investigated and filed the initial pleadings in this case, BDPB has assisted the Receiver to secure and protect the assets of the Receivership Entities and investigate the operations of the Receivership Entities through investigation and analysis.

**CONCLUSION**

The Applicant respectfully requests that this Court authorize the Receiver to compensate BDPB for their accountants' fees for reasonable and necessary services rendered during the Application Period in the amount of \$251,193.98 to be paid by the estate of the Receivership Entities.

Respectfully submitted,

Berkowitz Dick Pollack & Brant  
Certified Public Accountants and Consultants, LLP  
*Accountants for the Receiver*  
200 South Biscayne Boulevard, Sixth Floor  
Miami, FL 33131  
Tel: (305) 379-7000 Fax: (305) 379-8200

/s/

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Scott M. Bouchner

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22nd day of March, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel of parties who are not authorized to receive electronically Notices of Electronic Filing.

s/CURTIS B. MINER

Fla. Bar No. 0885681

curt@colson.com

COLSON HICKS EIDSON

255 Aragon Avenue, Second Floor

Coral Gables, Florida 33134

Telephone: (305) 476-7400

Facsimile: (305) 476-7444

Counsel for Receiver Roberto Martínez



SERVICE LIST OF RECEIVER

<b>VIA ELECTRONIC MAIL</b>		
<p>Alise Meredith Johnson, Esq. Linda Schmidt, Esq. Securities &amp; Exchange Commission 801 Brickell Avenue, Suite 1800 Miami, FL 33131 Fax: (305) 536-4154 E-mail: <a href="mailto:johnsona@sec.gov">johnsona@sec.gov</a> <a href="mailto:schmidtl@sec.gov">schmidtl@sec.gov</a> <a href="mailto:almonti@sec.gov">almonti@sec.gov</a> <i>Counsel for Securities &amp; Exchange Commission</i></p>	<p>Michael A. Hanzman, Esq. Kevin Love, Esq. Hanzman Criden Chaykin &amp; Rolnick Commercebank Center 220 Alhambra Circle, Suite 400 Coral Gables, FL 33134 Fax: (305) 357-9050 E-mail: <a href="mailto:mhanzman@hanzmancriden.com">mhanzman@hanzmancriden.com</a> <a href="mailto:klove@hanzmancriden.com">klove@hanzmancriden.com</a> <i>Counsel for Scheck Investments LP, 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>Laurel M. Isicoff, Esq. Kozyak Tropin &amp; Throckmorton 2525 Ponce de Leon, Suite 900 Coral Gables, Florida 33134 Fax: (305) 372-3508 E-mail: <a href="mailto:lmi@ktlaw.com">lmi@ktlaw.com</a> <i>Co-counsel for Receiver</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> <a href="mailto:ndagher@podhurst.com">ndagher@podhurst.com</a> <i>Counsel for Scheck Investments LP, et al.</i></p>	<p>J. David Hopkins, Esq. Lord, Bissell &amp; Brook LLP Suite 1900, The Proseconium 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>George Mahfood, Esq. Ferrell Schultz Carter &amp; Fertei 201 South Biscayne Boulevard 34th Floor, Miami Center Miami, Florida 33131 Fax: (305) 371-5732 E-mail: <a href="mailto:gmahfood@ferrellschultz.com">gmahfood@ferrellschultz.com</a>  <i>Counsel for Joel Steinger, Leslie Steinger, Peter Lombardi, P/JL Consulting Co., Kensington Consulting Co.</i></p>	<p>Robert C. Gilbert, Esq. 220 Alhambra Circle, Suite 400 Coral Gables, FL 33134-5174 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>Faith E. Gay, Esq. White &amp; Case LLP 4900 Wachovia Financial Center 200 So. Biscayne Blvd. Miami, FL 33131-2352 Fax: (305) 358-5744 E-mail: <a href="mailto:fgay@whitecase.com">fgay@whitecase.com</a> <i>Counsel for Camden Consulting, Inc.</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:dml@tewlaw.com">dml@tewlaw.com</a>  <b>Counsel Patricia Cook, et al</b></p>
<p>J. Raul Cosio, Esq. Holland &amp; Knight 701 Brickell Avenue, Suite 3000 Miami, FL 33131</p>	<p>Gary Timin, Esq. Mayra Calzadilla, Esq. Steel Hector &amp; Davis 200 S. Biscayne Blvd, 41<sup>st</sup> Floor Miami, FL 33131 Fax: (305) 577-7001</p>	<p>Mark S. Shapiro, Esq. Akerman Senterfit 1 S.E. 3<sup>rd</sup> Avenue, 28<sup>th</sup> Floor Miami, FL 33131 Fax: (305) 374-5095 E-mail: <a href="mailto:mark.shapiro@akerman.com">mark.shapiro@akerman.com</a></p>

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<p>Fax: (305) 789-7799 E-mail: <a href="mailto:raul.cosio@hkklaw.com">raul.cosio@hkklaw.com</a> <i>Counsel for Northern Trust Bank of Florida</i></p>	<p>E-mail: <a href="mailto:gary.tinin@steelhector.com">gary.tinin@steelhector.com</a> <a href="mailto:mayra.calzadilla@steelhector.com">mayra.calzadilla@steelhector.com</a> <i>Counsel for Transamerica Occidental Life</i></p>	<p><i>Counsel for American General Life Ins. Co</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>Amy S. Rubin, Esq. Michael J. Pike, Esq. Ruden, McClosky, Smith, Schuster &amp; Russell 222 Lakeview Avenue, Suite 800 West Palm Beach, FL 33401 Fax: (561) 514-3447 E-mail: <a href="mailto:amy.rubin@ruden.com">amy.rubin@ruden.com</a> <i>Counsel for Primerica Life Insurance Co.</i></p>
<p>Charles H. Lichtman, Esq. Berger Singerman, Suite 1000 350 East Las Olas Blvd. Fort Lauderdale, FL 33301 Fax: (954) 523-2672 E-mail: <a href="mailto:clichtman@bergersingerman.com">clichtman@bergersingerman.com</a> <i>Counsel for Mutual Benefits Japan Co.</i></p>	<p>Stanley H. Wakshlag, Esq. Akerman Senterfitt SunTrust International Center One S.E. 3<sup>rd</sup> Avenue, 28<sup>th</sup> Floor Miami, Florida 33131-1704 Fax: (305) 374-5095 E-mail: <a href="mailto:swakshlag@akerman.com">swakshlag@akerman.com</a> <a href="mailto:brian.miller@akerman.com">brian.miller@akerman.com</a> <a href="mailto:samantha.kavanaugh@akerman.com">samantha.kavanaugh@akerman.com</a> <a href="mailto:scott.cosgrove@akerman.com">scott.cosgrove@akerman.com</a>  <i>Counsel for RBC Centura Bank</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 E-Mail: <a href="mailto:Dmandel@mandelweisman.com">Dmandel@mandelweisman.com</a>  Joseph A. Patella, Esq. 450 Lexington Avenue New York, New York 10017 E-mail: <a href="mailto:JosephPatella@andrewskurth.com">JosephPatella@andrewskurth.com</a> <i>Counsel for American Express Tax &amp; Business Services, Inc.</i></p>
<p>J. Randolph Liebler, Esq. Liebler, Gonzalez &amp; Porouondo, P.A. 44 West Flagler Street, 25<sup>th</sup> Floor Miami, Florida 33130 Fax: (305) 379-9626 E-mail: <a href="mailto:jrl@jgplaw.com">jrl@jgplaw.com</a> <i>Counsel for Bank of America</i></p>	<p>Rick Critchlow, Esq. Harry R. Schafer, Esq. Kenny Nachwalter, PA 201 South Biscayne Blvd. 1100 Miami Center Miami, Florida 33131 Fax: (305) 372-1861 Email: <a href="mailto:rcritchlow@kennynachwalter.com">rcritchlow@kennynachwalter.com</a> <a href="mailto:hschafer@kennynachwalter.com">hschafer@kennynachwalter.com</a> <i>Counsel for Citibank</i></p>	<p>Glenn Berger Joshua Reitzas Jaffe &amp; Asher LLP 600 Third Avenue New York, NY 10016 E-mail: <a href="mailto:G.Berger@jaffeandasher.com">G.Berger@jaffeandasher.com</a>  <i>Counsel for American Express Travel Related Services Company, Inc.</i></p>
<p>Miguel Diaz de la Portilla, Esq. Duane Morris, LLP 200 So. Biscayne Blvd., Suite 3400 Miami, FL 33131 Fax: (305) 960-2201 E-mail: <a href="mailto:mdportilla@duanemorris.com">mdportilla@duanemorris.com</a> <i>Counsel for Dr. Christine Walsh, et al. (the "Investors Group")</i></p>	<p>Bruce A. Zimet Esq. 100 S.E.3rd Avenue, Suite 2612 Ft. Lauderdale, FL 33394 Fax: (954) 760-4421 E-mail: <a href="mailto:bazimetlaw@aol.com">bazimetlaw@aol.com</a> <i>Counsel for Leslie Steinger</i></p>	<p>William L. Petros, Esq. Petros &amp; Elegant 4090 Laguna Street, 2<sup>nd</sup> Floor Coral Gables, FL 33146 Fax: (305) 446-2799 E-mail: <a href="mailto:wlpetros@aol.com">wlpetros@aol.com</a> <i>Counsel for William Mills</i></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>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:rufkowskik@whiteandwilliams.com">rufkowskik@whiteandwilliams.com</a> <a href="mailto:ggitomer@mkbatorneys.com">ggitomer@mkbatorneys.com</a> <i>Counsel for Charitable Concepts, Inc., et al.</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:eeillsley@krupnicklaw.com">eeillsley@krupnicklaw.com</a> <i>Counsel for Certain Investors</i></p>