

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 04-60573-CIV-MORENO

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP., et al.,

Defendants,

VIATICAL BENEFACTORS, LLC, et al.,

Relief Defendants.

**RECEIVER'S REPORT ON THE STATUS OF MUTUAL BENEFITS
CORPORATION CLAIMS PROCESS DISTRIBUTIONS**

Roberto Martínez, Esq., as Court-appointed Receiver of Mutual Benefits Corp. (“MBC”); Viatical Benefactors, LLC; Viatical Services, Inc. (“VSI”); and Anthony Livoti, Jr. individually and Anthony Livoti, Jr. P.A., solely in their capacity as trustee; submits this Status Report to the Court to report on the current status of the MBC Claims Process Distributions.

STATUS OF MBC CLAIMS PROCESS DISTRIBUTIONS

Back in December 2009, the Court authorized the Receiver to begin distributing the approximately \$120 million that had been recovered during the course of the MBC Receivership. The distribution process began in January 2010. The distribution process is now essentially completed, with the primary issue remaining being how to handle funds that have gone unclaimed.

Garden City Group (“GCG”) has served as the claims distribution agent for the Receiver. VSI, which became Litai Assets, LLC (“Litai”) after it was sold by the Receiver, has continued to provide the logistical support to the Receiver pursuant to a Transitional Services Agreement that was concluded as part of the sale.

A. The Distributed Funds.

To date, the Receiver has successfully distributed **\$118,465,222.88**. This represents a total of **34,431 investment interests** around the world.¹

B. The Unclaimed Funds.

There is a substantial amount of money that has gone “unclaimed” in the distribution process (the “Unclaimed Funds”). The Unclaimed Funds are funds that were sent to the last known address of investors who participated in the claims process and were owed one or more claim checks, but the checks were never cashed. The total of the Unclaimed Funds is **\$2,108,081.11**.

For domestic investors, the Receiver has not simply allowed uncashed checks to be treated as Unclaimed Funds. For checks that went uncashed, as a first step, GCG ran the investors’ identifying information through the NCOA™ (National Change of Address) Database. This is a database that is maintained by the U.S. Postal Service to track changes of address for individuals and business and can be accessed by direct mailers to update their mailing lists. Whenever a new address could be determined, the checks were re-cut and re-sent to the new address. Some of those checks were then cashed; some were not. In addition, for any investors where the Receiver has a social security number in MBC’s

¹ The distribution was done based on each investment interest with MBC, and some investors had more than one investment interest, so the number of individual investors who have received distributions is lower than the number of investment interests.

records for the investor, GCG conducted an Advanced (Credit Bureau) Address Search using credit databases to attempt to identify valid addresses. Again, whenever a new address could be determined, the checks were re-cut and re-sent to the new address. Some of those checks were then cashed; some were not. GCG, which has substantial experience in administering distributions in class actions, receiverships and bankruptcies, believes that all reasonable steps have been taken to attempt to locate these investors.

For foreign investors, unfortunately, there is no equivalent to the NCOA database to identify current addresses. Similarly, the foreign investors do not have U.S. social security numbers that would allow use of credit databases to try to track them down. However, based on GCG's historical experience with distributions in Central and South America (the location of the largest number of foreign investors), the Receiver used OCASA, a specialized delivery service similar to Federal Express or DHL, to deliver all checks going to countries in Central and South America (as well as Africa). Although there was a significant cost to doing so, this service should have increase the likelihood of successful delivery and decreased the likelihood of theft or of checks being "lost in the mail."

And of course, any investor who has contacted the Receiver to indicate that they have not received their claim check has immediately had their check re-cut by GCG and re-sent. Most often, these are investors who moved to a new address and did not update Litai or the Receiver with the new address. At this stage, although there is still an occasional investor who has contacted the Receiver or Litai to say that they have not received a check, the number has dried up to a trickle.

While the total amount of the unclaimed funds is large, the percentage of unclaimed funds is only approximately 1.8% of the total. In light of the large number of individual

investors involved in this Receivership, and the fact that they are dispersed around the world, this does not seem like a large percentage of funds to have gone unclaimed.

C. The “Unpaid Claims”

As the Court will recall, due to an error in the determination of the number of investors who had participated in the Claims Process, 740 investors were mistakenly left out of the distribution process (the “Unpaid Claims”). These 740 investors were owed claim payments totaling \$2,666,000.24. (Conversely, all of the other investors ended up receiving a small “overpayment” in their claims checks because these 740 investors were not factored into the distribution amounts.)

The Unpaid Claims have gradually been paid to the point where there is only a comparatively insignificant number of Unpaid Claims remaining. As of the filing of this Status Report, there remain only **132** unpaid investment interests in the total amount of **\$191,419.20**.

As funds have become available, the Receiver has been having the Unpaid Claims paid by GCG on a “largest-to-smallest” basis starting with the domestic investors and then moving to the foreign investors. The rationale for doing this was that the investors with the largest amounts owed to them would be most concerned about the delayed payment and potentially most in need of the funds. The rationale for paying the domestic investors first was the significantly higher success rate the Receiver has had in getting checks delivered to domestic investors. At this point in time, all of the domestic investors with Unpaid Claims have been paid.

In addition, every investor who had an Unpaid Claim (whether domestic or foreign) who has contacted the Receiver to ask about the status of their payment has immediately had

their claim paid. Accordingly, there are no investors who have contacted the Receiver who are still on the list of Unpaid Claims.

Based on past experience, because the remaining Unpaid Claims are for smaller amounts (most are for less than \$1,000), and because the payments are all due to foreign investors, it is likely that a significant number of these claims will go “unclaimed” even after checks have been cut and sent.

The Unpaid Claims have been paid down by using additional asset recoveries that have come into the Receivership Estate, including tax refunds that were received by VSI and MBC. In addition, with the Court’s permission, as claims checks have been re-issued to investors by GCG (as a result of changes in address or other reasons), the checks have been re-issued in the correct (slightly smaller) amounts, which has resulted in a gradual recoupment of the “overpayment” amounts. In addition, also with the Court’s permission, the investors who are on Keep Policies who have been receiving periodic invoices for their share of the premiums on the policies were also billed for the amount of the “overpayments” they received in the claims process.

The combination of all of these sources has resulted in the Unpaid Claims largely being eliminated at this point. In addition, the Receiver is expecting additional amounts to be recovered, including some unclaimed funds that have remained with Union Planters Bank and certain reimbursements for expenses owed by a group of insurance companies. When these sums are added to the funds on hand available for distribution (see below), the Unclaimed Finds should be eliminated entirely.

MBC FINANCIAL STATUS (AS OF SEPTEMBER 6, 2011)

MBC has no ongoing operations at this point in time, no employees, and no professionals who are being compensated for any work done for MBC. MBC has no ongoing litigation, although the Receiver's counsel does continue to monitor and engage in various efforts to collect on outstanding judgments obtained by the Receiver and/or the Securities and Exchange Commission. The Receiver and his counsel also continue to oversee the ongoing distribution process (for which they are not seeking compensation).

MBC previously entered into a Transitional Services Agreement with Litai for its ongoing assistance in fielding telephone calls and e-mails inquiries from investors and assisting in the reissuance of checks that were not received by investors who participated in the claims process. Even at this late date, there is still a trickle of investors who participated in the claims process but who did not receive or cash their checks for one reason or another (e.g., they moved and did not update their address; they inadvertently through away the checks received in the mail; etc.) The Transitional Services Agreement with Litai is for \$6,000 per month, and is currently being renewed on a month-to-month basis.

The MBC bank accounts that are administered by the Receiver are as follows:

Account	Balance
MBC Operating Account (administered by the Receiver): This account is used by the Receiver to pay the "transitional servicing fee" to Litai for ongoing services in the distribution process and to pay storage charges for the MBC document repository.	\$23,794.89
MBC Asset Recovery Account (administered by the Receiver): This account is used to deposit additional small asset recoveries (e.g., installment payments on settlements). The funds in this account are transferred periodically to the MBC Unpaid Claims Account to pay the Unpaid Claims.	\$44,764.91

MBC Unpaid Claims Account (administered by Garden City Group): This account is used by GCG to pay the Unpaid Claims at the instruction of the Receiver.	\$6,152.19
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RECOMMENDED USE OF UNCLAIMED FUNDS

The Receiver intends to review the status of all uncashed checks at this stage and determine whether there are any other practical means to attempt to reach the investors in order to try to deliver the claims checks to them. This will allow the Receiver to determine a final Unclaimed Funds figure to report to the Court. The Receiver will be filing a separate motion with the Court with a recommendation as to how the Unclaimed Funds should be utilized.

Notably, there are a number of MBC investors who have contacted the Receiver who did not participate in the Claims Process for one reason or another, but who would have been entitled to receive claim checks if they had (the “Additional Claimants”). Although the Receiver held the deadline open for investors to return their claim forms until the last possible moment before the checks were cut, there were still a substantial number of investors (approximately 700) who have contacted the Receiver since January 2010 to report that they did not return a claim form for a variety of reasons (e.g., change of address not reported so they did not receive the claim form, confusion over the process). The Receiver has maintained a list of these Additional Claimants in the event that a second round of distributions would become possible. If these investors were to receive an identical distribution to the investors who participated in the claims process, it would require approximately \$2,575,000 to make an equal distribution. This will not be possible, but it

may nonetheless be possible to make a significant second round distribution to the Additional Claimants.

At present, the Receiver anticipates recommending that (a) a certain amount of the Unclaimed Funds be held back in the event that an investor who was owed the funds surfaces at this late stage of the Distribution Process, (b) that an attempt be made to pay the remaining small number of Unpaid Claims, and (c) that a “second distribution” made to the Additional Claimants. Once this has been completed, the Receivership will be essentially at an end.

Respectfully Submitted,

s/ Robert Martínez
ROBERTO MARTÍNEZ, RECEIVER

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on September 8, 2011, the foregoing was served via
CM/ECF on all counsel of record.

_____/s/ Curtis B. Miner_____
Curtis B. Miner