

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.

**TENTH 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

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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 June 1, 2007 through September 30, 2007, inclusive from the receivership estate, and in support thereof states the following.

By this Tenth Interim Application, BDPB requests compensation for services rendered June 1, 2007 through September 30, 2007 (the "Application Period") in the amount of \$498,807.00 for fees and \$0.00 for expenses to be paid by the Receivership Entities. This fee application includes fees of approximately \$255,000.00 incurred by BDPB's information technology professionals in connection with the design, development, testing and implementation 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. At the Receiver's request, this work represented a significant additional expenditure of time by BDPB in order to create the necessary framework for the disposition process going forward and for VSI to be able to continue to function after the Receivership is concluded. In addition, this fee application includes fees of approximately \$59,000.00 incurred by BDPB in connection with litigation brought by the Receiver against Mutual Benefit's prior auditors. This litigation has resulted in a settlement and the successful recovery of \$3,500,000 for the Receivership. Excluding these extraordinary projects, BDPB incurred average monthly fees of only approximately \$37,000.00 for the five month period. 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 \$55,423.

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As the Court considers this application, BDPB wishes to respectfully provide the court with a recap of the circumstances surrounding its Ninth Interim Application for Compensation of Fees and Costs of Accountants for Receiver [D.E. 1909-1]. Total fees incurred by BDPB in connection with this Ninth Interim Application were \$748,206.00. Total fees applied for by BDPB, however, were \$659,815.88, after the application of a 10% discount to BDPB's standard rates and additional voluntary reductions in fees contributed *gratis* and *pro bono* to the Receivership. Approximately two thirds of these fees were incurred in connection with the development, maintenance and support of the Premium Billing and Tracking System, which is being used by VSI to implement the Court's Order On Disposition of Policies and Proceeds [D.E. 1339], and to support the litigation effort against MBC's former auditors. The Court granted the motion for payment in the amount of \$500,000.00, which represented a \$248,206.00, or 33.2%, reduction off of its standard hourly rates.

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); and the Summary of Professional and Paraprofessional Time by Activity Code Category (Exhibit 3).¹

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 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.

¹ 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.

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.

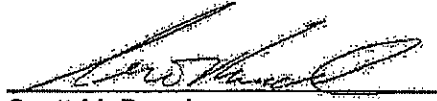
CONCLUSION

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 \$498,807.00 to be paid by the estate of the Receivership Entities.

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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



Scott M. Bouchner

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of this application, with all exhibits, was forwarded along with the application for the Counsel for the Receiver this 6th day of November 2007 to all parties on the attached service list.

COLSON HICKS EIDSON
Attorneys for Receiver
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Coral Gables, Florida 33134
(305) 476-7400

By CBM
Curtis Miner
Florida Bar No.

SERVICE LIST OF RECEIVER

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<p>Jeffrey Rubinstein, Esq. Rubinstein & Associates, PA 1428 Brickell Avenue Penthouse Miami, FL 33131 Jeffrey@RubinsteinAssociates.com <i>Attorneys for Claimants</i></p>		

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EXHIBIT 1

**SUMMARY OF SEVENTH INTERIM APPLICATION
FOR COMPENSATION OF FEES AND COSTS OF
BERKOWITZ DICK POLLACK & BRANT**

1	Name of applicant	Berkowitz Dick Pollack & Brant Certified Public Accountants & Consultants, LLP
2	Role of applicant	Accountants for Receiver
3	Name of certifying professional	Scott Bouchner
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 rendered	June 1, 2007 through September 30, 2007
8	Total Fees requested for this period	\$ 498,807.00
9	Total expenses requested for this period	\$ -
10	Total fees and expenses requested to be awarded	\$ 498,807.00

HISTORY OF FEE APPLICATIONS

Application Number	Application Period	Date Submitted	Amount Requested	Amount Awarded	Date Awarded
1	05/04/04 - 06/18/04	07/02/04	\$ 228,589.43	\$ 228,589.43	10/22/04
2	06/18/04 - 09/30/04	12/15/04	\$ 193,806.45	\$ 193,806.45	06/01/05
3	10/01/04 - 01/31/05	03/16/05	\$ 266,723.10	\$ 266,723.10	08/01/05
4	02/01/05 - 05/31/05	07/20/05	\$ 201,553.00	\$ 180,107.00	08/18/05
5	06/01/05 - 09/30/05	11/04/05	\$ 168,136.20	\$ 120,000.00	01/10/06
6	10/01/05 - 12/31/05	03/09/06	\$ 177,969.25	\$ 150,000.00	03/26/06
7	01/01/06 - 09/30/06	10/25/06	\$ 563,457.83	\$ 490,000.00	02/21/07
8	10/01/06 - 12/31/06	03/22/07	\$ 251,193.98	\$ 250,000.00	05/07/07
9	01/01/07 - 05/31/07	07/06/07	\$ 498,807.00	\$ 500,000.00	09/04/07
TOTAL			\$ 2,550,236.24	\$ 2,379,225.98	

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**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL TIME
FROM JUNE 1, 2007 THROUGH SEPTEMBER 30, 2007
EXHIBIT 2**

Name	Director, Associate Or Paraprofessional	Total Hours	Standard Hourly Rate	Agreed-Upon Hourly Rate (1)	Discounted Fee
Jeffrey Mutnik	Director	9.5	\$400.00	\$360.00	\$3,420.00
Richard Pollack	Director	14.0	\$400.00	\$360.00	\$5,040.00
Scott Bouchner	Director	117.5	\$366.51	\$329.86	\$38,454.75
John Young	Director	78.1	\$353.41	\$318.07	\$24,894.00
Gary Rosenthal	Director	8.4	\$350.00	\$315.00	\$2,646.00
Anthony Gutierrez	Associate	0.5	\$275.00	\$247.50	\$123.75
Richard Fechter	Associate	26.0	\$275.00	\$247.50	\$6,435.00
Andreea Cioara	Associate	51.6	\$267.31	\$240.58	\$12,568.50
Joe Schirra	Associate	520.5	\$265.00	\$238.50	\$124,139.25
Joel Glick	Associate	0.3	\$265.00	\$238.50	\$71.55
Tim Burrows	Associate	9.8	\$265.00	\$238.50	\$2,337.30
Greg Brogna	Associate	431.8	\$225.00	\$202.50	\$87,439.50
Humberto Comellas	Associate	22.6	\$225.00	\$202.50	\$4,576.50
Michelle Elsner	Associate	35.5	\$215.59	\$194.03	\$6,864.75
Aaron Smith	Associate	113.3	\$175.00	\$157.50	\$17,844.75
Alan Sutherland	Associate	2.5	\$175.00	\$157.50	\$393.75
Juan Bernal	Associate	227.6	\$175.00	\$157.50	\$35,847.00
Ricardo Torres	Associate	272.0	\$175.00	\$157.50	\$42,840.00
Roger Vizcaino	Associate	130.0	\$175.00	\$157.50	\$20,475.00
Sharon Foote	Associate	10.5	\$165.00	\$148.50	\$1,559.25
David Waugh	Associate	4.5	\$150.00	\$135.00	\$607.50
Susan DiNardo	Associate	333.1	\$150.00	\$135.00	\$44,968.50
Erick Hernandez	Associate	1.5	\$140.00	\$126.00	\$189.00
John Vides	Associate	85.3	\$135.00	\$121.50	\$10,363.95
Christopher Cichoski	Associate	0.7	\$115.00	\$103.50	\$72.45
Larry Bernstein	Associate	11.5	\$110.00	\$99.00	\$1,138.50
Julio Modia	Para Professional	29.0	\$80.00	\$72.00	\$2,088.00
Larry Lipp	Para Professional	17.0	\$80.00	\$72.00	\$1,224.00
Anne Marie Cornwall	Para Professional	0.2	\$75.00	\$67.50	\$13.50
Lesma Baez	Para Professional	2.1	\$75.00	\$67.50	\$141.75
Miriam Bernal	Para Professional	0.5	\$65.00	\$58.50	\$29.25
TOTAL		<u>2,567.4</u>			<u>\$498,807.00</u>

(1) Agreed Upon Rates and Discounted Fees reflect an increase in Berkowitz Dick Pollack & Brant's standard hourly rates effective July 1, 2007.

**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL TIME
BY ACTIVITY CODE CATEGORY
FROM JUNE 1, 2007 THROUGH SEPTEMBER 30, 2007
EXHIBIT 3**

Name	Director or Associate	Hours	Agreed-Upon Hourly Rate (1)	Discounted Fee
Accounting Assistance				
Richard Pollack	Director	0.5	\$360.00	\$180.00
Scott Bouchner	Director	6.5	\$337.50	\$2,193.75
Joe Schirra	Associate	181.2	\$238.50	\$43,216.20
Michelle Elsner	Associate	35.5	\$194.03	\$6,864.75
Christopher Cichoski	Associate	0.7	\$103.50	\$72.45
Accounting Assistance Total		224.4		\$52,527.15
Case Management				
Scott Bouchner	Director	33.0	\$337.50	\$11,137.50
Case Management Total		33.0		\$11,137.50
Fee Application				
Scott Bouchner	Director	2.5	\$315.00	\$787.50
Joel Glick	Associate	0.3	\$238.50	\$71.55
Fee Application Total		2.8		\$859.05
Information Technology				
Greg Brogna	Associate	431.8	\$202.50	\$87,439.50
Humberto Comellas	Associate	22.6	\$202.50	\$4,576.50
Aaron Smith	Associate	113.3	\$157.50	\$17,844.75
Alan Sutherland	Associate	2.5	\$157.50	\$393.75
Juan Bernal	Associate	227.6	\$157.50	\$35,847.00
Ricardo Torres	Associate	272.0	\$157.50	\$42,840.00
Roger Vizcaino	Associate	130.0	\$157.50	\$20,475.00
David Waugh	Associate	4.5	\$135.00	\$607.50
Susan DiNardo	Associate	333.1	\$135.00	\$44,968.50
Erick Hernandez	Associate	1.5	\$126.00	\$189.00
Information Technology Total		1,538.9		\$255,181.50
Litigation				
Richard Pollack	Director	8.0	\$360.00	\$2,880.00
Scott Bouchner	Director	64.2	\$319.74	\$20,526.75
John Young	Director	78.1	\$318.07	\$24,894.00
Gary Rosenthal	Director	8.4	\$315.00	\$2,646.00
Richard Fechter	Associate	26.0	\$247.50	\$6,435.00
Sharon Foote	Associate	10.5	\$148.50	\$1,559.25
Litigation Total		195.2		\$58,941.00

(1) Agreed Upon Rates and Discounted Fees reflect an increase in Berkowitz Dick Pollack & Brant's standard hourly rates effective July 1, 2007.

**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL TIME
BY ACTIVITY CODE CATEGORY
FROM JUNE 1, 2007 THROUGH SEPTEMBER 30, 2007
EXHIBIT 3**

Name	Director or Associate	Hours	Agreed-Upon Hourly Rate (1)	Discounted Fee
Receivership Operations				
Richard Pollack	Director	1.5	\$360.00	\$540.00
Scott Bouchner	Director	3.1	\$331.88	\$1,041.75
Joe Schirra	Associate	321.3	\$238.50	\$76,630.05
Tim Burrows	Associate	9.8	\$238.50	\$2,337.30
Receivership Operations Total		<u>335.7</u>		<u>\$80,549.10</u>
Tax Issues				
Jeffrey Mutnik	Director	9.5	\$360.00	\$3,420.00
Richard Pollack	Director	4.0	\$360.00	\$1,440.00
Scott Bouchner	Director	8.2	\$337.50	\$2,767.50
Anthony Gutierrez	Associate	0.5	\$247.50	\$123.75
Andreea Cioara	Associate	51.6	\$240.58	\$12,568.50
Joe Schirra	Associate	18.0	\$238.50	\$4,293.00
John Vides	Associate	85.3	\$121.50	\$10,363.95
Larry Bernstein	Associate	11.5	\$99.00	\$1,138.50
Julio Modla	Para Professiona	29.0	\$72.00	\$2,088.00
Larry Lipp	Para Professiona	17.0	\$72.00	\$1,224.00
Anne Marie Cornwall	Para Professiona	0.2	\$67.50	\$13.50
Lesma Baez	Para Professiona	2.1	\$67.50	\$141.75
Miriam Bernal	Para Professiona	0.5	\$58.50	\$29.25
Tax Issues Total		<u>237.4</u>		<u>\$39,611.70</u>
Grand Total		<u>2,567.4</u>		<u>\$498,807.00</u>

(1) Agreed Upon Rates and Discounted Fees reflect an increase in Berkowitz Dick Pollack & Brant's standard hourly rates effective July 1, 2007.

Case No. 04-60573-Civ-Moreno

**SUMMARY OF REQUESTED REIMBURSEMENT OF EXPENSES
FROM JUNE 1, 2007 THROUGH SEPTEMBER 30, 2007
EXHIBIT 4**

1. Filing Fees	\$	-
2. Process Service Fees	\$	-
3. Witness Fees	\$	-
4. Court Reporter Fees and Transcripts	\$	-
5. Lien and Title Searches	\$	-
6. Photocopies		
(a) In-house copies	\$	-
(b) Outside copies - Legal Impressions	\$	-
7. Postage	\$	-
8. Overnight Delivery Charges	\$	-
9. Outside Courier/Messenger Services	\$	-
10. Long Distance Telephone Charges	\$	-
11. Long Distance Fax Transmissions	\$	-
12. Computerized Research	\$	-
13. Out-of-Southern-District-of-Florida Travel	\$	-
14. Meals	\$	-
15. Parking	\$	-
16. Other - Tax Filing Fees	\$	-
		<hr/>
Total Expense Reimbursement Requested	\$	-