

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.

---

**RECEIVER'S MOTION FOR AUTHORIZATION TO ENTER  
INTO SETTLEMENT AGREEMENTS WITH MBC SALES AGENTS**

Roberto Martínez, Esq., as Court-appointed Receiver of Mutual Benefits Corp. ("MBC"); Viatical Benefactors, LLC ("VBLLC"); Viatical Services, Inc. ("VSI"); and Anthony Livoti, Jr. individually and Anthony Livoti, Jr. P.A., solely in their capacity as trustee (collectively, the "Receivership Entities"), hereby moves this Court for authority to enter into the attached settlement agreements (and other settlement agreements) to resolve the Receiver's claims against certain of MBC's former sales agents in an action currently pending before Judge Graham as *Receiver v. Shao-Feng Wang, et al.*, Case No. 06-60970-Civ-Graham. The Receiver states as grounds:

**Colson Hicks Eidson**

255 Aragon Avenue, 2nd Floor, Coral Gables, Florida 33134-5008 Telephone: (305) 476-7400 Fax: (305) 476-7444

1. On May 4, 2004, this Court entered an Order Appointing Receiver (the "Receivership Order") in this case. The Receivership Order appointed Roberto Martínez, Esq., of the law firm Colson Hicks Eidson, as Receiver.

2. Paragraph 2 of the Receivership Order directs the Receiver to:

Investigate the manner in which the affairs of [the Receivership Entities] were conducted and institute such actions and legal proceedings, for the benefit and on behalf of [the Receivership Entities] and their investors and other creditors, as the Receiver deems necessary . . . against any transfers of monies or other proceeds directly or indirectly traceable from investors in [the Receivership Entities]; provided such actions may include, but not be limited to, . . . disgorgement of profits, recovery and/or avoidance of fraudulent transfers under Florida Statute § 726.101, et seq. or otherwise . . . .

3. In addition, Paragraph 7 of the Receivership Order provides that the Receiver may "settle legal actions . . . in which MBC, VBLLC and VSI or the Receiver is a party, commenced either prior to or subsequent to this Order, with authorization of this Court."

4. The Receiver has filed a Complaint against a number of MBC's former sales agents. The lawsuit brings a single claim for breach of contract against each of the defendants seeking the return of commissions that they were paid on "pre-closing" investor funds that were raised from investors but never actually invested in an insurance policy and have since been returned by order of this Court. Each of the sales agents had a sales representative contract with MBC that required them to return their commissions if the investor's funds were returned to them. A copy of the Complaint is attached as Exhibit A.

5. This lawsuit is different from, and much narrower than, a lawsuit previously brought by the Receiver against essentially all of MBC's former sales agents seeking the disgorgement of *all* of the commissions they had received from MBC. That previous lawsuit

was dismissed by this Court for lack of standing by the Receiver. The instant lawsuit, by contrast, deals only with "pre-closing" commissions and is based solely on the contract between MBC and its former sales agents.

6. Although this lawsuit was randomly assigned to Judge Graham when it was filed, the Receiver is seeking authorization from this Court to enter into the proposed settlement agreements because the Receivership Order was entered by this Court.

7. The Receiver has reached proposed settlements with the following MBC sales agents in the following amounts:

<u>Sales Agent</u>	<u>Amount of Settlement</u>
Pacific Continental Securities (UK) Ltd.	\$27,500
Samuel Showalter III	\$16,500
Jerome Coppola	\$12,000
Top Financial Advisors, Inc.	\$11,000
Pannier, Inc.	\$ 7,537.50 (no written agreement)
Dave Singhal	\$5,000 (no written agreement)
Anthony Ledet Ins. Agency, Inc.	\$ 4,514.56
Estate of Jack Milam	\$ 1,000

The written Settlement Agreements are attached as Exhibit B.

8. The Receiver submits that these Settlement Agreements are fair and equitable and in the best interests of the Receivership Estate. The MBC sales agents at issue generally received small amounts in commissions as compared to other MBC sales agents, making it more cost-effective to resolve the claim without the cost of further litigation. In addition to having received small amounts, the settling MBC sales agents are individuals or small businesses spread throughout the country, which would give rise to a variety of collection

issues in the event the Receiver obtained a money judgment against them.<sup>1</sup>

9. Settlement discussions with other MBC sales agents are ongoing, and the Receiver anticipates reaching similar settlement agreements for additional MBC Sales Agents named in the lawsuit. Because the amounts of the settlements are relatively small, and because there are no unusual terms necessary for any of the settlements other than a payment of an agreed-upon sum, the Receiver is also respectfully requesting authority from the Court to settle the claims against the remaining defendants in this lawsuit without returning to this Court for specific authorization for each settlement in this lawsuit (and in this lawsuit only). This would save time and money and would expedite the process of reaching settlements.

---

<sup>1</sup> The Receiver is prepared to advise the Court, if requested, of the specific formula applied to determine the dollar amounts in each of these proposed Settlement Agreements. As a lawsuit is still pending against the non-settling MBC sales agents, the Receiver requests permission to provide such additional information, if necessary, to the Court under seal, so as not to divulge strategic considerations to the defendants that remain in the lawsuit.

WHEREFORE, the Receiver respectfully requests that the Court enter the attached proposed Order authorizing the Receiver to enter into the attached proposed Settlement Agreements and authorizing the Receiver to settle the remaining claims in *Receiver v. Shao-Feng Wang, et al.*, Case No. 06-60970-Civ-Graham, without returning for specific authorization from this Court.

Respectfully submitted,

COLSON HICKS EIDSON  
255 Aragon Avenue  
Coral Gables, FL 33134-5008  
Telephone: (305) 476-7400  
Facsimile: (305) 476-7444  
E-mail: [curt@colson.com](mailto:curt@colson.com)

By:   
CURTIS MINER  
Florida Bar No. 885681

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing was sent via e-mail to the parties on the attached Receiver's Service List in *SEC v. Mutual Benefits Corp. et al.*, and also by U.S. mail to the parties on the attached Receiver's Service List in *Receiver v. Shao-Feng Wang, et al.*, Case No. 06-60970-Civ-Moreno, on this 3rd day of November 2006.

s/ Curtis B. Miner  
Curtis B. Miner

**SERVICE LIST OF RECEIVER**

Case No.: 04-60573 CIV-Moreno

<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:schmidtls@sec.gov">schmidtls@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>David L. Rosendorf, 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@kttlaw.com">lmi@kttlaw.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 Proscenium 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; Fertel 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>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>Angela Daker, Esq. White &amp; Case, LLP 4900 Wachovia Financial Center 200 S. Biscayne Boulevard Miami, Florida 33131 Fax: (305) 358-5744 E-mail: <a href="mailto:adaker@whitecase.com">adaker@whitecase.com</a> <i>Former counsel for Steven Steiner</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> <i>Counsel Patricia Cook, et al</i></p>
<p>J. Raul Cosio, Esq. Holland &amp; Knight 701 Brickell Avenue, Suite 3000 Miami, FL 33131 Fax: (305) 789-7799 E-mail: <a href="mailto:raul.cosio@hkllaw.com">raul.cosio@hkllaw.com</a> <i>Counsel for Northern Trust Bank of Florida</i></p>	<p>Gary Timin, Esq. Mayra Calzadilla, Esq. Squire, Sanders &amp; Dempsey, LLP 200 S. Biscayne Blvd, 41<sup>st</sup> Floor Miami, FL 33131 Fax: (305) 577-7001 E-mail: <a href="mailto:gary.timin@steelhector.com">gary.timin@steelhector.com</a> <a href="mailto:mayra.calzadilla@steelhector.com">mayra.calzadilla@steelhector.com</a> <i>Counsel for Transamerica Occidental Life</i></p>	
<p>Joseph A. Paella, Esq. Andrew &amp; Kurth, LLP 450 Lexington Avenue New York, NY 10017 <a href="mailto:JosephPatella@andrewskurth.com">JosephPatella@andrewskurth.com</a> <i>Counsel for American Express Tax &amp; Business Services, Inc.</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>	

**Colson Hicks Eidson**

255 Aragon Avenue, 2nd Floor, Coral Gables, Florida 33134-5008 Telephone: (305) 476-7400 Fax: (305) 476-7444

<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:clightman@bergersingerman.com">clightman@bergersingerman.com</a> <i>Counsel for Mutual Benefits Japan Co.</i></p>	<p>Joel L. Kirschbaum, Esq. Bunnell Wolfe Kirschbaum Keller McIntyre Gregoire &amp; Klein, PA 100 SE 3<sup>rd</sup> Avenue Suite 900 Fort Lauderdale, FL 33394 E-mail: <a href="mailto:cxm@bunnellwolfe.com">cxm@bunnellwolfe.com</a>  <i>Counsel for Diana Steinger</i></p>	<p>Wendy L. Furman, Esq. Pett, Furman &amp; Jacobson, P.L. 2101 N.W. Corporate Boulevard Suite 316 Boca Raton, FL 33431 Fax: 994-4311 E-mail: <a href="mailto:wfurman@pfjlaw.com">wfurman@pfjlaw.com</a> <i>Counsel for American United Life Insurance Co.</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@lgplaw.com">jrl@lgplaw.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:GBerger@jaffeandasher.com">GBerger@jaffeandasher.com</a> <i>Counsel for American Express Travel Related Services Company, Inc.</i></p>
<p>Daniel Small, Esq. Duane Morris, LLP 200 So. Biscayne Blvd. , Suite 3400 Miami, FL 33131 Fax: (305) 960-2201 E-mail: <a href="mailto:dsmall@duanemorris.com">dsmall@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>Kenneth D. Post, Esq. Shutts &amp; Bowen 1500 Miami Center 201 S. Biscayne Boulevard Miami, FL 33131 E-mail: <a href="mailto:kpost@shutts-law.com">kpost@shutts-law.com</a>  <i>Counsel for William Penn Life Insurance</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:rutkowskik@whiteandwilliams.com">rutkowskik@whiteandwilliams.com</a> <a href="mailto:ggitomer@mkbattorneys.com">ggitomer@mkbattorneys.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:eellsley@krupnicklaw.com">eellsley@krupnicklaw.com</a> <i>Counsel for Certain Investors</i></p>
<p>Sandra M. Upegui, Esq. Shutts &amp; Bowen, LLP 201 South Biscayne Blvd. Suite 1500 – Miami Center Miami, Florida 33131  <i>Counsel for Instituto de Prevision Militar Inverma</i></p>	<p>Carla M. Barrow, P.A. 1395 Brickell Avenue 8<sup>th</sup> Floor Miami, FL 33129 E-Mail: <a href="mailto:carlabarrow@bellsouth.net">carlabarrow@bellsouth.net</a>  <i>Counsel for Claimants Maria Antonieta Mejia, et al.</i></p>	<p>Jack Dempsey, Esq. Susan Guerrieri, Esq. Drinker Biddle &amp; Reath, LLP One Logan Square 18<sup>th</sup> &amp; Cherry Streets Philadelphia, PA 19103 <a href="mailto:John.Dempsey@dbr.com">John.Dempsey@dbr.com</a> <a href="mailto:Susan.guerrieri@dbr.com">Susan.guerrieri@dbr.com</a> <i>Counsel for American United Life Insurance Co.</i></p>
<p>Charles E. Ray, Esq. 887 E. Prima Vista Blvd. Port St. Lucie, FL 34952 Email: <a href="mailto:charlescraay@aol.com">charlescraay@aol.com</a> <i>Counsel for Aurora Bifulco</i></p>	<p>Edward Montoya, Esq. Montoya Law Firm, PA 2600 Douglas Road Penthouse 7 Coral Gables, FL 33134 Email: <a href="mailto:emontoya@fnclaw.com">emontoya@fnclaw.com</a> <i>Attorney for the Class</i></p>	<p>David P. Hartnett, Esq. Hinshaw &amp; Culbertson 9122 S. Dadeland Blvd., Suite 1600 Miami, FL 33156 E-mail: <a href="mailto:dhartnett@hinshawlaw.com">dhartnett@hinshawlaw.com</a>  <i>Counsel for Connecticut General, et al.</i></p>
<p>Carla M. Barrow, Esq. Pardo, Gainsburg &amp; Barrow, LLP One Biscayne Tower – Suite 2475 2 South Biscayne Blvd. Miami, FL 33131 Email: <a href="mailto:cbarrow@pgblaw.com">cbarrow@pgblaw.com</a> <i>Attorney for NAIL</i></p>	<p>Jay S. Blumenkopf, Esq. Adorno &amp; Yoss 700 S. Federal Highway, suite 200 Boca Raton, FL 33432 E-mail: <a href="mailto:jblumenkopf@adorno.com">jblumenkopf@adorno.com</a>  <i>Counsel for Allmerica Financial Life, et al.</i></p>	<p>Charles Wachter, Esq. Fowler white Boggs Banker 501 E. Kennedy Boulevard, Suite 1700 Tampa, FL 33602 E-mail: <a href="mailto:cwachter@fowlerwhite.com">cwachter@fowlerwhite.com</a>  <i>Counsel for John Hancock Life Ins.</i></p>
<p>Jeffrey Rubinstein, Esq. Rubinstein &amp; Associates, PA 1428 Brickell Avenue Penthouse Miami, FL 33131 <a href="mailto:jeffrey@RubinsteinAssociates.com">jeffrey@RubinsteinAssociates.com</a> <i>Attorneys for Claimants</i></p>		

## Colson Hicks Eidson



**RECEIVER'S SERVICE LIST FOR  
CASE NO. 06-60970-Civ-Graham**

Rick McDuff, Esq.  
Johnson, Anselmo, Murdoch, et al.  
2455 E. Sunrise Blvd., Suite 1000  
Ft. Lauderdale, FL 33304-3113  
*Counsel for Diversified Financial  
Products, Inc.*

Jared Winsor Bennett, Esq.  
Davis Miles, PLLC  
P.O. Box 15070  
Mesa, Arizona 85211-3070  
*Counsel for Top Financial Advisors,  
Inc.*

John Harrington, Esq.  
1053 Forest Ave  
Staten Island, NY 10310  
*Counsel for Jerome Coppola*

Steve Farrar, Esq.  
Leatherwood, Walker, Todd & Mann  
The Leatherwood Plaza  
300 East McBee Avenue, Suite 500  
Greenville, SC 29601  
*Counsel for Samuel Showalter III*

S.E. Thames, Jr. Esq.  
11838 So. Harrells Ferry Road, Suite 9  
Baton Rouge, LA 70816  
*Counsel for Anthony Ledet Insurance  
Agency, Inc.*

Garland Sandhop, Jr., P.C.  
104 Regency Drive  
P.O. Box 2387  
Victoria, Texas 77902-2387  
*Counsel for the Estate of Jack Milam*

Dave Singhal  
404 Dunsmore Court  
Encinitas, CA 92024

Pannier, Inc.  
Attn : Randy Creel  
3059 Belmont Avenue  
Baton Rouge, LA 70808

Jaehne Financial, Inc.  
817 Riviera Street  
Venice, FL 34285

International Wealth Management  
21605 S. Western Avenue, Unit D  
Torrence, CA 90501

Neese Kimball Insurance  
734 Main Street  
Erie, IL 61250

James Crouse  
1215 SW 44<sup>th</sup> Street  
Oklahoma City, OK 73109-3603