

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573 CIV-MORENO/SIMONTON

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants,

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.

**COLSON HICKS EIDSON'S TENTH REQUEST FOR INTERIM COMPENSATION
TO PAY ATTORNEYS' FEES AND COSTS AND THE RECEIVER'S FEES**

(December 1, 2007 through July 31, 2008)

**Pursuant to Court Order, all objections to this Application
must be filed and served within ten (10) days of this
Application.**

Roberto Martínez, as court-appointed receiver (the "Receiver") of Mutual Benefits Corp. ("MBC"), Viatical Benefactors, LLC ("VBLLC"), Viatical Services, Inc. ("VSI") and

Anthony Livoti, Jr. and Anthony Livoti, Jr., P.A. solely in their capacity as trustee (collectively the "Receivership Entities"), through undersigned counsel and pursuant to the Court's Order Appointing Receiver dated May 4, 2004 (the "OAR"), hereby requests the Court to enter an order authorizing the Receiver to pay to Colson Hicks Eidson ("CHE") (i) reasonable attorneys' fees and costs incurred by CHE; and (ii) the Receiver's fees, for the 7-month period between December 1, 2007 through July 31, 2008, and in support thereof states the following:

1. Attached as Exhibit 1 is a Summary of the Fees incurred by CHE in its representation of the Receiver, and the Receiver's fees, from December 1, 2007 through July 31, 2008 (the "Application Period"). Costs are also posted through July 31, 2008.

2. Attached as Exhibit 2 is a summary of all CHE timekeepers, including the Receiver, their billing rates and the total hours charged by each timekeeper.

3. Attached as Exhibit 3 is a summary of each timekeeper broken down by category. In many instances, time billed to one category could also have been appropriately billed to a different category or several different categories; however, in some instances, it was very difficult, if not impossible, to divide the time between categories. All time has been billed at the reduced agreed upon rate. Lawyers are billed at \$350/hour or \$300/hour, representing a reduction from their normal hourly rates of 46% for Mr. Martinez, 45% for Mr. Miner and 40% for Ms. Kane. In addition, the paralegal fees have been reduced 11-39%, based on current hourly rates.

4. Attached as Exhibit 4 is a breakdown of the costs. Total costs for which CHE seeks reimbursement are **\$7,294.98**.

5. The services rendered in each major category can be summarized as follows:¹

I
COLSON HICKS EIDSON
LAWYERS and PARALEGALS

a. **Litigation (R162/R163): \$28,226.** The Receiver filed a number of proactive lawsuits seeking to recover funds for the benefit of MBC's investors and creditors. These lawsuits have largely been brought to a conclusion either through settlements or by obtaining judgments in the Receiver's favor. However, the Receiver is still engaged in substantial efforts to collect upon the large unpaid Final Judgments obtained by the SEC against Joel Steinger, Leslie Steinger and Steven Steiner, including undertaking discovery in aid of execution of the judgments. In addition, a comparatively small amount of time has been spent in miscellaneous litigation matters involving the Receivership Entities as defendants, including investor actions in different states and a discrimination claim. This category also includes a relatively small amount of time spent on regulatory matters or interfacing with criminal prosecutors to respond to information requests.

b. **Asset Disposition (R130): \$20,810.** Time included in this category primarily reflects the efforts of CHE personnel to develop and implement a Claims Process for the Receivership, which process is now near completion. In particular, counsel has spent substantial amounts of time working with the staff of The Garden City Group, MBC and VSI to implement procedures to carry out the Claims Process, including the filing of motions with the Court, the drafting of the claim forms, and the development of a database to track the

¹ CHE maintains detailed time records that are kept contemporaneously with the services performed. CHE will retain its detailed time records and will provide them to the Court for review *in camera* at the request of this Court.

results of the claims process. During this period, CHE personnel oversaw the distribution of roughly 49,000 Claims Forms, the handling of inquiries received from the investors receiving the Claim Forms, and the review and categorization of the returned Claim Forms.

c. **Investor and Agent Communications (R170):** \$18,348. During this Application Period, the Receiver's professionals implemented the Claims Process for the Receivership. This resulted in a resurgence of calls, e-mails, correspondence and other inquiries from investors and their counsel with questions, request for information and request for guidance. While the Receiver's professionals have implemented a Customer Service Department at VSI in order to reduce the costs of such inquiries as much as possible, there are still a substantial number of inquiries that are directed directly to the Receiver's professionals or require the involvement of the Receiver's professionals due to their complexity. A substantial amount of time in this category was spent speaking with investors and their counsel in an effort to resolve disputes in the Claims Process efficiently and without the need for formal resolution by the Court. In addition, as in past Application Periods, during this time period, the Receiver's professionals spent time resolving various disputes or other issues raised by investors and their counsel in connection with the disposition process, their individual investments and sales agent issues.

d. **Fee Applications (R180):** \$8,651. This category includes time spent preparing CHE's fee applications. More generally though, this category includes time spent by a CHE paralegal reviewing and filing all of the applications filed by the Receiver's other professionals, and working with MBC to coordinate approved payments and itemize approved payments for financial statement purposes.

II

RECEIVER

The Receiver is responsible for administering the Receivership Entities pursuant to the terms of the Order Appointing Receiver and overseeing the work of the professionals and staff working on the receivership. The Receiver has, among other matters, attended a number of telephonic and in-person meetings with the MBC and VSI Managers relating to review operational issues, review and analyze the status of certain policies, and review the status of the disposition process and the claims process. The Receiver is requesting \$4,987.50 for his hours.

6. For this application period CHE seeks reimbursement for 199.15 hours of time for lawyers, including the Receiver, and 161.70 hours of paralegal time. The total amount of fees sought during the application period is \$81,022.50 (which amount reflects substantial reductions from CHE's normal rates) and expenses of \$7,294.98. The total amount sought by CHE for this application period is **\$88,317.48**.

7. I have carefully reviewed the attached exhibits and I am responsible for supervising all of the attorneys in my firm on the case. I certify that the hours expended and the costs incurred were necessary and reasonable to represent the Receiver during the Application Period.

MEMORANDUM OF LAW

When determining the award of attorneys' fees, the Court should give consideration to the factors for compensation that the 11th Circuit articulated in *In re Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292 (11th Cir. 1988) - (1) the time and labor properly employed by the attorneys in processing 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 (7) the degree to which, if any, effort were supported by prior governmental action. CHE respectfully suggests that its application meets all the criteria for this interim request for compensation. The Receiver, with the assistance of CHE, has stabilized operations, secured assets, and, to the extent possible, maintained the status quo, while communicating regularly with all parties in interest.

WHEREFORE, COLSON HICKS EIDSON, by and through the undersigned counsel, respectfully requests that this Court enter an order authorizing the payment of **\$88,317.48** representing **\$81,022.50** in fees and reimbursement of **\$7,294.98** in costs for this Application Period. A proposed order is attached.

DATE: October 16, 2008.

Respectfully submitted,

By: s/ Roberto Martínez
Roberto Martínez
COLSON HICKS EIDSON
255 Aragon Avenue, Second Floor
Coral Gables, Florida 33134
Telephone: (305) 476-7400
Facsimile: (305) 476-7444

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of October, 2008, 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
Curtis B. Miner

SERVICE LIST OF RECEIVER

VIA ELECTRONIC MAIL		
<p>Amie Riggle Berlin, Esq. Senior Trial Counsel Securities & Exchange Commission 801 Brickell Avenue, Suite 1800 Miami, Florida 33131 Fax: (305) 536-4154 E-mail: berlina@sec.gov</p> <p><i>Counsel for Securities & Exchange Commission</i></p>	<p>Michael A. Hanzman, Esq. Kevin Love, Esq. Hanzman Criden Chaykin & Rolnik Commercebank Center 220 Alhambra Circle, Suite 400 Coral Gables, FL 33134 Fax: (305) 357-9050 E-mail: klove@hanzmanoriden.com</p> <p><i>Counsel for Scheck Investments LP.</i></p>	<p>Glenn S. Gitomer McCausland Keen & Buckam 259 N. Radnor-Chester Road Suite 160 -- Radnor Court Radnor, PA 10987-5240</p>
<p>John H. Genovese, Esq. Genovese Joblove & Battista, P.A. 100 S.E. 2nd Street, 36th Floor Miami, Florida 33131 Fax: (305) 349-2310 <i>Counsel for Great West Growth, LLC, et al.</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: vdiaz@podhurst.com</p> <p><i>Counsel for Scheck Investments LP.</i></p>	<p>J. David Hopkins, Esq. Lord, Bissell & Brook LLP Suite 1900, The Proseccenium 1170 Peachtree Street, N.E. Atlanta, Georgia 30309 Fax: (404) 872-5547 E-mail: dhopkins@lordbissell.com</p> <p><i>Counsel for Traded Life Policies Ltd.</i></p>
<p>Craig Rasile, Esq. Hunton & Williams E-Mail: azaron@hunton.com crasile@hunton.com ggitomer@mkbattorneys.com</p> <p><i>Counsel for Charitable Concepts, Inc.</i></p>	<p>Robert C. Gilbert, Esq. 220 Alhambra Circle, Suite 400 Coral Gables, FL 33134-5174 Fax: (305) 529-1612 E-mail: rgilblaw@aol.com</p> <p><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: bccerra@gtlaw.com bassh@gtlaw.com</p> <p><i>Counsel for Union Planters Bank, N.A.</i></p>
<p>Mayra Calzadilla, Esq. Steel Hector & Davis 200 S. Biscayne Blvd, 41st Floor Miami, FL 33131 Fax: (305) 577-7001 E-mail: mayra.calzadilla@steelhector.com</p> <p><i>Counsel for Transamerica Occidental Life</i></p>	<p>Edward M. Mullins, Esq. Daniella Friedman, Esq. Astigarraga Davis Mullins & Grossman, P.A. 701 Brickell Ave., 16th Floor Miami, FL 33131 Fax: (305) 372-8202 E-mail: emullins@astidavis.com dfriedman@astidavis.com</p> <p><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, 15th Floor 1441 Brickell Avenue Miami, FL 33131 Fax: (305) 536-1116 E-mail: jcs@tewlaw.com dml@tewlaw.com</p> <p><i>Counsel Patricia Cook, et al</i></p>
<p>Brian J. Stack, Esq. Stack Fernandez Anderson & Harris, P.A. 1200 Brickell Avenue, Suite 950 Miami, FL 33131-3255 Fax: (305) 371-0002 E-mail: bstack@stackfernandez.com</p> <p><i>Counsel for Traded Life Policies Ltd.</i></p>	<p>Christopher J. Klein Baur & Klein, P.A. 100 N. Biscayne Blvd. 21st Floor Miami, FL 33132 Fax: (305) 371-4380 E-mail: cklein@worldwidelaw.com</p> <p><i>Co-counsel for Life Settlement Holding, A.G.</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: cellsley@krupnicklaw.com</p> <p><i>Counsel for Certain Investors</i></p>

<p>William J. Gallwey, III, Esq. Shutts & Bowen LLP 201 So. Biscayne Blvd., Suite 1500 Miami, FL 33131 <i>Tel: (305) 347-7312</i> wgallwey@shutts.com <i>Counsel for Hartford Life & Annuity Ins. Co.</i></p>	<p>Daniel S. Mandel, Esq. Mandel, Weisman, Heimberg & Brodie, P.A. Boca Corporate Center 2101 N.W. Corporate Blvd Boca Raton, FL 33431 Dmandel@mandelweisman.com</p> <p>Joseph A. Patella, Esq. 450 Lexington Avenue New York, New York 10017 JosephPatella@andrewskurth.com <i>Counsel for American Express Tax & Business Services, Inc.</i></p>	<p>Andrea S. Hartley, Esq. Akerman Senterfitt One Southeast Third Avenue, 25th FL Miami, Florida 33131 Tel: (305) 374-5600 Andrea.hartley@akerman.com <i>Counsel for Franklin Trade Graphics, LLC</i></p>
<p>John W. Kellogg Moye White LLP 16 Market Square, 6th FL 1400 16th Street Denver, C O 80202 <i>Counsel Friedlob Sanderson Paulson & Tourillott, LLC</i></p>		

EXHIBIT 1

EXHIBIT 1

**SUMMARY OF INTERIM APPLICATION FOR COMPENSATION OF
FEES AND COSTS OF COLSON HICKS EIDSON, P.A.**

1. Name of Applicant	Colson Hicks Eidson, P.A.	
2. Role of Applicant	Receiver	
3. Name of certifying professional	Roberto Martínez	
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 recovered	December 1, 2007 through July 31, 2008	
8. Fees requested for this period		\$81,022.50
9. Total expense reimbursement requested for this period		\$7,294.98
Total fee and expense award requested		<u>\$88,317.48</u>

HISTORY OF FEE APPLICATIONS

(See Attached Chart)

COLSON HICKS EIDSON

HISTORY OF FEE APPLICATIONS

App. #	Application Period	Date Submitted	Fees Requested	Costs Requested	Amount Requested	Fees Awarded	Costs Awarded	Date Awarded	Total Amt. Awarded	Date Paid	Amount Paid
1	5/4/04 - 6/18/04	7/2/2004	\$220,751.50	\$6,709.88	\$227,461.38	\$74,000.00	\$6,709.00	10/22/2002	\$80,709.00	11/5/2004	\$80,709.00
			\$0.00	\$0.00	\$0.00	\$146,751.00	\$0.00	12/15/2004	\$146,751.00	1/6/2005	\$146,751.00
2	6/19/04 - 9/30/04	12/15/2004	\$287,905.00	\$9,771.19	\$297,676.19	\$287,905.00	\$9,771.19	6/1/2005	\$297,676.19	9/7/05	\$297,676.19
3	10/1/04 - 1/31/05	3/17/2005	\$371,496.00	\$30,264.16	\$401,760.16	\$371,496.00	\$30,264.16	6/1/2005	\$401,760.16	9/7/2005	\$401,760.19
4	2/1/05 - 5/31/05	7/20/2005	\$320,323.75	\$16,565.65	\$336,889.40	\$300,000.00	\$16,565.00	8/18/2005	\$316,565.00	9/7/2005	\$100,563.62
			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	2/17/2006	\$0.00	11/2/2005	\$216,001.35
5	6/1/06 - 9/30/05	11/9/2005	\$244,126.50	\$20,537.69	\$264,664.19	\$240,000.00	\$20,537.69	2/17/2006	\$260,537.69	2/28/2006	\$260,537.69
6	10/1/05 - 12/31/05	3/7/2005	\$215,142.50	\$26,936.15	\$242,078.65	\$205,000.00	\$26,936.15	5/5/2006 5/22/06 corrects prior order	\$231,936.15	5/18/2006	\$121,936.15
			\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		\$0.00	5/31/2006	\$110,000.00
7	1/1/06 - 5/31/06	7/26/2006	\$372,588.50	\$25,275.99	\$397,864.49	\$300,000.00	\$25,275.00	10/25/2006	\$325,275.00	10/31/2006	\$325,275.00
8 (Amended)	6/1/06 - 1/31/07	5/21/2007	\$148,498.00	\$14,693.31	\$163,191.31	\$135,306.69	\$14,693.31	10/31/2007	\$150,000.00	11/2/2007	\$150,000.00
9	2/1/07 - 11/30/07	12/6/2007	\$294,900.00	\$27,522.47	\$322,422.47	\$250,000.00	\$27,522.47	12/19/2007	\$277,522.47	12/20/2007	\$277,522.47
10	12/1/07 - 7/31/08		88,317.48	7294.98	95612.46						
TOTAL			\$2,564,049.23	\$185,571.47	\$2,749,620.70	\$2,310,458.69	\$178,273.97		\$2,488,732.66		\$2,488,732.66

EXHIBIT 2

EXHIBIT 2

SUMMARY OF TIME BY TIMEKEEPER

PROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Roberto Martinez	\$350.00	14.25	\$4,987.50
Curtis Miner	\$300.00	149.20	\$44,760.00
Julie Braman Kane	\$300.00	35.70	\$10,710.00
TOTAL BY PROFESSIONAL		199.15	\$60,457.50

PARAPROFFESIONAL LEGAL SERVICES RENDERED (TOTAL)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Michelle Roberto	\$160.00	47.80	\$8,036.00
Maria A. Rodriguez	\$110.00	75.10	\$8,261.00
Jennie Hausler	\$110.00	25.80	\$2,838.00
Lauren Rosen	\$110.00	13.00	\$1,430.00
TOTAL BY PARAPROFESSIONAL		161.70	\$20,565.00

LEGAL SERVICES RENDERED (TOTAL)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Total Professional		199.15	\$60,457.50
Total Paraprofessional		161.70	\$20,565.00
TOTAL LEGAL SERVICES			<u>\$81,022.50</u>

EXHIBIT 3

EXHIBIT 3

**SUMMARY OF PROFESSIONAL AND PARAPROFESSIONAL
 TIME BY ACTIVITY CODE CATEGORY**

ACTIVITY CODE CATEGORY: Litigation (R162/R163)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	66.20	\$19,860.00
Michelle Magrudo-Roberto	\$160.00	47.80	\$8,036.00
Lauren Rosen	\$110.00	3.00	\$330.00
ACTIVITY CODE TOTAL			\$28,226.00

ACTIVITY CODE CATEGORY: Asset Disposition (R130)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Curtis Miner	\$300.00	65.70	\$19,710.00
Lauren Rosen	\$110.00	10.00	\$1,100.00
ACTIVITY CODE TOTAL			\$20,810.00

ACTIVITY CODE CATEGORY: Investor/Agent Communications (R170)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Julie Braman Kane	\$300.00	35.70	\$10,710.00
Curtis Miner	\$300.00	16.00	\$4,800.00
Jennie Hausler	\$110.00	25.80	\$2,838.00
ACTIVITY CODE TOTAL			\$18,348.00

ACTIVITY CODE CATEGORY: Fee Applications (R180)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Mari Rodriguez	\$110.00	75.10	\$8,261.00
Curtis Miner	\$300.00	1.30	\$390.00
ACTIVITY CODE TOTAL			\$8,651.00

ACTIVITY CODE CATEGORY: Receiver (R200)			
<u>NAME</u>	<u>RATE</u>	<u>HOURS</u>	<u>TOTAL FEES</u>
Roberto Martínez	\$350.00	14.25	\$4,987.50
ACTIVITY CODE TOTAL			\$4,987.50

EXHIBIT 4

EXHIBIT 4

Summary of Requested Reimbursement of Expenses

COLSON HICKS EIDSON

Description	Amount
Filing Fees	\$ 1,300.00
Process Service Fees	1,105.00
Witness Fees	80.00
Photocopies – In-house	2,740.75
Certified Copies	45.00
Online Research: Pacer - \$338.08 Westlaw - \$514.90 Misc. - \$75.00	927.98
Delivery Services/Messengers	
Federal Express	228.29
Postage	258.03
Other: Parking: \$79.00 Records Fees: \$56.55 Clerk document: \$101.00	236.55
Telephone Conferencing (Pactec)	184.88
Transcript	303.50
SUB TOTAL EXPENSES: Refunds: US Treasury Overpayment of Subpoena Fee - \$100.00 Cash reimbursement parking at Courthouse - \$15.00 TOTAL EXPENSES:	\$ 7,409.98 - \$115.00 ===== \$ 7,294.98

PROPOSED ORDER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573 CIV-MORENO

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants,

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.

**ORDER GRANTING COLSON HICKS EIDSON'S
TENTH INTERIM APPLICATION FOR COMPENSATION**

THIS CAUSE came before the Court on Colson Hicks Eidson's Tenth Interim Application for Fees and Costs (D.E. No. _____) filed on October 16th, 2008. The Court has carefully reviewed the Petition and case file and is otherwise fully advised in the premises.

ORDERED and **ADJUDGED** that Colson Hicks Eidson's Tenth Interim Application for Fees and Costs, is hereby **GRANTED** and Receiver, Roberto Martínez is hereby authorized to pay

CASE NO. 04-60573 CIV-MORENO/SIMONTON

Colson Hicks Eidson the sum of \$ _____ which represents reasonable fees of \$ _____ and costs of \$ _____ incurred during this Application Period.

DONE and ORDERED in Chambers at Miami, Florida this ____ day of October, 2008.

HON. FEDERICO A. MORENO
United States District Judge

Copies furnished to all counsel of record