

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60573-CIV-MORENO/GARBER

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JOEL STEINGER a/k/a JOEL STEINER,
LESLIE STEINGER a/k/a LESLIE STEINER,
and PETER LOMBARDI,

Defendants,

KENSINGTON MANAGEMENT, INC.,
RAINY CONSULTING CORP.,
TWIN GROVES INVESTMENTS, INC.,
P.J.L. CONSULTING, INC., and
CAMDEN CONSULTING, INC.

Relief Defendants.

**NIGHT BOX
FILED**

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JUL 14 2004

CLARENCE MADDOX
CLERK, USDC / SDFL / MIA

**MOTION TO VACATE PORTIONS OF JUNE 29, 2004
ORDER GRANTING THE RECEIVER AUTHORITY TO
PAY PREMIUMS, OTHER OPERATIONAL ISSUES AND
COMMENCE COLLECTION LITIGATION**

DEFENDANTS' JOEL STEINGER, LESLIE STEINGER, PETER LOMBARDI and RELIEF DEFENDANTS', KENSINGTON MANAGEMENT, INC., RAINY CONSULTING CORP., TWIN GROVES INVESTMENTS, INC., P.J.L. CONSULTING, INC, and CAMDEN CONSULTING, INC. ("Defendants") through undersigned counsel file this Motion to Vacate Portions of the June 29, 2004 Order Granting the Receiver Authority to Pay Premiums, Other Operational Issues and Commence Collection Litigation. As grounds the Defendants state the following:

Copies to:

RM
CM
Mari

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JK
Ellie

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1. On June 28, 2004 the Receiver filed a Motion for Authority to Pay Premiums, Address Other Operational Issues and Commence Collection Litigation.
2. According to the Receiver's certificate of service the Receiver mailed its motion to Defendants' counsel on June 28, 2004. Defendants' counsel did not receive the motion until June 30, 2004.
3. On June 29, 2004, one day following the Receiver's filing of its motion and one day prior to the Defendants' receipt of the Receiver's motion, the Court issued an order granting the Receiver's motion.
4. Defendants filed a response in opposition to certain portions of the Receiver's motion on July 2, 2004. Defendants' response was drafted while counsel was engaged in an evidentiary hearing before Magistrate Judge Garber relating to this case. Said hearing was conducted between June 30 and July 2, 2004.
5. On July 6, 2004 defendants received the Court's June 29, 2004 order granting the Receiver's June 28, 2004 motion.
6. Defendants' request that specific portions of the June 29, 2004 order be vacated, based upon the following:
 - a) the June 29, 2004 order was issued prior to the defendants being provided notice of the Receiver's June 28, 2004 application for relief;
 - b) the June 29, 2004 order was issued prior to the defendants being given an opportunity to respond to the Receiver's June 28, 2004 motion;
 - c) the June 29, 2004 order was based upon a de facto and hopefully unintentional ex parte application by the Receiver.
 - d) the June 29, 2004 order violates the due process protections of all defendants and Mutual purchasers.

PREMIUM PAYMENTS

7. Defendants specifically have no objection to the Receiver paying the premiums of Mutual owned life insurance policies with funds from Mutual's operating account. The amount of these premiums is less than \$1 million per year.
8. Defendants object to the Receiver utilizing escrowed monies to pay premiums on policies "owned by MBC." The issue of whether escrowed monies should be utilized for this purpose is a question of fact and law which should be fully briefed by all parties to this lawsuit. Additionally, purchasers of policies should be provided notice of this contemplated use of escrowed monies, which arguably is violative of their contractual rights.
9. Defendants object to the Receiver's attempt to place its financial interests ahead of the interests of persons who purchased the Mutual owned policies. Premium payments for Mutual owned policies should be paid prior to the Receiver incurring fees.
10. Defendants specifically have no objection to the Receiver paying the premiums on all other life insurance policies that have not yet reached life expectancy with money from premium escrow accounts.
11. Defendants specifically have no objection to the Receiver paying the premiums on all other life insurance policies that have reached life expectancy with money from premium escrow accounts.
12. Defendants are extremely concerned that the Receiver is committed to a course of Mutual "liquidation" prior to any judicial determination of a need for such action. The Receiver's doomsday predictions concerning a forthcoming shortage of funds to pay for premiums on policies has thus far been unsupported by any substantial evidence.

CHANGE OF BENEFICIARY INFORMATION

13. Defendants object to the requested change of beneficiary information. The requested change is totally unsupported by fact, law or equity. The alleged need to change beneficiary information “to have current, accurate records of the potential claim holders” is nonsensical.
14. At minimum, the current beneficiaries, or their representatives, should be entitled to be heard on this issue. Additionally, all actual legal ramifications of such beneficiary change should be fully presented to the Court.

CONTINUED EMPLOYMENT OF PERSONNEL

15. Defendants have no objection to continued employment of personnel.

COLLECTION AND DEPOSIT OF DEATH BENEFITS

16. Defendants have no objection to the request for endorsement and deposit of the category of checks described by the Receiver in its motion.
17. Defendants object to death benefits, which purchasers have contracted to receive, not being paid to the individual purchasers. The Receiver’s interception of these monies unnecessarily transforms legitimate purchasers into “victims.”
18. The Receiver’s position has presupposed that the death benefit to be received by the purchaser is somehow an asset of Mutual. It is unclear upon what factual and legal foundation the Receiver relies. Basic due process guarantees dictate that property not be taken from persons without the afflicted person being provided the basis of the taking as well as an opportunity to be heard by the Court.

RECOVERY OF FUNDS NEEDED FOR OPERATIONS

19. Defendants object to the **carte blanche** authority requested by the Receiver to “recover fraudulent transfers.” The Receiver’s motion allows for the “recovery” of “fraudulent”

funds before this Court has made any determination (other than through ex parte proceedings) of the existence of a fraud, the scope of the fraud, the likely proceeds of the fraud and the likely participants in the fraud.

20. The claim of the Receiver that the “recovery” efforts are needed to fund Mutual are transparent, since ultimately the true beneficiary of the “recovery” effort would be the Receiver.
21. The Receiver has not offered any specificity to its request, the resources necessary to proceed with the “recovery,” or its costs. Other than creating billable hours for the Receiver and his colleagues there is no need or benefit for the Receiver to proceed with “recovery” efforts.

CONCLUSION

22. While the defendants recognize that their opposition to the appointment and perpetuation of the Receiver must proceed through necessary steps of the judicial process, the defendants are extremely concerned that in the interim the actions of the Receiver are not fully committed to maintaining Mutual’s status quo as mandated by this Court.
23. The defendants are equally concerned that the Receiver’s own interest are being substituted for the interest of purchasers and the presentation of Mutual’s status quo.
24. The Receiver’s apparent acceptance of what amounted to an ex parte order from this Court on June 29, 2004 is disappointing. The “appearance” to parties and interested persons created by such an orthodox procedure should be unacceptable.
25. Defendants submit that vacating certain portions of the June 29, 2004 order is appropriate. Defendants further request that the disputed issues set forth in the Receiver’s motion be fully heard and that all parties have access to the Court prior to order of this Court.

WHEREFORE the Defendants request that this Court grant this Motion to Vacate Portions of July 29, 2004 Order Granting the Receiver Authority to Pay Premiums, Other Operational Issues and Commence Collection Litigation. Respectfully submitted by:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by facsimile this 15th day of July, 2004 on the following:


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