

2. The SEC makes *zero* allegations of wrongdoing against Steiner, SKS or Camden in its Complaint and simply names SKS and Camden as Relief Defendants. *See generally* Complaint (attached as Exhibit A). On June 25, 2004, the Court dismissed SKS as a Relief Defendant, finding that SKS had a legitimate claim to the funds sought by the SEC. *See* Order Granting Emergency Motion to Dismiss SKS and Lift Asset Freeze (attached as Exhibit B). Nonetheless, one business day after the Court dismissed SKS from the action, the Receiver filed the instant Motion seeking permission to bring suit against SKS, its sole shareholder, Steiner, and Camden, the company of Steiner's life partner.

3. The Receiver specifically requests permission to commence litigation against Steiner, the sole shareholder of SKS, to collect a promissory note. *See* Receiver Motion at 10. In addition, the Receiver states that "he [the Receiver] may have a cause of action against each of Camden Consulting, Inc. and SKS Consulting, Inc. to recover payments of over \$13,000,000 that *may be* subject to recovery as fraudulent conveyances or otherwise." *See* Receiver Motion at 10 (emphasis added).

4. The Receiver's request to bring a collection action against Steiner, SKS and Camden is, at best, premature. *See SEC v. Elliott*, 953 F.2d 1560, 1567-68 (11th Cir. 1992) (receiver allowed to pursue assets that were the result of fraudulent transfer only *after* entry of permanent injunction and subjects of the fraudulent transfer action were given the opportunity to be heard); *SEC v. Antar*, 2002 WL 1774063, 1-5 (3rd Cir. August 2, 2002) (fraudulent transfer action against relief defendants proper only *after* defendants found liable); *SEC v. Coates*, 1996 WL 476897, * 5-9 (S.D.N.Y. August 21, 1996) (special master permitted to proceed with fraudulent transfer action *after* parties entered into consent decree).

5. The Receiver has not provided any reason why the proposed collection litigation is proper or necessary at this stage of the litigation. In fact, there has been no finding of fraud or any other wrongdoing by any party involved in this action. No preliminary injunction has been entered. Thus, the only possible basis for the Receiver's rush to judgment is the *ex parte* mischaracterizations and misrepresentations made by the SEC in support of their request for an *ex parte* TRO on May 3, 2004 that Defendants and Relief Defendants are only now having the opportunity to rebut. See May 3, 2004 SEC *Ex Parte* Motion for TRO.

6. Moreover, the Receiver's premature request to commence litigation against a Vice President of Mutual Benefits, a former Relief Defendant and a current Relief Defendant runs afoul of the Receiver's responsibility to act as a neutral stakeholder throughout these proceedings. See *Sterling v. Stewart*, 158 F.3d 1199, 1202 (11th Cir. 1998) ("[a] receiver is a neutral court officer"); *SEC v. Elf̄ndepan, S.A.*, 169 F.Supp.2d 420, 424 (M.D.N.C. 2001) (receiver is not appointed for benefit of either party); *Canney v. City of Chelsea*, 925 F.Supp. 58, 65 (D.Mass. 1996) ("[i]t is well established at common law that a receiver is not the exclusive agent or representative of either party to the suit in which he is appointed"); *Suleiman v. Lasher*, 739 P.2d 712, 716 (Wash. App. 1987) ("the general rule is that a receiver is not the exclusive agent or representative of either party to the suit in which he is appointed, and the receiver is not appointed for the benefit of any party").

7. Engaging in separate, adversarial litigation with a Vice President of Mutual Benefits, a former Relief Defendant and a current Relief Defendant prior to any finding that the monies sought are the fruits of fraud or that any of the parties have engaged in any wrongdoing is not consistent with the Receiver's role as a neutral stakeholder. The Receiver has cited zero authority in support of his proposition that he is allowed, as a neutral stakeholder, to act as a co-

prosecutor by filing actions against individuals and companies the SEC chose not to bring claims against such as Steiner, SKS and Camden.

8. The Receiver's request to commence litigation against Steiner, SKS and Camden also violates the Receiver's duty to preserve the status quo of the company as he found it when he was first appointed. *See SEC v. First Financial Group of Texas*, 645 F.2d 429, 438 (5th Cir. 1981) (receiver is appointed to preserve status quo by maintaining the assets of the company); *SEC v. R.J. Allen and Associates*, 386 F.Supp. 866, 878 (S.D. Fla. 1974) (appointment of receiver is only appropriate to "prevent diversion or waste of assets"); *Los Angeles Trust Deed Mortgage Exchange v. SEC*, 285 F.2d 162, 181 (9th Cir. 1961) (in SEC action, district court had power "to appoint receiver to maintain in status quo the assets" of defendants and purchasers); *SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082, 1105 (2d Cir. 1972) (trustee appointed to preserve status quo); *SEC v. American Board of Trade, Inc.*, 803 F.2d 431, 436-37 (2d Cir. 1987) (purpose of appointment of receiver is to preserve status quo and estate).

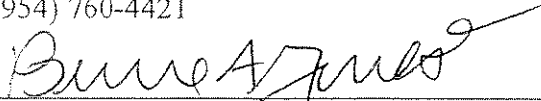
9. Maintaining the status quo does not include spending corporate assets to commence premature and costly litigation to collect monies which have not yet been connected to any fraudulent behavior. In fact, the Receiver does not offer an explanation, because there is none, of how the proposed collection litigation relates to preserving the status quo of Mutual Benefits.

10. Thus, the Receiver's request to commence collection litigation against Steiner, SKS and Camden must be denied because the request is just another improper attempt by the Receiver to assist the SEC in prosecuting its action and does not fall within the legitimate powers of a status quo receiver.

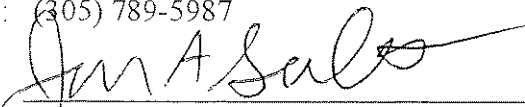
WHEREFORE, Defendants and Relief Defendants request that the Court deny the portion of the Receiver's Motion for Authority to Continue to Pay Premiums, Address Other Operational Issues, and Commence Collection Litigation that requests authority to commence collection litigation.

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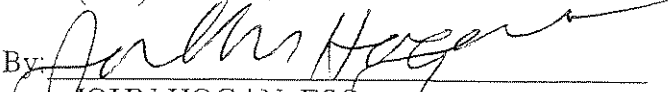
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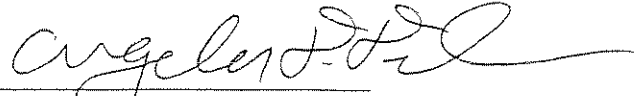
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Dated this 2nd day of July, 2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via facsimile and U.S. Mail this 2nd day of July, 2004 to all individuals named on the attached Service List.



Angela D. Daker

SECURITIES AND EXCHANGE COMMISSION v. MUTUAL BENEFITS CORP., et al.
USDC, SOUTHERN DISTRICT OF FLORIDA (Miami)
Case No. 04-60573-CIV-Moreno

SERVICE LIST
Updated July 1, 2004

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