

NEW APPLICATION
NEW
ORIGINAL



0000013025

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

Arizona Corporation Commission

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AZ CORP COMMISSION
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In the matter of:

DOCKET NO. S-03560A-04-0000

PRISTINE PROPERTY & INVESTMENTS, INC.,
an Arizona corporation
3420 East Shea Boulevard, #217
Phoenix, Arizona 85028

NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES, AND ORDER FOR OTHER AFFIRMATIVE ACTION

DEBORAH LEE BRUGLIERA,
an individual
3911 East Laurel Lane
Phoenix, AZ 85028

Respondents.

NOTICE: RESPONDENTS HAVE 10 DAYS TO REQUEST A HEARING

RESPONDENTS HAVE 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that Respondents PRISTINE PROPERTY & INVESTMENTS, INC. and DEBORAH LEE BRUGLIERA have engaged in acts, practices and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.*, ("Securities Act").

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

1 **II.**

2 **RESPONDENTS**

3 2. Respondent PRISTINE PROPERTY & INVESTMENTS, INC. ("PRISTINE
4 PROPERTY") is a real estate/insurance business located at 3420 East Shea Boulevard in
5 Phoenix, Arizona. This company, owned and operated by Respondent DEBORAH LEE
6 BRUGLIERA, provides real estate brokerage services and offers various insurance products for
7 sale.

8 3. Respondent DEBORAH LEE BRUGLIERA ("BRUGLIERA"), whose last known
9 address is 3911 East Laurel Lane in Phoenix, Arizona, is the president, director and sole shareholder
10 of PRISTINE PROPERTY. At all times relevant hereto, BRUGLIERA worked for PRISTINE
11 PROPERTY as a licensed insurance agent and as a licensed real estate broker.

12 4. PRISTINE PROPERTY and BRUGLIERA may collectively be referred to as
13 "RESPONDENTS."

14 **III.**

15 **FACTS**

16 *Overview of RESPONDENTS' introduction into "viaticals"*

17 5. In 1986, BRUGLIERA acquired a real estate broker's license from the Arizona
18 Department of Real Estate. Approximately three years later, in 1989, BRUGLIERA founded the
19 Phoenix-based PRISTINE PROPERTY. In her capacity as president and director of this company,
20 BRUGLIERA initially focused her efforts on providing real estate brokerage services.

21 6. Several years later, in 1996, BRUGLIERA expanded PRISTINE PROPERTY'S
22 business operations by obtaining an insurance license from the Arizona Department of Insurance.
23 Shortly thereafter, BRUGLIERA began offering and selling accidental, life and health insurance
24 policies.

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1 7. Some time during the fall of 1998, while looking through a national trade magazine,
2 BRUGLIERA came across an article touting a relatively new investment vehicle known as a
3 viatical settlement contract.

4 8. After expressing interest in this product, BRUGLIERA was invited to review the
5 business operations of a large Florida-based corporation dealing in fractionalized viatical
6 settlement contracts. While visiting the company's headquarters, BRUGLIERA toured the
7 facility, met with company representatives, and conversed with the company's legal counsel.

8 9. Some months after this visit, BRUGLIERA began offering and selling viatical
9 settlement contracts to various of her clients.

10 10. From approximately March 1999 through November 2000, BRUGLIERA – acting
11 though PRISTINE PROPERTY - offered and sold at least 54 viatical settlement contracts totaling
12 over \$1,100,000 to at least eight Arizona investors. In connection with these sales,
13 RESPONDENTS earned in excess of \$110,000 in commissions.

14 ***RESPONDENTS and the sale of MBC viatical contracts***

15 11. The viatical settlement contracts that RESPONDENTS offered and sold were issued
16 through Mutual Benefits Corporation ("MBC"), a viatical settlement contract company located at
17 2881 E. Oakland Park Blvd., Suite 200, Ft. Lauderdale, Florida 33306. At no time were these
18 MBC viaticals registered with the Division.

19 12. Based on the MBC promotional literature, MBC would initially seek out and procure
20 a wide range of insurance policies from terminally ill patients from across the United States. MBC
21 would subsequently allocate pooled investor funds, solicited through its agents, to various
22 insurance policies purchased by MBC. Following this allocation, a Florida law firm, serving as the
23 trustee for the MBC program, would assign differing percentages of the policies to the various
24 investors depending on the amount of funds invested.

25 13. A viatical servicing company, Viatical Services, Inc., would then take over the
26 ongoing management activities for these policies, including the responsibility for making timely

1 premium payments on each of the pending policies. Ultimately, if and when an insurance policy
2 "matured," the aforementioned trustee would oversee the payment of policy proceeds to the group
3 of investors vested in that particular policy.

4 14. Following BRUGLIERA'S affiliation with MBC in early 1999, RESPONDENTS
5 received various marketing materials for sales presentation to prospective investors. These MBC
6 marketing materials charged that investors could earn fixed returns as high as 72% with no
7 speculation or stock market risk. The materials further cautioned prospective investors not to
8 gamble their financial future with high risk investments, advised that MBC could help secure an
9 investor's financial future, and claimed that MBC offered a unique opportunity for the serious
10 minded and profit motivated individual who did not wish to risk their underlying principal.

11 15. In actuality, the MBC viatical settlement contract investments contain a number of
12 inherent risks. These risks include the following: 1) that insurance policies underlying these
13 investments could lapse if any of the premium payments are missed during the term of the policies;
14 2) that insurance companies underwriting the subject insurance policies could fall into insolvency
15 prior to the settlement contracts' maturity date; 3) that medical prognoses for the various viators
16 could be distorted or exaggerated; and 4) that payments on one or more of the insurance policies
17 could be challenged and/or denied by insurance companies on the basis of insurance fraud.

18 16. The misinformation on "risk" was exacerbated by fundamental defects in the MBC
19 viatical settlement program itself. Prospective investors were presented materials showing that the
20 medical condition and prognoses of the viators underlying the viatical settlement contracts had
21 been re-evaluated and confirmed by a second practicing physician. Specifically, MBC promotional
22 materials claimed that a second physician engaged directly by MBC had consulted with treating
23 physicians for the various viators, had reviewed these patients' medical files and, with this
24 information, had reached an informed opinion as to the viators' life expectancies. The validity of
25 these life expectancy projections had a natural bearing on both the value and maturity terms of
26 these MBC policies.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

24. From approximately March 1999 through November 2000, RESPONDENTS offered or sold securities within or from Arizona while not registered as dealers and/or salesmen pursuant to the provisions of Article 9 of the Securities Act.

25. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

26. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; and/or (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited to, the following:

- a. misrepresenting to investors that MBC's viatical settlements contracts were a safe, risk-free investment;
- b. misrepresenting that the life expectancies for the viators underlying the MBC settlement contracts had each been independently reviewed, researched and ascertained by a second independently-licensed physician;
- c. failing to disclose, discuss or explain that viatical investments may not be suitable for persons who have a need for a regular income or who might require immediate access to their funds;

27. This conduct violates A.R.S. § 44-1991.

VII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief against BRUGLIERA and PRISTINE PROPERTY as follows:

- 1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act pursuant to A.R.S. § 44-2032;
- 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
- 3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
- 4. Order any other relief that the Commission deems appropriate.

VIII.

HEARING OPPORTUNITY

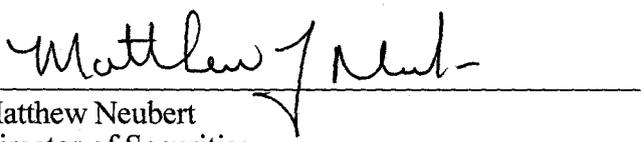
RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If any RESPONDENT requests a hearing, the RESPONDENT must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. Each RESPONDENT must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made, the Commission

1 admit the remainder. Each RESPONDENT waives any affirmative defense not raised in the
2 answer.

3 The Administrative Law Judge presiding over the hearing may grant relief from the
4 requirement to file an Answer for good cause shown.

5 Dated this 5 day of November, 2004.

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8 Matthew Neubert
9 Director of Securities

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Memorandum

2004 NOV -5 P 4: 30

DATE: November 5, 2004
TO: Nancy Cole
Docket Control
FROM: Jamie Palfai, Esq.
Securities Division
RE: In the Matter of *Deborah L. Brugliera, et al.*
Docket No. S-03560A-04-0000
Assigned Staff
CC: Emie R. Bridges

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This is to notify you that the following individuals have been assigned to the above-mentioned case.

- Matthew Neubert
 LeRoy Johnson

Jamie Palfai (Staff Attorney)

Gary Kirst (Staff Investigator)

Mark Dinell (Staff supervisor)