

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER



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0000071028

DIRECTOR

SECURITIES DIVISION
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ARIZONA CORPORATION COMMISSION

ORIGINAL

MEMORANDUM

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer

FROM: For Mark Sendrow *R*
Director of Securities

DATE: March 7, 2002

RE: Proposed consent re: **Ruttenberg (Viatical Center, Inc.)** (Michael Lynn Bill, et al., S-03460A-01-0000)

CC: Brian C. McNeil, Executive Secretary

Arizona Corporation Commission
DOCKETED

MAR 13 2002

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The Securities Division recommends that the Commission issue an order against Viatical Center, Inc. for violations of the registration provisions of the Securities Act. Viatical Center, Inc. was involved in the sale of viatical settlement contracts to Arizona investors during 1998 and 1999. This consent is one of four respondents' consents presented on this case. Beneficial, a Maryland corporation, created the investment program. Beneficial then hired Viatical Center, Inc. (IL) to locate sales agents and send out correspondence to investors. Respondent William R. Evans Chartered (MD) facilitated the program by taking ownership of the life insurance policies and administering accounts. Respondent, Michael Bill (AZ), made sales to Arizona investors on behalf of the above companies.

The Securities Division initially named Ruttenberg & Associates Insurance Marketing, Inc., ("Ruttenberg") d/b/a the Viatical Center, as a respondent in this matter. However, after being served, Ruttenberg provided the Division with information that Viatical Center was a separately incorporated entity, Viatical Center, Inc., and was the more proper person to be named in this action. Both Ruttenberg and Viatical Center, Inc. are controlled by Mark Ruttenberg, who has signed the consent. The consent includes a provision recognizing Viatical Center, Inc. as the proper party to be subject to the cease and desist order.

Viatical Center, as an agent for Beneficial, sold at least three viatical contracts to an Arizona investor through agent, Michael Bill. Two of the contracts matured and paid a return. The third contract remains open almost two years past the maturity date predicted by Beneficial.

Viatical Center created a brochure given to investors that touted the investments as having no risk.

Viatical Center, through its president, Mark Ruttenberg, has agreed to pay half of the original amount invested as restitution to the Arizona investor. Beneficial, through its consent, will offer the investor the remaining amount as a repurchase of the policy. Viatical Center has chosen not to participate in any benefits of the policy although it is contributing to the repurchase. Ruttenberg has also agreed to pay a fine of \$2500 for its violation of the registration provisions of the Securities Act.

The Division believes that this consent is a fair settlement of issues it has against Viatical Center, given the time period that the event occurred, the sale to one Arizona investor, and the prospect of a full return on the investment through the Beneficial repurchase.

Originator: Sharon Fox

enforce/cases/Arizona Viaticals/memos/Commissioners re Ruttenberg

1 VIATICAL CENTER, INC. admits the jurisdiction of the Arizona Corporation Commission
2 (“Commission”); neither admits nor denies the Findings of Fact and Conclusions of Law contained
3 in this Order; and consents to the entry of this Order by the Commission.

4 **I.**

5 **FINDINGS OF FACT**

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

8 2. At all relevant times, RUTTENBERG and VIATICAL CENTER, INC. were under
9 the common direction of Mark Ruttenberg, as President of RUTTENBERG and VIATICAL
10 CENTER, INC. Mark Ruttenberg agrees that service of a Notice of Opportunity for Hearing on
11 RUTTENBERG shall also constitute valid service upon VIATICAL CENTER, INC.

12 3. VIATICAL CENTER, INC., whose last known address is 1603 Visa Drive, Ste. 3,
13 Normal, IL 61761, was at all relevant times in the business of marketing various viatical settlement
14 contracts on behalf of BENEFICIAL ASSISTANCE (“BENEFICIAL”). The VIATICAL
15 CENTER, INC. recruited agents on behalf of BENEFICIAL, including MICHAEL LYNN BILL
16 (“BILL”) to make sales of viatical settlement contracts. VIATICAL CENTER, INC. was at all
17 relevant times, an Illinois corporation. In July, 1998, VIATICAL CENTER, INC. sold substantially
18 all of its assets, including all of its rights in its name, to BENEFICIAL.

19 4. From around June 1998 through July 1998, VIATICAL CENTER, INC. along with
20 BENEFICIAL, EVANS, and BILL, offered and sold securities in the form of an investment
21 contract, commonly known as a viatical settlement contract, to Arizona investors.

22 5. A viatical settlement contract involves the purchase of an interest in the proceeds from a
23 life insurance policy of a terminally ill individual. Various viatical companies purchase the
24 policies at a discount and re-sell the benefits to investors at less than the full face value. When the
25 policy matures, that is when the insured dies, the investor receives the full face value as return of
26 investment plus profit.

1 BENEFICIAL. Payment shall be made in full on the date of this Order by cashier's check or
2 money order payable to the "State of Arizona" to be disbursed to the investor. Disbursement of
3 funds shall be contingent on the investor relinquishing any claims or causes of action against the
4 viatical settlement contract to VIATICAL CENTER, INC., RUTTENBERG and Mark Rутtenberg.

5 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that VIATICAL CENTER, INC.
6 shall pay an administrative penalty in the amount of \$2,500. Payment shall be made in full by
7 cashier's check or money order on the date of this Order, payable to the "State of Arizona."

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9 IT IS FURTHER ORDERED that this Order shall become effective immediately.

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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13 CHAIRMAN

COMMISSIONER

COMMISSIONER

14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
15 Executive Secretary of the Arizona Corporation
16 Commission, have hereunto set my hand and caused the
17 official seal of the Commission to be affixed at the
18 Capitol, in the City of Phoenix, this _____ day of
19 _____, 2002.

20 _____
BRIAN C. McNEIL
Executive Secretary

21
22 _____
DISSENT

23 This document is available in alternative formats by contacting Shelly M. Hood, Exec. Asst. to
24 Exec. Secretary, voice phone number 602-542-3931, E-mail shood@cc.state.az.us.

25 (sf)

CONSENT TO ENTRY OF ORDER

1
2 1. Respondent VIATICAL CENTER, INC., admits the jurisdiction of the Commission
3 over the subject matter of this proceeding. VIATICAL CENTER, INC. acknowledges that it has
4 been fully advised of its right to a hearing to present evidence and call witnesses and VIATICAL
5 CENTER, INC. knowingly and voluntarily waives any and all rights to a hearing before the
6 Commission and all other rights otherwise available under Article 11 of the Securities Act and
7 Title 14 of the Arizona Administrative Code. VIATICAL CENTER, INC. acknowledges that this
8 Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties and Consent to
9 Same ("Order") constitutes a valid final order of the Commission.

10 2. VIATICAL CENTER, INC. knowingly and voluntarily waives any right under Article
11 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary
12 relief resulting from the entry of this Order.

13 3. VIATICAL CENTER, INC. acknowledges and agrees that this Order is entered into
14 freely and voluntarily and that no promise was made or coercion used to induce such entry.

15 4. VIATICAL CENTER, INC. acknowledges that it has been represented by counsel in
16 this matter, it has reviewed this Order with its attorney and understands all terms it contains.

17 5. VIATICAL CENTER, INC. neither admits nor denies the Findings of Fact and
18 Conclusions of Law contained in this Order.

19 6. By consenting to the entry of this Order, VIATICAL CENTER, INC. agrees not to take
20 any action or to make, or permit to be made, any public statement denying, directly or indirectly,
21 any Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order
22 is without factual basis. VIATICAL CENTER, INC. will undertake steps necessary to assure that
23 all of its agents and employees understand and comply with this agreement.

24 7. While this Order settles this administrative matter between VIATICAL CENTER, INC.
25 and the Commission, VIATICAL CENTER, INC. understands that this Order does not preclude
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1 the Commission from instituting other administrative proceedings based on violations that are not
2 addressed by this Order or facts not now known to the Division.

3 8. VIATICAL CENTER, INC. understands that this Order does not preclude the
4 Commission from referring this matter to any governmental agency for administrative, civil, or
5 criminal proceedings that may be related to the matters addressed by this Order.

6 9. VIATICAL CENTER, INC. understands that this Order does not preclude any other
7 agency or officer of the state of Arizona or its subdivisions from instituting administrative, civil or
8 criminal proceedings that may be related to matters addressed by this Order.

9 10. VIATICAL CENTER, INC. agrees that is will not apply to the state of Arizona for
10 registration as a securities dealer or salesman or for licensure as an investment adviser or
11 investment adviser representative, or for an exemption from registration, until such time as all
12 restitution and penalties under this Order are paid in full.

13 11. VIATICAL CENTER, INC. understands that default shall render it liable to the
14 Commission for its costs of collection and interest at the maximum legal rate.

15 12. VIATICAL CENTER, INC. agrees that it will continue to cooperate with the Securities
16 Division including, but not limited to, providing complete and accurate testimony at any hearing in
17 this matter and cooperating with the state of Arizona in any related investigation or any other
18 matters arising from the activities described in this Order.

19 13. VIATICAL CENTER, INC. consents to the entry of this Order and agrees to be fully
20 bound by its terms and conditions. If VIATICAL CENTER, INC. breaches any provision of this
21 Order, the Commission may vacate this Order and restore this case to its active docket.

22 14. VIATICAL CENTER, INC. states that to the best of its knowledge, it sold viatical
23 settlement contracts to only one Arizona investor. VIATICAL CENTER, INC. agrees that should
24 the Division become aware of other Arizona investors who purchased viatical settlement contracts
25 through VIATICAL CENTER, INC. prior to July, 1998, this matter may be re-opened and set for
26 hearing.

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15. Mark Ruttenberg represents that he was at all relevant times President of RUTTENBERG and of VIATICAL CENTER, INC. and is authorized to enter into this Order for and on behalf of VIATICAL CENTER, INC.

VIATICAL CENTER, INC.

Mark Ruttenberg, President

By: Mark Ruttenberg, President

SUBSCRIBED AND SWORN TO BEFORE me this 6 day of March, 2002.

Judith A. Summers
NOTARY PUBLIC
Hancock Cty. Resident

My Commission Expires:

11-27-07