

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER

(3 / 2 / 02)
OPEN MEETINGS ITEM




615

ARIZONA CORPORATION COMMISSION

DIRECTOR
SECURITIES DIVISION
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ORIGINAL

MEMORANDUM

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

FROM: *for* Mark Sendrow *R*
Director of Securities

DATE: March 13, 2002

RE: Proposed consent re: **Beneficial Assistance**, (Michael Lynn Bill, et al.
S-03460A-01-0000)

CC: Brian C. McNeil, Executive Secretary

Arizona Corporation Commission
DOCKETED

MAR 13 2002

DOCKETED BY *[Signature]*

RECEIVED
2002 MAR 13 P 4:42
AZ CORP COMMISSION
DOMINANT CONTROL

The Securities Division recommends that the Commission issue an order against Beneficial Assistance ("Beneficial") for violations of the registration and fraud provisions of the Securities Act. Beneficial 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 respondent Ruttenberg (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.

Consent by Beneficial Assistance

Beneficial Assistance ("Beneficial") is a Maryland corporation that offers and sells viatical settlement contracts. During 1998 and 1999, Beneficial sold eleven viatical settlement contracts to three Arizona residents for a total of \$186,843. Beneficial hired agents who distributed brochures about the investment. The brochures failed to disclose the risks associated with investing in viaticals. The brochures contained no financial disclosure about Beneficial. Investors were not told how much of their investment would be spent on purchasing policies, and how much would go to commissions and other fees.

Beneficial provided investors with a projected maturity date for the policies, that is, a prediction of when the insured would pass away. The touted return was based on the maturity

date. However, all but two of the contracts are still awaiting maturity, although the predicted date has passed on all but one of the contracts.

Beneficial has agreed to offer to repurchase the policies for the full face amount that the investors would have received had their policies matured as predicted by Beneficial. The total offer would be \$201,478. Payments would be made to investors over a period of fifteen months, beginning in May 2002. Beneficial will submit its repurchase letter to the Securities Director for his approval, before it is sent to investors. Beneficial has also agreed to pay a \$5,000 penalty upon entry of the Order. If Beneficial should default on its payments to investors, any remaining amount would be immediately due and payable as restitution. The fine would revert to \$20,000.

The Securities Division believes that this consent is a fair settlement of all issues, given the time period that the events occurred, the number of investors involved, and the prospect of full return plus profit on the investments.

Originator: Sharon Fox

Enforce/cases/Arizona viaticals/memo/Commissioners re consent beneficial

BEFORE THE ARIZONA CORPORATION COMMISSION

1
2 WILLIAM A. MUNDELL
Chairman
3 JIM IRVIN
Commissioner
4 MARC SPITZER
Commissioner
5

6 In the matter of)

DOCKET NO. S-03460A-01-0000

7 MICHAEL LYNN BILL)
d/b/a Arizona Viaticals Settlements and)
Annuities)
8 5810 West Mescal)
Glendale, AZ 85034)

DECISION NO. _____

9 BENEFICIAL ASSISTANCE)
a/k/a Beneficial Assurance, Ltd.)
10 t/a Imtek Funding Corporation)
8003 Corporate Drive, Ste. C)
11 Baltimore, MD 21236)

**ORDER TO CEASE AND DESIST, ORDER
OF RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME
BY: BENEFICIAL ASSISTANCE**

12 WILLIAM R. EVANS, CHARTERED)
8003 Corporate Drive, Ste. C)
13 Baltimore, MD 21236)

14 RUTTENBERG & ASSOCIATES)
15 INSURANCE MARKETING, INC.)
d/b/a Viatical Center)
16 1603 Visa Drive, Ste. 3)
Normal, IL 61761,)

17 Respondents.)

18 RESPONDENT BENEFICIAL ASSISTANCE elects to permanently waive any right to a
19 hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et*
20 *seq.* ("Securities Act") with respect to this Order To Cease And Desist, Order of Restitution, Order
21 for Administrative Penalties and Consent to Same ("Order"). BENEFICIAL ASSISTANCE
22 admits the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admits
23 nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to
24 the entry of this Order by the Commission, for purposes of this proceeding only.
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I.

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FINDINGS OF FACT

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

2. BENEFICIAL ASSISTANCE ("BENEFICIAL") a/k/a Beneficial Assurance, Ltd. t/a Imtek Funding Corporation ("BENEFICIAL"), whose address is 8003 Corporate Drive, Ste. C, Baltimore, MD 21236, was at all relevant times in the business of offering and selling viatical settlement contracts to investors. BENEFICIAL entered into contracts with various agents, including WILLIAM R. EVANS, CHARTERED, ("EVANS"), RUTTENBERG & ASSOCIATES INSURANCE MARKETING, INC. d/b/a Viatical Center ("VC"), and MICHAEL LYNN BILL ("BILL") in order to effect sales of the viatical settlement contracts.

3. From at least June 1998 through at least April 1999, BENEFICIAL, through its agents, offered and sold securities in the form of viatical settlement contracts and investment contracts to at least three Arizona investors. A viatical settlement contract involves the purchase of an interest in the proceeds from a life insurance policy of a terminally ill individual. Various viatical companies purchase the policies at a discount and re-sell the benefits to investors at less than the full face value. When the policy matures, that is when the insured dies, the investor receives the full face value as return of investment plus profit.

4. On or around June 1998, BENEFICIAL entered into a "Producer agreement" with respondent BILL, whereby BILL agreed to sell viatical programs of BENEFICIAL. BENEFICIAL agreed to compensate BILL from 4% for sales of 12 month policies to 9% for sales of 48 month policies.

5. An agent of BENEFICIAL provided potential investors with a brochure stating that investors could earn fixed returns as high as 65% in a "perfect no risk investment." . The brochure stated that viatical settlement contracts were "a proven investment," an "act of compassion," and a "win/win situation."

1 6. Once an individual decided to invest, the investor entered into a "Purchase
2 Authorization Agreement" with BENEFICIAL as "agent." BENEFICIAL agreed to act on the
3 investor's behalf to identify and qualify a policy for purchase, and to receive 15% to 20% of the
4 purchase funds for administrative costs. The investor could choose a viatical policy with a life
5 expectancy of from 12 to 48 months.

6 7. The investor wrote a check to EVANS to be placed in a trust account maintained by
7 EVANS. EVANS had an agreement with BENEFICIAL, whereby EVANS would become the
8 owner of the purchased policies and attorney-in-fact for the investor. EVANS would be
9 responsible for continuing premium payments, tracing patient progress, monitoring medical
10 history, notifying the investor of policy maturity, filing death claims and making other
11 disbursements from the trust account, including fees to various participants. Investors were given
12 insufficient financial information at the time of sale with which to determine the continuing ability
13 of EVANS or BENEFICIAL to pay premiums until maturity of a policy.

14 8. The Purchase Authorization Agreement provided no other information about the use of
15 proceeds, including but not limited to costs to purchase the policy, fees to VC, fees to EVANS, and
16 commissions to BILL.

17 9. BENEFICIAL, through BILL, sold policies to at least three individuals for a total of
18 \$186,843 and a value at maturity of \$201,478. BILL received at least \$12,819 in commissions for
19 the sales.

20 10. In connection with the offer or sale of viatical settlement contracts within or from
21 Arizona, BENEFICIAL directly or indirectly violated A.R.S. § 44-1991. BENEFICIAL's
22 conduct includes, but is not limited to, the following:

- 23 a) BENEFICIAL failed to provide certain material information to investors about
24 BENEFICIAL or EVANS, including but not limited to past operations, balance
25 sheets, statements of income, retained earnings, and cash flows that would reflect the
26 financial position of these entities.

1 III.

2 ORDER

3 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and
4 BENEFICIAL's consent to the entry of this Order, the Commission finds that the following relief
5 is appropriate, in the public interest, and necessary for the protection of investors:

6 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that BENEFICIAL, and any of its agents,
7 employees, successors and assigns, permanently cease and desist from violating the Securities Act.

8 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that BENEFICIAL shall offer
9 to repurchase the investments from investors shown on the records of the Commission in the face
10 value amount of \$201,478.04, subject to set offs for payments made on matured policies, and
11 relevant payments made by BILL.

12 A letter outlining the offer to repurchase, including information about this Order, shall be
13 submitted for approval by the Director of Securities within 10 days of the entry of this order. The
14 letter shall be mailed to all investors within 10 days after approval by the Director. Investors shall
15 be provided 30 days to accept or reject the offer to repurchase. Payment on repurchases shall be
16 made in accordance with the attached schedule. Should any investor decline to accept the
17 repurchase of a policy under the attached schedule, the next policy due for an equal or lesser
18 amount after the declining investor shall be paid on the date that the declining investor would have
19 been paid.

20 Payments shall be made by cashier's check or money order on a quarterly basis, payable to
21 investors according to the attached schedule "A".

22 If BENEFICIAL does not comply with this offer to repurchase, any outstanding balance
23 shall be in default and shall be immediately due and payable as restitution. If BENEFICIAL's
24 letter to investors fails to meet the approval of the Director, BENEFICIAL shall be deemed to be
25 in non-compliance with the offer to repurchase.

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1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that BENEFICIAL shall pay
2 an administrative penalty in the amount of \$20,000, with \$5,000 due and payable upon entry of
3 this Order. If BENEFICIAL completes the offer to repurchase, the administrative penalty shall be
4 reduced to \$5,000 already paid. Payment shall be made by cashier's check or money order on the
5 date of this Order, payable to the "State of Arizona."

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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10 CHAIRMAN

COMMISSIONER

COMMISSIONER

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

17 _____
18 BRIAN C. McNEIL
19 Executive Secretary

20
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 enforce/cases/Arizona Viaticals/pleadings/Consent Beneficial (2)
26 (SF)

CONSENT TO ENTRY OF ORDER

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2 1. BENEFICIAL ASSISTANCE admits the jurisdiction of the Commission over the
3 subject matter of this proceeding. BENEFICIAL ASSISTANCE acknowledges that it has been
4 fully advised of its right to a hearing to present evidence and call witnesses and BENEFICIAL
5 ASSISTANCE 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. BENEFICIAL ASSISTANCE acknowledges that
8 this Order to Cease and Desist, Order of Restitution, Order for Administrative Penalties, and
9 Consent to Same ("Order") constitutes a valid final order of the Commission.

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

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

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

17 5. BENEFICIAL ASSISTANCE neither admits nor denies the Findings of Fact and
18 Conclusions of Law contained in this Order, and consents to entry of this Order for purposes of
19 this proceeding only.

20 6. By consenting to the entry of this Order, BENEFICIAL ASSISTANCE agrees not
21 to take any action or to make, or permit to be made, any public statement denying, directly or
22 indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that
23 this Order is without factual basis, although BENEFICIAL ASSISTANCE does not admit such
24 Findings of Fact and Conclusions of Law. BENEFICIAL ASSISTANCE will undertake steps
25 necessary to assure that all of its agents and employees understand and comply with this
26 agreement.

1 7. While this Order settles this administrative matter between BENEFICIAL
2 ASSISTANCE and the Commission, BENEFICIAL ASSISTANCE understands that this Order
3 does not preclude the Commission from instituting other administrative proceedings based on
4 violations that are not addressed by this Order.

5 8. BENEFICIAL ASSISTANCE understands that this Order does not preclude the
6 Commission from referring this matter to any governmental agency for administrative, civil, or
7 criminal proceedings that may be related to the matters addressed by this Order.

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

11 10. BENEFICIAL ASSISTANCE agrees that it will not apply to the state of Arizona
12 for registration as a securities dealer or salesman or for licensure as an investment adviser or
13 investment adviser representative, or file for an exemption from registration, until such time as all
14 restitution and penalties under this Order are paid in full. Notwithstanding the foregoing,
15 Beneficial may file an application for exemption to sell viatical settlement contracts before final
16 repurchase amounts are paid under Schedule A, but Beneficial understands that the Arizona
17 Corporation Commission will delay any final decision on such application at least until such time
18 as repurchase amounts are paid in full.

19 11. BENEFICIAL ASSISTANCE agrees that it will not exercise any control over any
20 entity that offers or sells securities or provides investment advisory services, within or from
21 Arizona.

22 12. BENEFICIAL ASSISTANCE agrees that it will continue to cooperate with the
23 Securities Division including, but not limited to, providing complete and accurate testimony at any
24 hearing in this matter and cooperating with the state of Arizona in any related investigation or any
25 other matters arising from the activities described in this Order.

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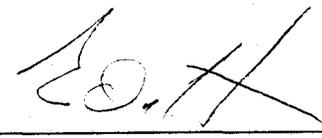
13. BENEFICIAL ASSISTANCE consents to the entry of this Order and agrees to be fully bound by its terms and conditions. If BENEFICIAL ASSISTANCE breaches any provision of this Order, the Commission may vacate this Order and restore this case to its active docket.

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14. Edwin C. Hirsch represents that he is the President of BENEFICIAL ASSISTANCE and has been authorized by BENEFICIAL ASSISTANCE to enter into this Order for and on behalf of it. Edwin C. Hirsch represents that he is authorized by law to enter into this Order for and on behalf of BENEFICIAL ASSISTANCE.

BENEFICIAL ASSISTANCE

By Beneficial Assurance, Ltd



Edwin C. Hirsch - President

SUBSCRIBED AND SWORN TO BEFORE me this 5th day of March, 2002.



NOTARY PUBLIC

My Commission Expires:

Christine E. Bock
Notary Public, Baltimore County, Maryland
My Commission Expires August 15, 2004

Repurchase		EXHIBIT "A" Investment			Repurchase Price by Beneficial (Face Amount at Maturity)
Date	Name of Investor	Viator	Principal by Investor	Original Purchase Date	
04/30/02	Ruotti	1767	8,152.00	09/25/98	10,108.48
04/30/02	Ruotti	1767	7,888.00	09/25/98	9,781.12
04/30/02	Tetzlaff	2381	12,500.00	12/14/98	15,500.00
			<u>28,540.00</u>		<u>35,389.60</u>
08/31/02	Ruotti	1887	20,000.00	01/02/99	25,600.00
08/31/02	Tetzlaff	2060	12,500.00	12/30/98	15,500.00
			<u>32,500.00</u>		<u>40,300.00</u>
12/31/03	Gulner	1535	20,000.00	09/02/98	24,800.00
12/31/03	Tetzlaff	2765	12,500.00	12/30/98	15,500.00
			<u>32,500.00</u>		<u>40,300.00</u>
04/30/03	Ruotti	3023	20,000.00	03/18/99	25,600.00
04/30/03	Tetzlaff	2537	12,500.00	01/15/99	15,500.00
			<u>32,500.00</u>		<u>40,300.00</u>
8/31/03	Ruotti	613	15,000.00	08/25/98	20,200.00
8/31/03	Ruotti	1662	15,803.00	08/29/98	23,388.44
			<u>30,803.00</u>		<u>40,788.44</u>
				TOTAL	<u>\$201,478.04</u>

Docket No. S-03460A-01-0000