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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
DOCUMENT CONTROL

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

6 In the matter of: )  
7 )  
7 MICHAEL LYNN BILL )  
d/b/a Arizona Viaticals Settlements and Annuities )  
8 5810 West Mescal )  
Glendale, AZ 85034 )  
9 )  
10 BENEFICIAL ASSISTANCE )  
a/k/a Beneficial Assurance, Ltd. )  
t/a Imtek Funding Corporation )  
11 8003 Corporate Drive, Ste. C )  
Baltimore, MD 21236 )  
12 )  
13 WILLIAM R. EVANS, CHARTERED )  
8003 Corporate Drive, Ste. C )  
Baltimore, MD 21236 )  
14 )  
15 RUTTENBERG & ASSOCIATES INSURANCE )  
MARKETING, INC. )  
d/b/a Viatical Center )  
16 1603 Visa Drive, Ste. 3 )  
Normal, IL 61761, )  
17 )  
18 Respondents. )

DOCKET NO. S-03460A-01-0000

**NOTICE OF OPPORTUNITY FOR  
HEARING REGARDING PROPOSED  
ORDER TO CEASE AND DESIST,  
ORDER OF RESTITUTION, ORDER  
FOR ADMINISTRATIVE PENALTIES,  
AND ORDER OF REVOCATION**

Arizona Corporation Commission

**DOCKETED**

AUG 10 2001

DOCKETED BY	
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20 **NOTICE: RESPONDENTS HAVE 10 DAYS TO REQUEST A HEARING**

21 The Securities Division ("Division") of the Arizona Corporation Commission ("Commission")  
22 alleges that respondents MICHAEL LYNN BILL, BENEFICIAL ASSISTANCE a/k/a Beneficial  
23 Assurance, Ltd., t/a Imtek Funding Corporation, WILLIAM R. EVANS, CHARTERED, and  
24 RUTTENBERG & ASSOCIATES INSURANCE MARKETING, INC. d/b/a Viatical Center, have  
25 engaged in acts, practices and transactions that constitute violations of the Securities Act of Arizona, A.R.S.  
26 § 44-1801 *et seq.* ("Securities Act").

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**I.**

**JURISDICTION**

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

**II.**

**RESPONDENTS**

2. MICHAEL LYNN BILL ("BILL") is an Arizona registered securities salesman (CRD # 2353538), whose business address is 5810 West Mescal, Glendale, Arizona 85034. BILL's registration was in suspension or expired during all time periods relevant to this Notice of Opportunity for Hearing in that BILL was not employed by a registered dealer pursuant to A.R.S. §§ 44-1947 and 44-1949. BILL is also an Arizona licensed insurance agent. BILL has done business under the name of Arizona Viaticals Settlements and Annuities, an Arizona registered trade name. BILL has also done business under the d/b/a of Arizona Viatical Center, and as an agent for BENEFICIAL and VC.

3. BENEFICIAL ASSISTANCE a/k/a Beneficial Assurance, Ltd. t/a Imtek Funding Corporation ("BENEFICIAL"), whose last known address is 8003 Corporate Drive, Ste. C, Baltimore, MD 21236, was at all relevant times in the business of issuing viatical settlement contracts to investors.

4. WILLIAM R. EVANS, CHARTERED, ("EVANS") whose last known address is 8003 Corporate Drive, Ste. C, Baltimore, MD 21236 is a Maryland corporation and a participant in various viatical settlement programs as a policy owner, attorney-in-fact, trustee, and optional irrevocable beneficiary on behalf of investors.

5. RUTTENBERG & ASSOCIATES INSURANCE MARKETING, INC. d/b/a Viatical Center ("VC"), whose last known address is 1603 Visa Drive, Ste. 3, Normal, IL 61761, was at all relevant times in the business of marketing various viatical settlement contracts through agents, including BILL.



1 11. BILL told potential investors that investing in a viatical settlement contract was similar  
2 to investing in a bank CD. BILL told potential investors that their account would only go up, never  
3 down. BILL told potential investors that their annual returns were guaranteed to be at least 12%.

4 12. BILL told potential investors that a viatical settlement contract serves as a "white  
5 knight" to a terminally ill person. By investing in the life insurance policy of a person with AIDS,  
6 various forms of cancer, heart disease, Lou Gehrig's disease, or Alzheimer's disease, an investor  
7 would give the insured "the dignity they deserve in their final days."

8 13. Once an individual decided to invest, BILL filled out a "Purchase Authorization  
9 Agreement" for the investor's signature. The agreement was between the investor and  
10 BENEFICIAL as "agent." BENEFICIAL agreed to act on the investor's behalf to identify and  
11 qualify a policy for purchase, and to receive 20% of the purchase funds for administrative costs.

12 14. The investor could choose a viatical policy with a life expectancy of from 12 to 48  
13 months. BILL failed to tell investors that investing in policies of longer duration provided BILL  
14 with a higher commission, but provided the investor with an effectively lower annual return.

15 15. BILL instructed the investor to write a check to EVANS to be placed in a trust account  
16 maintained by EVANS. EVANS would become the owner of the purchased policies and attorney-  
17 in-fact for the investor. EVANS would be responsible for continuing premium payments, tracing  
18 patient progress, monitoring medical history, notifying the investor of policy maturity, filing death  
19 claims and making other disbursements from the trust account, including fees to various  
20 participants. Investors were given no information about the background or business history of  
21 EVANS. Investors were given no financial information with which to determine the continuing  
22 ability of EVANS or BENEFICIAL to pay premiums until maturity of a policy.

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

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1 17. BILL sold policies to at least three individuals for a total of \$187,481. BILL received  
2 at least \$12,819 in commissions for the sales.

3 18. On or around July 1998, BILL began doing business as Arizona Viaticals Settlements  
4 and Annuities (AVSA) for the purpose of seeking out insurance policies to purchase and viaticate.  
5 BILL did not use the services of BENEFICIAL or EVANS in doing business as AVSA. BILL  
6 provided at least one investor with oral information about the opportunity to invest in AVSA  
7 viatical investments. BILL had earlier taken control of the investor's assets along with her  
8 checkbook for her living trust. BILL assisted the investor from time to time in paying her bills.  
9 The investor was in her late 80's.

10 19. On or around July 14, 1998, BILL approached the investor with the opportunity to  
11 purchase a viatical settlement contract. BILL asked the investor to sign her name to a blank check  
12 from her trust checking account. The investor believed that the check would be used to purchase a  
13 viatical settlement contract. BILL then filled out the check for \$30,000 payable to "Arizona  
14 Viatical" and deposited the money into his personal checking account. The money was not used to  
15 buy a viatical settlement contract, but was used by BILL for personal expenses.

16 20. On or around December 12, 1998, BILL offered the investor another opportunity,  
17 purportedly for the purchase of a viatical settlement contract. BILL asked the investor to sign  
18 another blank check from her trust checking account. The investor believed that the check would  
19 be used to purchase another viatical settlement contract. BILL filled out the check for \$30,000  
20 payable to "Arizona Viatical" and deposited the money into his personal checking account. The  
21 money was not used to buy a viatical settlement contract, but was used by BILL for personal  
22 expenses.

23 21. BILL provided the investor with documents that appeared to indicate that viatical  
24 settlement contracts had been purchased on her behalf. In fact, no viatical settlement contracts had  
25 been purchased.  
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1           28. In connection with the offer or sale of securities within or from Arizona,  
2 RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii)  
3 made untrue statements of material fact or omitted to state material facts which were necessary in  
4 order to make the statements made not misleading in light of the circumstances under which they  
5 were made; or (iii) engaged in transactions, practices or courses of business which operated or  
6 would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes,  
7 but is not limited to, the following:

8           a)       RESPONDENTS failed to provide material information about BENEFICIAL or  
9           EVANS, including but not limited to past operations, balance sheets, statements of  
10           income, retained earnings, cash flows and uses of proceeds that would reflect the  
11           financial position of these entities.

12           b)       RESPONDENTS represented the investment as a "no risk" opportunity and failed to  
13           disclose several risks including but not limited to:

14                   i.       the fact that an insured person could live longer than predicted with a  
15                   corresponding detrimental effect on profits;

16                   ii.       the fact that the investor would be wholly dependent on the  
17                   continuing viability and fiduciary obligations of EVANS and  
18                   BENEFICIAL for funding and payment of premiums, and for  
19                   monitoring of the investment;

20                   iii.       the fact that medical advisors may have misdiagnosed or  
21                   miscalculated the extent and gravity of an insured's condition;

22                   iv.       the fact that the investment is illiquid and there would be no public  
23                   market available for resale or other disposal of the security;

24                   v.       the fact that an insured person, having received payment on the  
25                   policy, may fail to comply with requests for continued contact, and  
26                   may in fact become impossible to locate;

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- vi. the fact that certain policies, such as group policies, may be subject to change, and may not provide returns as promised;
- vii. the fact that the investment may not be suitable for persons who have a need for a regular income from their investments;
- viii. the fact that all involved parties, such as BENEFICIAL, EVANS, BILL, VC, and any medical advisors or other participants receive their commissions and fees from the investment up front, thus the investor is reliant on the continuing operations of these parties in order to receive a return;
- ix. the fact that an investment made with IRA funds may require mandatory withdrawals before the investment itself matures, thereby causing tax issues for the investor.

- c) RESPONDENTS failed to provide investors with any information about the use of investor proceeds, such as the cost to purchase the policy, the fees and commissions payable to EVANS, BENEFICIAL, BILL, VC, medical advisors, or any other participants in the program.
- d) RESPONDENTS failed to provide investors with information that would allow them to verify the existence and terms of a policy or its provisions.
- e) RESPONDENTS failed to tell investors that EVANS, as trustee, was not operating at arms length, and had potential conflicts of interest, in that the owner/principal of EVANS, William R. Evans Sr., was also the President of BENEFICIAL.
- f) Respondent BILL provided certain documentation to one investor with the intention that the investor rely on such documentation as evidence of her purchase of six viatical settlement contracts through AVSA; in fact, the documentation was fabricated by BILL, and no purchases of viatical contracts were made on behalf of the investor.

1 g) Respondent BILL represented that funds provided by one investor would be used in  
2 the purchase of viatical settlement contracts through AVSA, when in fact, BILL  
3 misappropriated the investor's money for his own use.

4 h) Respondent BILL misrepresented the use of one investor's funds while, upon  
5 information and belief, using the funds to purchase stock options for his own benefit.  
6 BILL did not provide the investor with any record of the purported purchase, nor  
7 would the purchase have been suitable for the investor.

8 29. This conduct violates A.R.S. § 44-1991.

9 **VII.**

10 **REVOCATION PURSUANT TO A.R.S. § 44-1962**

11 **(Denial, Revocation or Suspension of Registration of Salesman)**

12 30. Respondent BILL's conduct is grounds to revoke BILL's registration as a securities  
13 salesman with the Commission pursuant to A.R.S. § 44-1962. Specifically, BILL has:

- 14 a) violated A.R.S. §§ 44-1841 and 44-1991 by selling unregistered, non-exempt, and  
15 fraudulent securities (A.R.S. § 44-1962(A)(2);
- 16 b) shown himself to be lacking in integrity (A.R.S. § 44-1962(A)(4);
- 17 c) been guilty of fraudulent acts or practices in connection with the sale of securities  
18 (A.R.S. §§ 44-1962(A)(9) and 44-1991);
- 19 d) engaged in dishonest or unethical practices in the securities industry (A.R.S. § 44-  
20 1962(A)(10) and A.A.C. Rule R14-4-130(A)(4), (14) and (16).

21 **VIII.**

22 **REQUESTED RELIEF**

23 The Division requests that the Commission grant the following relief against  
24 RESPONDENTS:

- 25 1. Order RESPONDENTS to permanently cease and desist from violating the  
26 Securities Act pursuant to A.R.S. § 44-2032;



1 Hood, ADA Coordinator, voice phone number 602/542-3931, e-mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us).  
2 Requests should be made as early as possible to allow time to arrange the accommodation.

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4 Dated this 9<sup>th</sup> day of August, 2001.

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7 Mark Sendrow  
8 Director of Securities

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