



FILED

OCT 6 1998

Docketed by: Jim

THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

BILL NELSON

IN THE MATTER OF:

MUTUAL BENEFITS CORPORATION

CASE NO.: 24056-98-C0

Revocation/Suspension of Certificate
of Authority To Transact Business
as a Viatical Settlement Provider

ORDER TO SHOW CAUSE

TO: MUTUAL BENEFITS CORPORATION
c/o Stephen Ziegler, Esq.
Suite 1800
New River Center
200 East Las Olas Boulevard
Fort Lauderdale, FL 33301-2209

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of the Florida Insurance Code, Bill Nelson, as Treasurer and Insurance Commissioner for the State of Florida, has caused an investigation to be made of your activities in this State and as a result alleges the following:

GENERAL ALLEGATIONS

1. The Treasurer and Insurance Commissioner, as head of the Department of Insurance (hereinafter referred to as the "Department"), has jurisdiction over the subject matter and of the parties herein pursuant to Chapters 120, and 626, Florida Statutes.

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2. MUTUAL BENEFITS CORPORATION (hereinafter referred to as "MUTUAL BENEFITS") is a Florida corporation licensed by the Department to transact business in the State of Florida as a viatical settlement provider.

3. Section 626.9914(1), Florida Statutes, provides, in pertinent part:

The Department shall suspend, revoke, or refuse to renew the license of any viatical settlement provider if the Department finds that the licensee:

- (f) Has failed to honor contractual obligations related to the business of viatical settlement contracts;
- (g) Deals in bad faith with viators;
- (h) Has violated any provision of the insurance code or of this act;

COUNT I

4. The Department realleges and reaffirms paragraphs 1 through 3 above, as if fully set forth herein.

5. That on or about June 4, 1996, MUTUAL BENEFITS entered into a viatical settlement contract with David Pius wherein it agreed to purchase the future increases in the value of his life insurance policy at a rate of fifty five (55%) percent of these increases for the increase of December, 1996 and the following three (3) years. A true and correct copy of said agreement is attached hereto as Exhibit "A".

6. That MUTUAL BENEFITS, as of this date, has failed to perform its responsibilities with regards to this clause of the viatical settlement agreement referenced in paragraph 5 above between itself and David Pius.

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statement with respect to the business of insurance, which was untrue and deceptive or misleading, in violation of section 626.9541(1)(b)4, F.S.;

(b) MUTUAL BENEFITS, by delivering the contract to Mr. Pius that contained a term, which MUTUAL BENEFITS had full knowledge they could not fulfill, violated section 626.9541(1)(e)1.e, F.S.;

COUNT III

9. On or about March 6, 1998, in response to the Department of Insurance's inquiry into the matter, MUTUAL BENEFITS, through counsel, responded that "it is impossible for MBC to conclude the transaction requested by Mr. Pius through no fault of its own", issued a false material statement. A true and correct copy of said statement is attached hereto as Exhibit "B".

IT IS THEREFORE CHARGED that in the conduct of the business of insurance in the State of Florida, MUTUAL BENEFITS has violated and is accountable under the following provisions of the Florida Insurance Code:

(a) MUTUAL BENEFITS, by issuing such a false, material statement to the Department, has violated section 626.9541(1)(e)1.a, F.S.

WHEREFORE, you, MUTUAL BENEFITS CORPORATION, are hereby ordered to show cause as to why the Insurance Commissioner should not enter a permanent final order:

(a) revoking or suspending your Certificate of Authority in this state to engage in the viatical settlement business, and/or

(b) prohibiting the further conduct of business as a viatical settlement provider in or from this state until such time as you present satisfactory evidence that adequate measures have been taken to prevent a reoccurrence of the violations alleged herein, and/or

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(c) imposing any other penalties as may be proper under the provisions of the Florida Insurance Code, or taking such other administrative action as the Treasurer and Insurance Commissioner may deem appropriate as provided by law.

NOTICE OF RIGHTS

You have a right to request a proceeding pursuant to Section 120.57, Florida Statutes, to contest this action by the Department. This request must be filed with the General Counsel acting as the Agency Clerk, Department of Insurance at 612 Larson Building, Tallahassee, Florida 32399-0333, subsequent to the date of this Order. Pursuant to Rules 28-5.111 and 28-5.501(2), Florida Administrative Code, the request must be received by, and filed in the Department within twenty-one (21) days of the date of receipt of this Order. Unless a petition challenging this action is received by the Department within twenty-one (21) days from the date of the receipt of this Order, the right to a proceeding shall be deemed waived and the Treasurer and Insurance Commissioner will dispose of this cause in accordance with the law without conducting a proceeding.

Any such request for a proceeding must contain:

- (a) Your name and address;
- (b) A reference to this Order;
- (c) A statement identifying whether you wish to have a formal proceeding pursuant to Section 120.57(1), Florida Statutes, or an informal proceeding pursuant to Section 120.57(2), Florida Statutes; and
- (d) If a formal proceeding pursuant to Section 120.57(1), Florida Statutes is desired, the request must also comply with Rule 28-5.201, Florida Administrative Code, and contain the following information:

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(1) A statement identifying which allegations of the Department that you dispute. If there is no disputed allegation, the request must so indicate;

(2) An explanation of what relief you are seeking and believe yourself entitled to; and

(3) Any other information which you contend is material.

At any proceeding held subsequent to this action, you have the right to be represented by counsel or other qualified representative, take testimony, call and cross-examine witnesses, have subpoena and subpoena duces tecum issued on your behalf and present oral or written arguments and evidence.

If you admit that the allegations are true or agree that the facts are correct in every material respect, including any allegations that you have violated any state statute or rule of the Department, and you still wish to have a hearing, you may request an informal (Section 120.57(2), Florida Statutes) proceeding. At an informal hearing, a Department attorney or other Department representative, including the Treasurer and Insurance Commissioner, may preside as hearing officer over your case. If you request an informal hearing, it is an admission that the facts, as alleged, are true.

In lieu of the foregoing you may, pursuant to Section 120.57(2), Florida Statutes, submit a written statement challenging the grounds upon which your denial was based. If a written statement is submitted the matter will be disposed of without a hearing.

If you do not state which kind of a hearing you request, the matter will be treated as a request for a formal hearing.

Failure to follow the procedure outlined with regard to your response to this Order may result in the request being denied. All prior correspondence in this matter shall be considered free-form agency action and no such correspondence shall operate as a valid request for an administrative

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proceeding. Any request for administrative proceeding received prior to the date of this Order shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

DONE and ORDERED this 6th day of October, 1998.



Bill Nelson

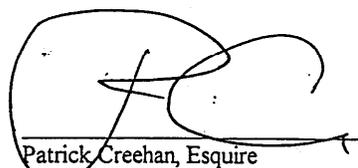
BILL NELSON
Treasurer and
Insurance Commissioner

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Order to Show Cause has been furnished
by United States certified mail to: MUTUAL BENEFITS CORPORATION, c/o of Stephen Ziegler,
Esquire, Suite 1800, New River Center, 200 East Olas Boulevard, Fort Lauderdale, FL 33301-2209
this 6th day of October, 1998.



Patrick Creehan, Esquire
Division of Legal Services
612 Larson Building
Tallahassee, FL 32399-0333
(904) 922-3110, Ext. 4154

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