



2. After his appointment, the Receiver met with several ABC Viaticals, Inc. (“ABC Viaticals”) employees and conducted a preliminary review of its books and records. Based on that review, the Receiver believes that ABC Viaticals has in excess of 4,000 investors worldwide.

3. Based on the Receiver’s experience in numerous prior cases, he anticipates that a multitude of investors will contact the Receiver’s office requesting guidance as to what they need to do and the necessity of an attorney. In addition, the Receiver anticipates that he will ask the Court to authorize him to pool all of the Receivership Assets, including the insurance policies and premium escrow accounts, in order to pay future premiums on policies as they come due. The interests of the investor group need to be voiced to the Court. However, the Receiver is unable to provide guidance and cannot act as an attorney for the investors. Moreover, it would be cost prohibitive and functionally impossible for each investor to hire an individual lawyer.

4. Accordingly, the Receiver requests that the Court appoint an Examiner to monitor, report to the Court, communicate with investors, and voice the collective interests of investors with respect to the Receiver’s actions. It is anticipated that as major decisions need to be made that affect the investors as a whole, the Examiner will convey the collective voice of the investors to the Court. The Examiner would act under the Court's direct supervision, as opposed to being retained as counsel for any particular investor, and would therefore be in a position to report to the Court objectively with respect to alternative courses of action as to which investors may have conflicting interests, and to pursue matters as may be appropriate and consistent with the directives of the Court herein.

5. The Receiver has approached Steven A. Harr of the firm Munsch, Hardt, Kopf & Harr, P.C., 500 N. Akard, Suite 3800, Dallas, Texas 75201, to act as Examiner. Mr. Harr has agreed to do so. The Court is familiar with Mr. Harr having appointed him Examiner in *SEC v.*

*Larry F. Tyler, et*, Cause No. 3-02CV-0282-P (Northern District of Texas). In addition, Mr. Harr is currently serving as Examiner in another viatical receivership pending in Grand Rapids, Michigan. *Michael J. Quilling v. Trade Partners, et al*, Cause No. 1:03-CV-0236 (Western District of Michigan). Based upon the Receiver's personal knowledge of Mr. Harr's performance as Examiner in the foregoing cases, the Receiver believes he is well-qualified to serve in these proceedings.

6. The Receiver requests that Mr. Harr be compensated out of receivership estate funds in accordance with the same fee application procedures followed by the Receiver. Such compensation arrangement is acceptable to Mr. Harr.

7. The Receiver has discussed this matter with counsel for the SEC and for the Defendants, and they agree to the relief requested.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final consideration of this motion that the Court enter an order appointing Steven A. Harr as Examiner consistent with the terms of this motion, and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

