

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

OCT 31 2003

PATRICIA PRESLEY, COURT CLERK
by _____
Deputy

Oklahoma Department of Securities)
ex rel. Irving L. Faught, Administrator,)
)
Plaintiff,)
)
v.)
)
Raymond C. Roberson,)
)
Defendant.)

Case No. **CJ-2003-9178**

PETITION FOR PERMANENT INJUNCTION

AND OTHER EQUITABLE RELIEF

COMES NOW the Plaintiff, Oklahoma Department of Securities *ex rel.* Irving L. Faught (Department), and for its claims against the above-named Defendant alleges and states:

OVERVIEW

1. This case involves violations of the Oklahoma Securities Act (the "Act"), Okla. Stat. Ann. tit. 71, §§1-413, 501, 701-703 (West 2003), by Raymond C. Roberson (Roberson). Specifically, the Department alleges that Roberson transacted business in the state of Oklahoma without benefit of registration as an agent under the Act, engaged in the offer and sale of unregistered securities, and perpetrated fraud in connection with the offer, sale or purchase of securities.

JURISDICTION

2. The Administrator of the Department brings this action pursuant to Section 406.1 of the Act and is the proper party to bring this action against the Defendant.

3. Pursuant to Sections 2 and 413 of the Act, Defendant, in connection with his activities and the offer, sale, and purchase of securities in and/or from this state, is subject to the provisions of the Act. By virtue of his transaction of business and commission of other acts in this state, Defendant is subject to the jurisdiction of this Court and to service of summons within or outside of this state.

DEFENDANT

4. Roberson is an independent insurance agent, licensed through the Oklahoma Insurance Department to sell insurance. At all times relevant hereto, Roberson offered and sold insurance products and viatical settlement investments. Roberson has not been registered in any capacity under the Act.

5. On December 27, 1996, the Administrator of the Department issued a Permanent Order to Cease and Desist violations of Section 301 of the Act against Roberson. The order was issued in connection with Roberson's sale of unregistered securities in the nature of pay telephone investments.

NATURE OF VIATICAL SETTLEMENT BUSINESS

6. At all times material hereto, Reliance Financial & Investment Group Inc. (Reliance Financial), a Georgia corporation, was engaged in the viatical settlement business. Reliance Financial filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Florida on June 14, 2002. On October 23, 2002, the bankruptcy case was converted to a Chapter 7 proceeding under the Bankruptcy Code.

7. The viatical settlements were arrangements between certain owners of life insurance policies and Reliance Financial. Reliance Financial purchased the policies of

terminally ill persons with life expectancies of only a few years (viators). Viators received immediate payments that were less than the death benefit of the insurance policies. Payment was based on the amount of the policy and the life expectancy of the viator.

8. After purchasing the policies, Reliance Financial fractionalized the policies and sold investors partial beneficial interests in the proceeds from the death benefits of each of the life insurance policies.

9. Reliance Financial offered two plans in which participation was distinguished by the rate of return on the viatical settlement investment. Investors were offered participation in the "traditional plan" or the "Reliance Program."

10. An investment under the traditional plan offered potential yields ranging from twelve percent (12%) in cases in which the viator's life expectancy was projected to be one (1) year and up to fifty-six percent (56%) in cases in which the viator's life expectancy was projected to be four years.

11. Investors choosing the Reliance Program were granted a written repurchase obligation by Reliance Program, Inc. If the viator died within three years, the investor would allegedly be paid directly by the life insurance company in an amount equal to the investor's percentage interest in the proceeds from the death benefits of the policy. In the event the viator was living at the conclusion of the three-year period, investors would convey their beneficial interests to the Reliance Program and purportedly receive their principal, plus a thirty percent (30%) return.

12. Defendant represented that a percentage of the sales proceeds from each viatical settlement investment would be sent to a bonding company to insure that funds

would be available to pay investors as promised. The remainder of the funds was retained by Reliance Financial to be distributed to sales agents for payment of commissions and to a reserve fund and to be applied to corporate office expenses.

13. The efforts and responsibilities of Reliance Financial in connection with each viatical settlement investment included:

- a. accepting or rejecting proposed viators;
- b. conducting independent evaluation and review of medical records;
- c. purchasing the policy of the viator;
- d. ensuring the transfer of ownership of the insurance policy;
- e. registering the investor as the beneficiary with the life insurance company and the Reliance Program;
- f. providing closing documents to the investor;
- g. tracking the status of the viator until death;
- h. establishing an escrow account to pay life insurance premiums; and
- i. hiring and paying commissions to agents to market the viatical settlement investments.

14. Investors had no role in the evaluation of a viator's medical condition or life expectancy or the actual selection of a life insurance policy. Instead, investors relied on Reliance Financial's expertise, judgement and discretion to create a suitable investment.

15. Reliance Financial administered all aspects of the investment.

16. Investors were simply required to deliver their money and wait passively to receive their investment return.

THE HOFFMAN TRANSACTION

17. On November 23, 1998, Roberson offered and sold William C. and Joyce Hoffman (the "Hoffmans"), Oklahoma residents, a viatical settlement investment in the amount of \$10,000. The Hoffmans chose to participate in the "Reliance Program." Roberson told the Hoffmans they were guaranteed a minimum return of \$13,000 at the end of a three-year investment period. Roberson received a commission for the sale of the viatical settlement investment.

18. Roberson told the Hoffmans that their investment was "risk free" and that they would "never be required to pay life insurance premiums" or incur other costs. He further told the Hoffmans that their investment was backed by the Oklahoma Insurance Department.

19. In February 1999, the Hoffmans were notified by Reliance Financial that a life insurance policy had been purchased for their participation in a viatical settlement investment. The Hoffmans received a closing statement and a repurchase certificate evidencing their ownership in the beneficial interest in the insurance policy. The maturity date of the investment was March 26, 2002. The Hoffmans were advised that in the event the insured under the policy was living on March 26, 2002, they would be provided with the paperwork required to receive payment from the Reliance Program.

20. Subsequently, the Hoffmans were notified that they would have to pay a portion of the premiums on the insurance policy to prevent the policy from lapsing. The Hoffmans did not pay any portion of the premiums.

21. As of March 26, 2002, the insured on the policy in which the Hoffmans had a beneficial interest was still living.

22. Reliance Financial did not provide the paperwork necessary for the Hoffmans to receive the promised return on their viatical settlement investment. Further, the Hoffmans have not received their principal or the thirty percent (30%) return on their investment.

23. The insurance policy in which the Hoffmans had a beneficial interest has lapsed.

FIRST CAUSE OF ACTION

(Violation of Section 301 of the Act: Offer and Sale of Unregistered Securities)

24. The Department realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 23 above.

25. In February 1998, Roberson, on behalf of Reliance Financial, offered and sold a viatical settlement investment to Oklahoma investors. The viatical settlement investment offered and sold by Defendant is a security as defined in Section 2 of the Act.

26. The security offered and sold by Roberson was not registered with the Department as required by Section 301 of the Act nor offered and sold pursuant to an exemption from registration pursuant to Section 401 of the Act.

27. By reason of the foregoing, Defendant Roberson, directly or indirectly, has violated, and unless enjoined, will continue to violate Section 301 of the Act.

SECOND CAUSE OF ACTION

(Violation of Section 201 of the Act: Failure to Register as an Agent)

28. The Department realleges and incorporates by reference each and every allegation contained in the first cause of action.

29. Reliance Financial is an issuer as defined under Section 2 of the Act.

30. Defendant Roberson is not and has not been registered under the Act to transact business in this state as an agent as required by Section 201 of the Act.

31. By reason of the foregoing, Roberson, directly or indirectly, has violated, and unless enjoined, will continue to violate Section 201 of the Act.

THIRD CAUSE OF ACTION

(Violation of Section 101(2) of the Act: Making Untrue Statements of Material Fact and Omitting Material Facts in Connection with the Offer and Sale of Securities)

32. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

33. Roberson, directly and indirectly, made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in connection with the offer and sale of a security.

34. Roberson, directly and indirectly, offered and sold viatical settlement investments issued by Reliance Financial through the use of promotional literature and oral and written communications that contained untrue statements of material facts including, but not limited to, the following:

- a. that there was no risk to the principal in the viatical settlement investment;
- b. that the viatical settlement investment was guaranteed by the Oklahoma Insurance Department;
- c. that investors would receive the principal amount of their investment plus a 30 percent (30%) return from the Reliance Program at the end of 36 months, if their viator was still alive;
- d. that the Reliance Program insured its ability to fulfill its repurchase obligation by acquiring financial guarantee bonds from qualified financial institutions; and
- e. that investors would "never" be required to pay the life insurance premiums on the life insurance policies.

35. Roberson, directly and indirectly, offered and sold viatical settlement investments issued by Reliance Financial through the use of promotional literature and oral and written communications that omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading to wit:

- a. In connection with the statement that there was no risk to the principal in the viatical settlement investments, Roberson omitted to state or disclose the potential risks associated with the viatical settlement investments including, but not limited to, the following:

- (1) the risk that the life insurance policies could lapse prior to maturity of the viatical settlement investments for lack of premium payments; and
- (2) the risk that Reliance Program would not be able to honor its repurchase obligations.

b. In connection with the statement that the viatical settlement investment was guaranteed by the Oklahoma Insurance Department, Roberson omitted to state the following:

- (1) that the viatical settlement investment was a security;
- (2) that the viatical settlement investments were not registered under the Act or exempt from registration; and
- (3) that Reliance Financial employed an agent who was not registered under the Act.

36. By reason of the foregoing, Roberson, directly and indirectly, has violated, and unless enjoined, will continue to violate Section 101(2) of the Act.

FOURTH CAUSE OF ACTION

**(Violation of Section 101(3) of the Act:
Engaging in any act, practice, or course of business which
operates or would operate as a fraud or deceit upon any person)**

37. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

38. From at least February 1998, through October 1999, Roberson directly and indirectly, engaged in an act, practice, or course of business that operated as a

fraud or deceit including, but not limited to, the acts, practices, or course of business set forth in paragraphs 33 through 35 above, in connection with the offer and sale of securities.

39. By reason of the foregoing, Defendant Roberson, directly and indirectly, has violated, and unless enjoined, will continue to violate Section 101(3) of the Act.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 406.1 of the Act, the Department prays for relief as follows:

1. A permanent injunction forever enjoining and restraining Defendant from the offer or sale of securities in or from this state and from directing other natural persons, corporations or other business entities acting on his behalf to offer or sell securities in or from this state;

2. An order requiring Defendant to make restitution to the Hoffmans;

3. An order requiring Defendant to pay a civil monetary penalty in the amount of Ten Thousand Dollars (\$10,000); and

4. Such other legal or equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act.

Respectfully submitted,

OKLAHOMA DEPARTMENT OF SECURITIES
Irving L. Faught, Administrator

By: Rebecca A. Cryer
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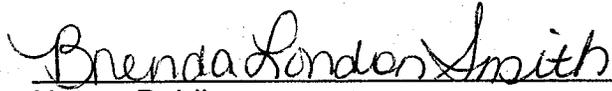
STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

Irving Faught, of lawful age, being first duly sworn deposes and says: that he is the Administrator of the Oklahoma Department of Securities, that he has read the foregoing Petition for Permanent Injunction and Other Equitable Relief and knows the contents thereof, and that the matters and things stated therein have been provided to him by staff members of the Department under his authority and direction, and are true and correct to the best of his knowledge, information and belief.

(SEAL)


Irving L. Faught, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES
120 North Robinson, Suite 860
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Subscribed and sworn to before me this 31st day of October, 2003.


Notary Public

My Commission No.: 01013792
My Commission Expires: August 26, 2005
SEAL