

BEFORE THE
DIVISION OF SECURITIES
DEPARTMENT OF FINANCIAL INSTITUTIONS
STATE OF WISCONSIN

In the Matter of
BENEFICIAL ASSISTANCE
a/k/a BENEFICIAL ASSURANCE, LTD
Respondent.

PETITION FOR ORDER

File No. S-01297(EX)

The staff of the Bureau of Registration & Enforcement, of the Division of Securities, Department of Financial Institutions, State of Wisconsin has conducted an investigation in this matter pursuant to sec. 551.56, Wis. Stats. and as a result thereof alleges as follows:

1. Beneficial Assistance a/k/a Beneficial Assurance Ltd. ("Beneficial") is a foreign business entity with last known business addresses at 8033 Corporate Drive, Suite C, Baltimore MD 21236 and 1825 I Street NW, Suite 400, Washington DC 20006.
2. Beneficial is in the business of offering and selling viatical settlements.
3. A Viatical Settlement is the sale of an existing life insurance policy by a terminally ill person to a third party.
4. During at least 1996 to the present, agents, including Judy Kolton and Leroy Avery, on behalf of Beneficial offered and sold viatical settlements to at least 49 persons in the State of Wisconsin.
5. According to Beneficial's offering documents, the process works as follows:
 - a. The terminally ill person (the "viator") contacts Beneficial and is interviewed by an employee and an application is sent to the viator;
 - b. Beneficial then does a thorough due diligence review of the person and his or her medical condition including sending the viator's medical information to one of Beneficial's contracted physicians;
 - c. Based on that physician's opinion, Beneficial determines the viator's life expectancy;
 - d. Beneficial then reviews the viator's insurance policy to make sure it is valid and from a top rated insurance company;
 - e. If everything is acceptable, Beneficial purchases the life insurance policy/viatical settlement;
 - f. Beneficial then sells the viatical settlement to the investor.
6. At the same time or after the above process:

- a. The investor chooses the specific life expectancy he or she wishes to purchase (12, 18, 24, 36, or 48 months) and sends the check to Beneficial's Escrow Agent;
 - b. The Escrow Agent places the check into an escrow account until Beneficial finds a policy that meets the investor's guidelines.
7. Since the policies are usually large, investors purchase only a portion of each viated insurance policy or portions of several policies.
8. After the viatical settlement is sold, Beneficial makes payments on the underlying insurance policy, and through its agents, monitors the status of the viator.
9. Because the investor relies upon the essential managerial efforts of Beneficial for the expectation of his or her profits, the viatical settlements are investment contracts as defined by DFI-Sec 1.02(6), Wis. Adm. Code and securities as defined by sec. 551.02(13), Wis. Stats.
10. The viatical settlement contracts have never been registered for offer or sale in Wisconsin pursuant to Ch. 551, Wis. Stats.
11. Respondents have violated sec. 551.21, Wis. Stats. by offering and selling unregistered securities.
12. In addition to the above viaticals, Beneficial also offered its ReAssured or Absolute Assurance viaticals.
13. Upon information and belief, the ReAssured or Absolute Assurance viaticals provide that the investor will get back their initial investment when the viator dies or in 24 months, whichever is shorter.
14. The ReAssured or Absolute Assurance viatical is an evidence of indebtedness as defined by sec. 551.02(13), Wis. Stats.
15. The evidence of indebtedness has never been registered for offer or sale in Wisconsin pursuant to Ch. 551, Wis. Stats.
16. Respondents have violated sec. 551.21, Wis. Stats. by offering and selling unregistered securities
17. None of the agents who sold the viatical settlements were licensed as either securities agents or agents for the issuer.
18. By employing unlicensed securities agents to represent it, Beneficial has violated sec. 551.31(2), Wis. Stats.

19. According to Beneficial's offering materials sent to its agents, viaticals are "An Excellent Alternative to Certificates of Deposit," the investor is "guarantee[d] from a 6% profit in just seven months or less all the way up to a guaranteed 48% profit in 48 months or less." (emphasis in original).
20. Upon information and belief, the return on the viatical settlements is not guaranteed since Beneficial has no way of, among other things,:
 - a. Precisely predicting a person's date of death;
 - b. Ensuring that the policies were not procured by fraud;
 - c. Ensuring that the insurance company will not file for bankruptcy; and
 - d. Ensuring that the escrow agent will not steal the funds.
21. Beneficial's statements as described above constitute the making of an untrue statement of a material fact or the omission of a material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading in violation of sec. 551.41, Wis. Stats.
22. Although Beneficial's offering documents described the federal court decision in Life Partners finding that viatical settlements were not securities, they failed to describe the well over 200 opinions, administrative decisions, and court cases from most states, including Wisconsin, finding that viatical settlements were securities.
23. On April 11, 2002, the staff of the Division of Securities wrote to Beneficial asking for information relating to the offer and sales of the viatical settlements in Wisconsin;
24. Counsel for Beneficial asked for, and received, a 30-day extension for a response to the staff's inquiry.
25. On September 20, 2002, the staff wrote to Beneficial's counsel stating that the information requested had not yet been received.
26. To date, Beneficial has not responded to the staff's request for information.

THEREFORE, the staff of the Bureau of Registration & Enforcement petitions the Administrator for the issuance of the attached Order.

DATED this 31st day of January, 2003.



David A. Cohen
Supervising Attorney
Bureau of Registration & Enforcement