

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

In the Matter of
LIBERTE CAPITAL GROUP LLC,
J. RICHARD JAMIESON, JR.,
VIATICAL ESCROW SERVICES, LLC, and
JAMES A. CAPWILL
Respondents.

PETITION FOR ORDER

File No. S-99106(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. Liberte Capital Group LLC (“Liberte”) is a foreign business entity with a last known address at 104 N. Summit St., Suite 4000, Toledo, OH 43604
2. J. Richard Jamieson, Jr. (“Jamieson”) is an adult individual with a last known business address at that of Liberte;
3. Viatical Escrow Services, LLC (“VES”) is a foreign business entity with a last known address at 9140 Ravenna Rd., Suite 2, Twinsburg, OH 44087;
4. James A. Capwill (“Capwill”) is an adult individual with a last known business address at that of VES;
5. At all times material hereto, Jamieson was the managing agent and controlling person of Liberte;
6. At all times material hereto, Capwill was the managing agent and controlling person of VES;
7. Liberte was in the business of selling viatical settlements;
8. A viatical settlement is the sale of an existing life insurance policy by a terminally ill person, at a price less than the death benefit, to a third party.
9. VES acted as the escrow agent for all of Liberte’s viatical sales
10. During at least 1998 to the present, agents, including Anthony Fricano and George Otto, on behalf of the Respondent’s, offered and sold viatical settlements to at least 4 persons in the State of Wisconsin.
11. According to Liberte’s offering documents, the process works as follows:
 - a. The terminally ill person (the “viator”) contacts Liberte;

- b. Liberte and/or VES then does a thorough due diligence review of the person and his or her medical condition including sending the viator's medical information to a medical underwriting company hired by Liberte
 - c. The medical underwriting company determines the viator's life expectancy;
 - d. Liberte 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, Liberte purchases the life insurance policy/viatical settlement;
 - f. Liberte then sells the viatical settlement to the investor.
12. At the same time or after the above process:
 - a. The investor chooses the specific life expectancy he or she wishes to purchase (0-12, 123- 24, 25-36, 37-48, or 49-60 months) and sends the check to VES;
 - b. VES places the check into an escrow account until Liberte finds a policy that meets the investor's guidelines.
13. Since the policies are usually large, investors purchase only a portion of each viated insurance policy or portions of several policies.
14. After the viatical settlement is sold to the investor, VES makes premium payments on the underlying insurance policy and Liberte tracks the insured and informs the insurance company upon his or her death.
15. Because the investor relies upon the essential managerial efforts of Liberte and VES 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.
16. The viatical settlement contracts have never been registered for offer or sale in Wisconsin pursuant to Ch. 551, Wis. Stats.
17. Respondents have violated sec. 551.21, Wis. Stats. by offering and selling unregistered securities.
18. By employing unlicensed agents to represent them in Wisconsin, Respondents have violated sec. 551.31(2), Wis. Stats.
19. According to Liberte's offering documents VES "is insured for malpractice by the Chicago Insurance Company and has a separate fidelity bond issued by Crum & Forster Insurance for all cash management functions and is bonded up to \$750,000 per transaction. Until your investment is placed in a Viatical Settlement, VES places your funds with Star Bank."
20. According to court documents filed by Liberte, VES actually transferred at least \$17,000,000 from the escrow account to brokerage accounts for the benefit of VES.
21. Upon information and belief, VES did not carry any malpractice insurance or a fidelity bond.

22. Respondents' statements, as described in paragraph 19 above constitute the making of an untrue statement of a material fact in violation of sec. 551.41, Wis. Stats.
23. On January 18, 2002, the US Attorney for the Northern District of Ohio filed a 200 count indictment against Jamieson and Capwell alleging conspiracy, money laundering, and as to Jamieson, perjury

THEREFORE, the staff of the Enforcement Unit petitions the Administrator for the issuance of the attached Order.

DATED this 5th day of February, 2003.



David A. Cohen
Supervising Attorney
Enforcement Unit