

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

In the Matter of
KIM A. HAVENS,

PETITION FOR ORDER

Respondent.

File No. S-04266(EX)

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

1. Kim A. Havens ("Havens") is an individual whose date of birth is June 9, 1953, with a CRD number of 2121519, a last known home address of 10967 Highway 23 South, Darlington, Wisconsin 53530 and a last known business address of 517 Park Place, Darlington, Wisconsin 53530;
2. Mutual Benefits Corporation ("Mutual Benefits") is a Florida corporation with its corporate headquarters at 2881 East Oakland Park Boulevard, Suite 200, Fort Lauderdale, Florida 33306;
3. Upon information and belief, at all times material hereto the business of Mutual Benefits was the sale of viatical settlement contracts;
4. At all times material hereto, Havens was a securities agent licensed by the State of Wisconsin, Department of Financial Institutions, Division of Securities ("the Division");
5. According to information provided by Havens to the staff of the Division, during the period of at least 1998, Havens, on behalf of Mutual Benefits, offered and sold to at least one person in Wisconsin a viatical settlement contract of Mutual Benefits;
6. The viatical settlement contracts of Mutual Benefits are investment contract securities as defined by DFI-Sec 1.02(6)(a), Wis. Adm. Code and sec. 551.02(13), Wis. Stats.;
7. The viatical settlement contracts have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
8. Havens has violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities to persons in Wisconsin; and

9. Upon information and belief, Havens' employing broker-dealer did not approve of the offer and/or sale of the viatical settlement contracts by Havens;

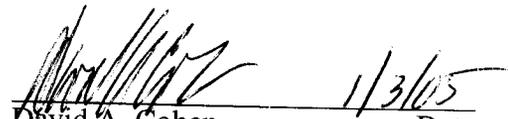
10. Pursuant to DFI-Sec 4.06(2), Wis. Adm. Code, effecting any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is disclosed to, and authorized in writing by, the broker-dealer prior to the execution of the transaction, is deemed a "dishonest or unethical business practice" or "taking unfair advantage of a customer" by an agent, which provides a basis, pursuant to sec. 551.34(1)(g), Wis. Stats., for the censure of a licensee; and

11. The Department wrote in its Securities Bulletin, for the fourth quarter of 1997, in its "Words for Reps" column, that "...securities agents must be aware of and resolve four issues when considering becoming involved in the sale of viatical settlement contracts. First, if the VCSs (viatical settlement contracts) are structured such that they are securities, the securities would have to be registered with the Division (of Securities) or be eligible for an exemption from registration to be marketed in Wisconsin. ... Otherwise, the offer and sale of such VSCs may result in regulatory action against you, ... for the sale of unregistered securities ... Third, NASD regulations and rule DFI-Sec 4.06(2)(c) Wis. Adm. Code, make it an unethical practice for an agent to effect transactions in securities (absent the knowledge of, and written permission from, their employing broker-dealer) that are not recorded on the books and records of the agent's broker-dealer. Therefore, if an agent's sales of viatical settlement contracts involve a 'security' and the agent fails to inform his or her broker-dealer, the result would be a serious sales practice violation commonly referred to as 'doing business away' or 'selling away.' Both the NASD and the Division have taken strong enforcement actions against agents who have violated the 'selling away' rule, ..."

Therefore, the staff of the Bureau of Registration & Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Ch. 551, Wis. Stats.


 Mark E. Dorman
 Examiner

12-29-09
 Date


 David A. Cohen
 Supervising Attorney

1/3/05
 Date