

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

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In the Matter of  
JOHN J. SCHMITZ,

PETITION FOR ORDER

Respondent.

File No. S-05199(EX)

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

1. John J. Schmitz ("Schmitz") is an individual, with a date of birth of March 9, 1937, and a CRD number of 414182, with a last known home address at that of 405 N. Lynnwood Lane, Brookfield, Wisconsin 53005;
2. Beneficial Assurance Ltd., ("Beneficial Assurance") is a Maryland corporation with its last known corporate headquarters at 8003 Corporate Drive, Suite C, Baltimore, Maryland 21236;
3. Upon information and belief, at all times material hereto the business of Beneficial Assurance was the sale of viatical settlement contracts;
4. At all times material hereto, Schmitz was an insurance agent licensed by the Office of the Wisconsin Commissioner of Insurance;
5. According to information provided by Premium of America, LLC, a company created from the bankruptcy of certain viatical companies, including Beneficial Assurance, Schmitz, on behalf of Beneficial Assurance, offered and sold to at least four persons in Wisconsin the viatical settlement contracts of Beneficial Assurance;
6. According to information provided by one of the four persons referred to in paragraph 5 above to staff of the Division of Securities, during the period of at least 1998, Schmitz, on behalf of Beneficial Assurance, offered and sold to at least two of the four persons in Wisconsin the viatical settlement contracts of Beneficial Assurance;
7. The viatical settlement contracts of Beneficial Assurance are investment contract securities as defined by DFI-Sec 1.02(6)(a), Wis. Adm. Code and sec. 551.02(13), Wis. Stats.;
8. The viatical settlement contracts have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.;
9. Schmitz has violated sec. 551.21(1), Wis. Stats., by offering and selling unregistered securities to persons in Wisconsin;

10. In connection with the offers and sales of the securities described above, Schmitz transacted business in Wisconsin as an "agent" for Beneficial Assurance as that term is defined by sec. 551.02(2), Wis. Stats.;

11. At no time has Schmitz been licensed as a securities agent pursuant to Ch. 551, Wis. Stats.; and

12. Schmitz has violated sec. 551.31(1), Wis. Stats., by transacting business in Wisconsin as a securities agent without a license.

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 12-27-05  
Mark E. Dorman Date  
Examiner

David A. Cohen 1/4/06  
David A. Cohen Date  
Supervising Attorney