Office of
M. R. Greenberg
Chairman

April 16, 2001

Mr. David Fields

There have been more and more situations by viatical sales schemes. The latest one is in Florida.

It seems to me that anybody doing anything in the field stands the risk of adverse PR.

I am concerned that we get ourselves into another "bail bond" problem - I am uneasy about this.

MRG

Attachment

Office of
M. R. Greenberg
Chairman

March 12, 2001

Mr. David Fields

RE: Forbes article entitled, "Death Wish" 3/19/01

Not very attractive.

MRG

MRG/mb
Attachment

agents—promise investors lush returns.

This is a pretty ghoulish way to make a buck, but as a cold-blooded investment it sounds good. Too bad for a lot of viatical investors that their capital expires before the patients do.

That's happening to [redacted] 79, a retiree from Collins, Iowa who in 1997 plunked down $46,000 for a partial interest in four policies, each insuring someone dying from AIDS. Documents from viatical firm Dedicated Resources guaranteed her a fixed return of 128% in two years.

Well, three years later, all the patients are still alive. Not only that, turns out the sales contract requires [redacted] to start chipping in for the patients' premiums after three years. And the 128% guaranteed return? An inflated number. Seems this was really 28%; the 100% part was just getting back her principal. By next year [redacted] premiums will have whittled her aftertax return to just 4.5%, calculates [redacted], a Kalamazoo, Mich. fee-only insurance expert. And if the patients live any longer than that, she will start losing money. [redacted] an attorney for Delray Beach, Fla.-based Dedicated, says the company does not guarantee returns. That may be true now, but on [redacted] paperwork a 28% return is promised and other words contradicting that claim are buried.

Don't investors at least get to check out, before paying, the real medical situation of the patients and the particulars of their policies? Not usually. Some viatical firms don't even provide enough information to show that the patients exist and their policies remain paid up and in force, says [redacted] author of *Viatical Settlements: An Investor's Guide* (Bialkin Books, 1998). Even when they do furnish copies of medical records and policies, what does that tell you? Not much. Because of this opacity, says planner [redacted] "An astute investor should throw a viatical salesman out the door."

Beyond these questions, the viatical industry lately has been hit with a batch of outright fraud complaints.

[redacted] 52, a former medical technologist from Occidental, Calif., contends that viatical firm Mutual Benefits altered life expectancies on the policies he bought to convince him that 20 patients were on their deathbeds, leading him to believe they would expire within four years. That was four years ago. According to his lawsuit against Fort Lauderdale, Fla.-based Mutual Benefits, he invested $570,000 and the patients are still living. An attorney for Mutual Benefits declines to comment.

DISCLOSURE OF DYING PEOPLE'S INSURANCE POLICIES AND THEIR MEDICAL RECORDS IS SPOTTY.

It gets worse. Some viatical firms use "senior settlements," recruiting older folks who are neither terminally nor even chronically ill to take out life insurance policies, to which unsuspecting investors buy rights.

Trouble is, insurers can rescind policies that are quickly sent to viatical-land. Insurer [redacted] is going to court to rescind five policies with a total death benefit of $5 million sold to old people in Florida allegedly recruited by brokers who had the policies flipped to viatical firm [redacted] Investors stand to get screwed if [redacted] succeeds in the case, set to go to trial in May in Miami's U.S. district court.

Yet another viatical scam, called "clean sheeting," involves recruiting people who really are terminally ill but uninsured. The recruits then take out an insurance policy by claiming to be healthy. The trick is to make sure the death benefit is small enough—often $100,000 or less—that a medical exam isn't required. Of course, buying one of these viaticated policies is deadly for investors: Should the underwriter discover the fraud within two years, it will cancel the coverage, even if the insured person has died. Investors get stiffed.

That was Alpha Capital Group's modus operandi when the New York company signed up AIDS patients to take out several policies each, claiming their last doctor's visit was for innocuous reasons like a flu shot. Some patients pocketed as much as $500,000 apiece for their part in the 1998–2000 scheme. Alpha executives, who pleaded guilty to money laundering and mail fraud, are awaiting sentencing in Tennessee. Several patients were also convicted.

Another egregious viatical scam was masterminded by [redacted] owner of now-defunct [redacted] His Ponzi scheme took 5,000 investors for $117 million. [redacted] Investors were told [redacted] owned $117 million of life insurance policies from the terminally ill and promised a 42% return on a 36-month investment. But [redacted] actually purchased policies worth only $6.5 million and misappropriated the remaining funds to support [redacted] lavish lifestyle—exotic automobiles, boats, helicopters and vacation homes. [redacted] was sentenced to 55 years in federal prison in January.

Don't count on government regulators to monitor this industry. "No one can stop viatical firms from thumbing their noses at regulators," says [redacted] professor emeritus of insurance at Indiana University. There are 25 states, including Georgia, Wyoming, South Carolina and Nebraska, with no licensing requirements for viatical selling. Even real estate agents hawk them.

The Securities & Exchange Commission has tried to get involved by charging one viatical firm, Life Partners, with selling unregistered securities. The SEC won in a Washington, D.C. federal district court, but that ruling was overturned on appeal. Reason: These rotten investments are "insurance," overseen by the states, not "securities," regulated by the SEC. F