

STATE OF HAWAII

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

In the Matter of:	)	Case No.: SEU-2007-052
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	)	
VESPERS, LLC, fka VIATICAL &	)	PRELIMINARY ORDER TO CEASE
ELDERLY SETTLEMENT	)	AND DESIST AGAINST RESPONDENTS
PROVIDERS, LLC, fka	)	VESPERS, LLC, fka VIATICAL & ELDERLY
NATIONAL INSURANCE DEPOSIT	)	SETTLEMENT PROVIDERS, LLC, fka
EXCHANGE, LLC; AND	)	NATIONAL INSURANCE DEPOSIT
RONALD JOHN CHANCELLOR,	)	EXCHANGE, LLC, AND RONALD JOHN
	)	CHANCELLOR, AND NOTICE OF RIGHT
	)	TO HEARING
Respondents.	)	
	)	
	)	
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PRELIMINARY ORDER TO CEASE AND DESIST AGAINST RESPONDENTS  
VESPERS, LLC, fka VIATICAL & ELDERLY SETTLEMENT PROVIDERS, LLC,  
fka NATIONAL INSURANCE DEPOSIT EXCHANGE, LLC; AND  
RONALD JOHN CHANCELLOR, AND NOTICE OF RIGHT TO HEARING

I. STATEMENT OF APPLICABLE STATUTORY LAW

Pursuant to the authority granted by the Uniform Securities Act found at Chapter 485, and its successor, Chapter 485A, of the Hawaii Revised Statutes ("HRS"), the rules and orders adopted thereunder, and other applicable authority, the Commissioner of Securities of the State of Hawaii ("Commissioner") has conducted a preliminary investigation into the activities of the above-named respondents to determine if they have engaged in or are about to engage in any act or practice constituting a violation of Chapters 485 and 485A, HRS, or any rule or order adopted thereunder. The Uniform Securities Act, Chapter 485, HRS, was in effect from 1957 to June 30, 2008, and its successor, Chapter 485A, HRS, took effect on July 1, 2008.

From the information revealed pursuant to the investigation, the Commissioner has reasonable cause to believe that the above-named respondents have violated Chapter 485, HRS, or are about to violate Chapter 485A, HRS, in that she finds:

## II. STATEMENT OF JURISDICTION

The Commissioner has jurisdiction under Chapters 485 and 485A, HRS, as this case involves the sale of securities, to wit, investment contracts, under HRS § 485-1(13).

## III. PRELIMINARY FINDINGS OF FACT

1. Respondent Vespers, LLC, fka Viatical & Elderly Settlement Providers, LLC, fka National Insurance Deposit Exchange, LLC (“Vespers”) was, at all relevant times herein, a foreign, District of Columbia, limited liability company doing business in the State of Hawaii.

2. Respondent Ronald John Chancellor (“Chancellor”) was, at all relevant times herein, the president, director, employee, and owner of Vespers with full and exclusive control and management of the company.

3. “Respondents” hereinafter means Vespers and Chancellor.

4. At all relevant times herein, Respondents created, established, administered, maintained, marketed, and/or effected the purchase and/or sale of viatical settlement contracts in the State of Hawaii (“State”).

5. Generally, a viatical settlement is the sale of a policy owner's existing life insurance policy to a third party for more than its cash surrender value, but less than its net death benefit, giving the policy owner a lump sum. The third party becomes the new owner of the policy, pays the monthly premiums, and receives the full benefit of the policy when the insured dies.

6. From an investment standpoint, purchasing a viatical settlement poses a substantial risk as the return on investment depends on the viator's life expectancy and when he or she dies.

7. From 2002 to 2004, Respondents sold viatical settlement contracts to four investors in the State, as follows:

- a. One viatical settlement contract to Investor A in the sum of \$10,000 on or about November 1, 2002, based on Respondents' promise, guarantee, and/or representation of a net return on investment of \$4,000;
- b. One viatical settlement contract to Investor B in the sum of \$20,000 on or about September 9, 2003, based on Respondents' promise, guarantee, and/or representation of a net return on investment of \$9,000;
- c. One viatical settlement contract to Investor C in the sum of \$20,000 on or about November 15, 2003, based on Respondents' promise, guarantee, and/or representation of a net return on investment of \$8,400; and,

- d. A second viatical settlement contract to Investor A in the sum of \$30,000 on or about February 4, 2004, based on Respondents' promise, guarantee, and/or representation of a high net return on investment.

8. The viatical settlement contracts presented to the Investors A, B, and C ("Investors") by Respondents stated that Respondent Vespers would represent Investors as their "agent, for the purpose of identifying, qualifying, and purchasing life insurance policies and related death benefits in the form of viatical settlements in accordance with the purchasing criteria and instructions" as set forth in more detail in the contract.

9. The viatical settlement contracts appointed an escrow agent to hold the funds paid by the Investors and to administer the payments of the premiums to the insurance company which issued the underlying insurance policy to the subject viator.

10. The viatical settlement contracts stated that the escrow agent was "authorized to release administrative costs, not to exceed 30% of the purchase funds from the purchase deposit at [Respondent] Vespers' discretion."

11. Respondent Vespers was, per the viatical settlement contracts, responsible for "any payment of future premiums beyond the life expectancy of the viator plus one year." However, in 2006, the escrow agent notified the Respondents that funds to pay premiums would run out in the summer of 2007, at which time some of the life insurance policies would lapse and terminate without additional funding to keep such policies in-force. Respondents refused or ignored the escrow agent's requests to provide that additional funding. Respondents also failed to inform the Investors that Respondent Vespers would not be paying future premiums as promised. Because of

Respondent Vespers refusal to pay future premiums, the Investors' viatical settlement contracts required action from Investors in order to prevent a lapse in payment of premiums and a complete loss of the investment.

12. A portion of the initial value paid by Investors was subject to the risk that the subject viators might outlive their expected lifespan resulting in a lower return than expected and/or a later payment date than expected.

13. A portion of the initial value paid by Investors was also subject to the risk of Respondents' actions under the viatical settlement contracts, including Respondents' role in choosing the policies and making premium payments on those policies.

14. The Investors were induced to invest in the viatical settlement contracts by Respondents' promises, guarantees, and/or representations that their investments would generate a substantial profit over and above their initial value upon the death of the underlying viators.

15. The Investors did not receive the right to exercise practical and actual control over the managerial decisions of Respondents' operations, including selection of underlying policies and payment of premiums under the terms of the viatical settlement contracts.

16. The viatical settlement contracts were investment contracts, which are securities under HRS § 485-1(13).

17. Respondents did not register the viatical settlement contracts as securities with the Office of the Commissioner as required under HRS § 485-8.

18. At all relevant times herein, Respondents made untrue statements of material fact and/or omitted to state a material fact to the Investors in light of the circumstances, as follows:

- a. Respondents omitted or withheld the fact that the viatical settlement contracts were “securities” that were required to be registered with the State under HRS Chapter 485;
- b. Respondents omitted or withheld the fact that Respondent Chancellor was required to be registered with the State to transact securities as a dealer and/or salesperson, but was not registered, and was not exempt from such registration under HRS Chapter 485;
- c. Respondents omitted or withheld the fact that the success of the investments in the viatical settlement contracts was entirely dependent upon Respondents’ payment of premiums, and if Respondent failed to pay, then the underlying policies would lapse and investors would receive no returns;
- d. Respondents made false representations that Respondent Vespers would maintain payments on the premiums on the underlying life insurance policies for the agreed period under the terms of the viatical settlement contracts that they had sold to investors; and,

- e. Respondents omitted or withheld the fact that they had stopped paying the premiums on the underlying life insurance policies for the viatical settlement contracts that they had sold to the Investors.

#### IV. PRELIMINARY CONCLUSIONS OF LAW

19. The matters contained in paragraphs 1 through 18, inclusive, are reasserted and incorporated herein as if set forth verbatim.

20. The viatical settlement contracts were investment contracts ("Securities"), which are securities within the meaning of HRS § 485-1(13) and other applicable authority and were required to be registered with the Office of the Commissioner unless exempted.

21. At all relevant times herein, the Securities were not registered with the Office of the Commissioner pursuant to HRS § 485-8 and were not exempt from registration.

22. At all relevant times herein, Respondent Chancellor engaged in the business of effecting or attempting to effect the purchase or sale of the Securities in the State as a dealer and/or salesperson without registering as such with the Office of the Commissioner as required by HRS § 485-14.

23. At all relevant times herein, Respondents misrepresented and/or omitted material facts to the Investors, in connection with the offer, sale, or purchase of the Securities, in violation of HRS § 485-25(a)(2) as described heretofore in paragraph 18.

## V. PRELIMINARY ORDER TO CEASE AND DESIST

NOW THEREFORE, pursuant to HRS § 485-18.7, based on the aforementioned findings and conclusions and/or because it appears that Respondents may engage in further acts or practices in violation of Chapter 485A, HRS, and/or because it is found that this action is necessary and in the public interest for the protection of investors, IT IS HEREBY ORDERED that:

1. Respondents shall CEASE AND DESIST from making any offer to sell, solicitation to purchase, sale of and/or transfer of the above-described securities, or any other security, within, to, or from the State of Hawaii;

2. All contracts regarding the purchase or sale of the aforesaid securities by Investors A, B, and C, or any similarly situated investors, are hereby RESCINDED effective immediately. Respondents, jointly and severally, shall REFUND to the Investors all monies or other compensation paid, plus interest on the amounts of monies or other compensation calculated at the same rate of ten percent (10%) per annum from the date of the investment to the date of the refund payment until fully paid, minus amounts already paid to the investors. This payment shall be made within thirty (30) days of the date of the Commissioner's Final Order (the "Final Order"). Proof of said payments to investors shall be provided to the Securities Enforcement Branch within thirty (30) days of the date of the Final Order. If an investor elects not to rescind the transaction, then the investor must so indicate in writing to the Office of the Commissioner that the investor has elected not to rescind the transaction;



3. Respondents shall be liable to pay the State of Hawaii, Department of Commerce and Consumer Affairs, Business Registration Division, an administrative penalty in the sum of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) plus interest on the unpaid balance thereof at the rate of ten percent (10%) per annum from the date of the Final Order until finally paid. Payment of this administrative/civil penalty shall be made by cashier's check or certified check made payable to the "Department of Commerce and Consumer Affairs Compliance Resolution Fund" and received by the Office of the Commissioner within thirty (30) days of the date of the Final Order;

4. Respondents are permanently barred as broker-dealers, investment advisers, salespersons, agents, and/or investment adviser representatives from the date of the Final Order and from applying for registration in the State of Hawaii as broker-dealers, investment advisers, salespersons, agents, and/or investment adviser representatives from the date of the Final Order;

5. Respondents shall be subject to a civil penalty of not more than Fifty Thousand and No/100 Dollars (\$50,000.00) per violation for each and every violation of this preliminary order ("Order") or any order of the Commissioner, pursuant to § 485A-604, HRS, and any future violation of Chapter 485A, HRS; and

6. The imposition of this Order shall not preclude or prevent in any way the imposition of further sanctions or other actions against Respondent or any other party for violations of Chapters 485 and 485A, HRS.

### NOTICE OF RIGHT TO HEARING

YOU ARE HEREBY NOTIFIED that pursuant to HRS §§ 485-18.7 and 485A-604, as applicable, you may request a hearing on this matter within thirty (30) days of the date of this Order. Your request must be in writing and addressed to: Office of Administrative Hearings, Department of Commerce and Consumer Affairs, State of Hawaii, P.O. Box 541, Honolulu, Hawaii, 96809.

You must simultaneously serve a copy of your written request for a hearing upon the Securities Enforcement Branch, Department of Commerce and Consumer Affairs, State of Hawaii, P.O. Box 40, Honolulu, Hawaii, 96810. If a hearing is requested, it shall be scheduled within fifteen (15) business days after your written request has been received by the Office of Administrative Hearings unless extended by the Commissioner for good cause.

If no written request for hearing is received by the Office of Administrative Hearings and none is ordered by the Commissioner, this Order shall remain in effect unless and until modified or vacated by the Commissioner or until a Final Order becomes effective.

You are hereby further notified that pursuant to §16-201-23 of the Hawaii Administrative Rules for Administrative Practice and Procedure, you may within ten (10) days after receiving a Final Order move the Commissioner to reconsider the Final Order. Your motion shall be filed with the Office of the Commissioner and shall state specifically what points of law or facts the Commissioner has overlooked or misunderstood together with brief arguments on the points raised.

Additionally, pursuant to HRS §§ 485-23 and 485A-609, as applicable, you may file an appeal with the Circuit Court of the First Circuit of the State of Hawaii in the manner provided in Chapter 91, Hawaii Revised Statutes.

You have the right to retain legal counsel, at your own expense, for all stages of these proceedings.

DATED: Honolulu, Hawaii, **APR 16 2012**\_\_\_\_\_.



TUNG CHAN  
Commissioner of Securities  
Department of Commerce and Consumer Affairs  
STATE OF HAWAII