

BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO

STATE OF IDAHO, Department of	)	
Finance, Securities Bureau,	)	Docket No. 2003-7-29
	)	
Complainant.	)	AGREEMENT AND ORDER
	)	
vs.	)	
	)	
DAVID A. GIDLEY,	)	
	)	
Respondent.	)	

The Director of the Department of Finance has instituted an investigation into the conduct of Accelerated Benefits Corporation (“ABC”) and several of its Idaho agents. David A. Gidley (“Gidley”) acted as a local agent for ABC. The Director and Gidley have agreed to resolve this matter without a public hearing. Therefore, the Director deems it appropriate and in the public interest that this Agreement and Order be entered, and Gidley consents to the entry of this Agreement and Order.

**RESPONDENT**

1. Respondent Gidley has been licensed with the Idaho Department of Insurance since 1980. Respondent Gidley, doing business through David Gidley Insurance, is licensed to sell disability and life insurance.

**BACKGROUND**

2. Accelerated Benefits Corporation (“ABC”) is a Florida corporation that offered and

sold investments in viatical settlements. As a viatical settlement company, ABC purchased life insurance policies directly from terminally ill insureds (known as viators) at a discounted price that depended on the viators' life expectancy. ABC then offered to sell investment interests in these types of life insurance policies to Idaho investors. When the viators died, investors were to receive the benefit of the insurance. Gidley acknowledges that it is the Department's position that these investment interests constitute securities in the form of investment contracts.

3. ABC contracted with Respondent Gidley to sell investment interests in its life insurance policies to Idaho residents. ABC paid commissions, bonuses and overrides to Gidley.
4. ABC prepared promotional materials for soliciting investors of viatical investment contracts. The material prepared by ABC represented viatical settlements as 1) fully insured, 2) fixed-rate, 3) short-term, and 4) non-speculative investments. The materials encouraged a purchaser to compare the purchase of an investment opportunity with ABC with other types of investments, such as stocks, bonds, or mutual funds, in terms of risk and expected profit.
5. ABC allowed purchasers to designate the term of their investment by selecting from a range of life expectancies for the viators. Investment opportunities ranged from six months with a return of six percent, to sixty months with a return of seventy-five percent.
6. Between March 1998 and December 1999 Gidley offered and sold approximately \$945,437 in investment contracts issued through ABC to approximately nineteen Idaho residents.

7. The purchasers of the ABC viatical settlements were not named as beneficiaries on the life insurance policies of the viators.

## **VIOLATIONS**

### *Securities Registration Violations*

8. The Director alleges that ABC viatical settlements sold by Gidley to Idaho residents are securities as defined in Idaho Code §30-1402(12).
9. The viatical settlements offered by Gidley were not registered with the Idaho Department of Finance. The Director alleges that the viatical settlements were not exempt from registration pursuant to Idaho Code §30-1416.
10. The Director alleges that Gidley has violated Idaho Code §30-1416.

### *Securities Salesperson Registration Violations*

11. Idaho Code §30-1406(1) makes it unlawful for any person to transact business in this state as a broker-dealer or salesman unless he is registered under this chapter.
12. The Director alleges that Gidley has violated Idaho Code §30-1406(1) by transacting business in Idaho without proper registration.

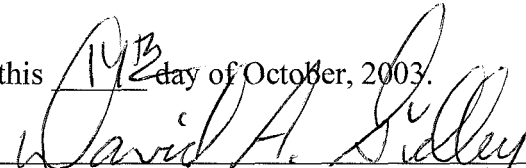
## **REMEDIES**

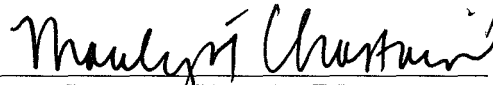
13. Gidley neither admits nor denies the allegations contained in this Agreement and Order, but wishes to resolve the matter as stated herein.
14. Gidley represents that the information provided to Complainant in its investigation of this matter is accurate and complete.
15. Gidley agrees to pay costs to the Department in the amount of \$1,000 within thirty (30) days of the date of this order.
16. Gidley agrees to comply with all provisions of the Idaho Securities Act in the future.

In the event the Gidley commits violations of the Idaho Securities Act within three (3) years of the date of the Order, Gidley acknowledges that Complainant can incorporate the allegations giving rise to this Order in any future proceeding.

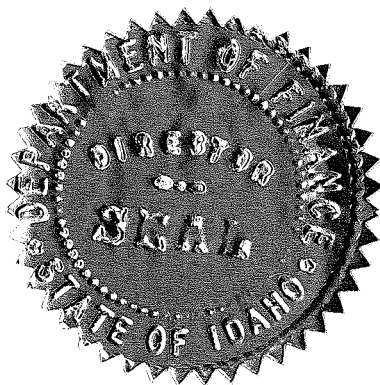
17. If Gidley fails to timely meet all terms and conditions set forth in this agreement, this agreement shall be null and void, and the Department may seek all remedies allowed by law that arise from the violations alleged in paragraphs 8 through 12 above.

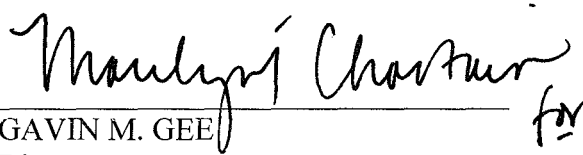
DONE AND DATED at Boise, Idaho this 19<sup>th</sup> day of October, 2003.

  
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DAVID A. GIDLEY

  
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MARILYN T. CHASTAIN  
Bureau Chief, Securities Bureau  
Department of Finance  
State of Idaho

IT IS SO ORDERED This 16<sup>th</sup> day of October, 2003.



  
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GAVIN M. GEE  
Director  
Department of Finance