

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SECURITIES AND EXCHANGE §  
COMMISSION, §  
§  
PLAINTIFF, §  
§  
vs. §  
§  
BRIAN A. BJORK, THE ESTATE OF JOEL §  
DAVID SALINAS, J. DAVID GROUP OF §  
COMPANIES, INC., J. DAVID FINANCIAL §  
GROUP LP, SELECT ASSET §  
MANAGEMENT LLC, SELECT ASSET §  
CAPITAL MANAGEMENT LLC, SELECT §  
ASSET FUND I, LLC, AND SELECT ASSET §  
PRIME INDEX FUND, LLC. §  
§  
DEFENDANTS. §  
§

CIVIL ACTION NO. 4:11 CV - 02830

**RECEIVER’S UNOPPOSED MOTION TO APPROVE COMPROMISE OF CLAIM  
RELATING TO RELIASTAR LIFE INSURANCE COMPANY POLICY**

TO THE HONORABLE KEITH P. ELLISON, UNITED STATES DISTRICT COURT:

Receiver Steven A. Harr (“Receiver”) moves the Court to approve this Compromise of Claim relating to Reliastar Life Insurance Company Policy No. 2526266K and respectfully provides the following:

**I.  
BACKGROUND**

1. On August 1, 2011, the Securities and Exchange Commission (“SEC”) filed its Complaint against Defendants. In conjunction therewith, the SEC sought, and by Order Appointing Receiver (the “Order”), the Court appointed, Steven A. Harr as the Receiver for Brian A. Bjork, The Estate of Joel David Salinas, J. David Group of Companies, Inc., J. David Financial Group LP, Select Asset Management LLC, Select Capital Management, LLC, Select

Asset Fund I, LLC and Select Asset Prime Index Fund, LLC (collectively, the “Receivership Entities”).

2. Mr. Harr was authorized to have complete and exclusive control, possession and custody of all Receivership assets and Receivership records of Defendants. Receivership Assets and Receivership Records were defined in the Order as “assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the [Receivership Entities] and all entities they own or control . . . , and the books and records, client lists, account statements, financial and accounting documents, computers, computer hard drives, computer disks, internet exchange servers telephones, personal digital devices and other informational resources of or in possession of the [Receivership Entities] or issued by [Receivership Entities] and in possession of any agent or employee of the [Receivership Entities].”<sup>1</sup>

3. The Receiver has been acting and fulfilling his duties as Receiver since his appointment and has conducted various investigations of the Receivership Entities with the intent to marshal the Receivership assets for the benefit of the Receivership Entities’ investors and creditors. These efforts have included interactions with existing and former employees, reviews of corporate records and discussions with involved third-parties.

## **II. PERTINENT FACTS**

4. The Receiver’s duties include investigating and collecting all assets which rightfully belong to the Receivership Entities. Shortly after his appointment, the Receiver identified several life insurance policies insuring the life of Joel David Salinas, the key principal behind the Receivership Entities. Mr. Salinas committed suicide shortly before the Receiver was appointed. After locating these policies, the Receiver conducted a thorough factual, forensic,

---

<sup>1</sup> Order Appointing Receiver, ¶1.

and legal investigation to identify the proper owner(s) and funds used to pay for these policies. With this Motion, the Receiver seeks to compromise a claim relating to the last of these policies.

5. Reliastar Insurance Company issued Policy No. 2526266K insuring the life of Joel David Salinas on April 16, 2004 (the "Policy" or "Reliastar Policy"). The total death benefit value of the Reliastar Policy is \$3,000,000. The original owner and beneficiary on the Reliastar Policy was J. David Financial Group, L.P. In late June 2011, Joel David Salinas transferred the policy ownership to himself, individually, and beneficial interests were transferred in full from J. David Financial Group, L.P. to four individuals in equal portions.<sup>2</sup> All four individuals are victims of the fraudulent scheme at issue in the underlying proceeding.

6. After identifying the Policy, the Receiver contacted the individual putative beneficiaries to assert a multitude of claims to the death proceeds of the Policy, including but not limited to, fraudulent conveyance and constructive trust. One of the individual putative beneficiaries immediately disclaimed/assigned his twenty-five (25%) percent interest in the death proceeds (\$750,000) in favor of the Receivership Estate. The remaining three individual putative beneficiaries (the "Putative Beneficiaries") were not willing to disclaim/assign their interest in the Policy without hiring counsel and paying for a legal review of the Receiver's position. For this reason, the Receiver retained UHY Advisors, Inc. to conduct a forensic investigation to trace the source of all premium payments and to conduct a thorough solvency analysis of the implicated entities. The Receiver's independent forensic investigation in conjunction with the Receiver's own legal and factual analysis confirm the Receivership Estate is the rightful owner of the death proceeds at issue. To effectively demonstrate this, the

---

<sup>2</sup> The Putative Beneficiaries have asked not to be named in any public filings relating to this matter. In his efforts to resolve this matter, the Receiver offered to accommodate this request so long as this Court was willing to accept this condition. If the Court is not willing to accept this condition, the Receiver will provide any information requested by the Court relating to this matter *in camera* or as directed by the Court.

Receiver provided counsel for the Putative Beneficiaries a detailed Position Statement outlining the results from the Receiver's forensic, factual and legal investigations.

7. For over one year, the Receiver and counsel for the Putative Beneficiaries have exchanged legal authority, argument and threats of litigation in seeking to determine the rightful owner of the death proceeds. The Receiver believes that the Receivership Estate is the rightful owner of any and all death proceeds paid as a result of Mr. Salinas' suicide. The Putative Beneficiaries have outlined a number of legal positions asserting claims to the entire balance of the death benefits payable under the Policy. The Receiver is willing and able to litigate his entitlement to the entirety of these proceeds. However, the Putative Beneficiaries have raised issues that suggest to the Receiver that getting to that final determination will be a costly and time consuming undertaking. In the interest of preserving the Receivership Estate, the Receiver entered into negotiations with the Putative Beneficiaries to resolve this dispute, bring certainty, and to inject a substantial portion of the death benefits into the Receivership Estate without incurring substantial litigation costs and expenses. The Receiver now seeks approval of the Court of the compromise reached with the Putative Beneficiaries relating to the Policy.

### **III. AUTHORITIES**

8. In receiverships, federal courts have broad equitable powers enabling them to fashion appropriate ancillary remedies necessary to grant full relief. *SEC v. Blatt*, 583 F.2d 1325, 1325-27 (5th Cir. 1978); *SEC v. Manor Nursing Centers*, 458 F.2d 1082, 1103-04 (2d Cir. 1972).

### **IV. RELIEF SOUGHT**

9. The Putative Beneficiaries each claim they are entitled to the death proceeds at issue for various reasons. The Receiver does not agree with the Putative Beneficiaries' position

and has thoroughly outlined his reasons through multiple memorandums, letters, and e-mails. However, to fully litigate this matter would likely result in significant expense.

10. In an effort to compromise their positions and settle this matter without further judicial intervention, the Receiver proposes to make the following compromise: the Receiver will pay each of the three Putative Beneficiaries \$100,000 in exchange for the Putative Beneficiaries' full disclaimer/assignment of any and all interest they may have in the Policy, including specifically but not limited to, the entirety of the remaining death benefits plus any accrued interest. The total amount remaining to be paid under the Policy is \$2,250,000, plus interest. The Receiver further has agreed to accept a negotiated value of the Putative Beneficiaries claims made against the Receivership Estate for purposes of any future distributions and has included those amounts in his Unopposed Second Motion to Approve Claims filed contemporaneously with this Motion. These negotiated values are supported by the individual Putative Beneficiaries claim forms and supporting documents cross checked against the records of the Receivership Entities as well as an affidavit from one of the Putative Beneficiaries. Copies of the Settlement Agreement and Disclaimer and Assignment of Life Insurance Policy Benefits already executed by the Putative Beneficiaries, the Receiver's Position Statement and other legal memoranda on this issue will be made available to the Court upon request but are not attached here so as to protect the confidentiality of these documents.

11. The Receiver believes these compromises are in the best interest of the Receivership Estate because they will add a net value of \$1,950,000 (exclusive of interest) to the Receivership Estate. If this matter were to be litigated through trial, the Receivership Estate would incur attorneys' fees and costs that could be comparable to or in excess of this settlement figure.

12. For these reasons, the Receiver requests if the Court is inclined to grant this Motion, that it do so only if it is likewise inclined to grant the Receiver's Unopposed Second Motion to Approve Claims. If the Court is inclined to grant both Motions, the Receiver asks that the Court approve this compromise as stated and order that the Receiver is permitted to proceed with the transaction as stated or terms substantially similar thereto.

13. Pursuant to Local Rule LR 7.2, the Receiver advises the Court that the Plaintiff SEC does not oppose this Motion. The Defendant entities are all controlled by the Receiver.

**V.**  
**CONCLUSION**

WHEREFORE, the Receiver prays that the Court enter an Order in the form submitted with this Motion, or for substantially the same relief in such form as the Court may find just and proper.

Respectfully submitted,

By: /s/Sameer S. Karim

**STEVEN A. HARR**

SDTX Bar No. 09035600

**SAMEER S. KARIM**

SDTX Bar No. 11795950

**MUNSCH HARDT KOPF & HARR, P.C.**

700 Louisiana St., Suite 4600

Houston, Texas 77002

(713) 222-4050 (telephone)

(713) 222-5850 (facsimile)

Email: skarim@munsch.com

*Counsel for Steven A. Harr, Receiver*

**CERTIFICATE OF CONFERENCE**

On March 4, 2013, I conferred with Tim McCole and he advised that the Securities and Exchange Commission is not opposed to the relief sought in this motion.

/s/ Sameer S. Karim

Sameer S. Karim

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically with the Clerk via the CM/ECF system on March 19, 2013. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system on the date of filing.

/s/ Sameer S. Karim \_\_\_\_\_  
Sameer S. Karim

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

SECURITIES AND EXCHANGE §  
COMMISSION, §  
§  
PLAINTIFF, §  
§  
vs. §  
§  
BRIAN A. BJORK, THE ESTATE OF JOEL §  
DAVID SALINAS, J. DAVID GROUP OF §  
COMPANIES, INC., J. DAVID FINANCIAL §  
GROUP LP, SELECT ASSET §  
MANAGEMENT LLC, SELECT ASSET §  
CAPITAL MANAGEMENT LLC, SELECT §  
ASSET FUND I, LLC, AND SELECT ASSET §  
PRIME INDEX FUND, LLC. §  
§  
DEFENDANTS. §

CIVIL ACTION NO. 4:11 CV - 02830

**ORDER GRANTING RECEIVER'S UNOPPOSED  
MOTION TO APPROVE COMPROMISE OF CLAIM**

On this \_\_\_\_ day of \_\_\_\_\_ 2013, the Court considered Receiver's Unopposed  
Motion to Approve Compromise of Claim Relating to Reliastar Life Insurance Company Policy  
No. 2526266K. The Motion is GRANTED.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
JUDGE PRESIDING