



2. The Receivership Estate's largest single asset is the portfolio of life insurance policies held by ABC Viaticals and its other related entities. There are 55 policies with a combined face value of benefits totaling in excess of \$236 million. These policies, however, carry premium obligations approaching \$10 million a year. Failure to pay those premiums will cause some of the life insurance policies to lapse.

3. The Receiver intends to continue paying premiums on ABC's life insurance policies since those policies and their death benefits are the most promising resource for paying the 3,000-plus investors and creditors with potential claims in this case.

4. To that end, on December 1, 2007, the Receiver filed his Unopposed Motion for Authority to Enter into an Agreement for Bank Financing ("Motion to Authorize Financing") [Dkt. No. 16]. That motion set out the proposed terms for a \$5,000,000.00 line of credit from Sovereign Bank that would allow the Receiver to continue making premium payments as needed for the foreseeable future.

5. The Court issued an Order [Dkt. No. 18] on December 1, 2007, authorizing the Receiver to obtain financing from Sovereign Bank consistent with the terms proposed in his motion. That Order also directed the Receiver to file another motion for approval once the parties determined the "actual terms and conditions" of the loan agreement. *Id.*

6. The Receiver now asks this Court to give final approval to the loan agreement and related documents with Sovereign Bank, copies of which are attached as Exhibits "1" through "9" and fully incorporated for all purposes.

7. In connection with negotiation and creation of the loan documents, Sovereign Bank employed legal counsel to assist in those efforts. In that the loan requested by the Receiver is extremely unusual, the legal fees incurred were substantial. As part of the loan request, the

Receiver agreed to pay the legal fees of Sovereign Bank, subject to approval by the Court. Attached hereto as Exhibit "10" is a copy of the invoice for Sovereign Bank's legal fees, which the Receiver requests authorization to pay. The Receiver believes the fees were necessary and reasonable. Clint David, the lead lawyer for Sovereign Bank, has been practicing for 27 years and his billing rate is \$375.00 per hour. He was assisted by J. P. Lunn, an eight-year lawyer with a billing rate of \$280.00.

8. The Receiver intends to draw from this line of credit only if the Receivership Estate has insufficient funds to cover its insurance premiums and other administrative costs. Access to these emergency funds will help ensure timely payment of all premium obligations for the foreseeable future and help preserve the Receivership Estate's most valuable assets.

WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully requests that the Court issue an order authorizing the Receiver to execute the loan documents attached hereto as Exhibits "1" through "9" and authorizing the Receiver to pay the legal fees of Sovereign Bank and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

QUILLING, SELANDER, CUMMISKEY  
& LOWNDS, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
(214) 871-2100 (Telephone)  
(214) 871-2111 (Facsimile)

By: /s/ Michael J. Quilling  
Michael J. Quilling  
State Bar No. 16432300  
D. Dee Raibourn, III  
State Bar No. 24009495  
Brent Rodine  
State Bar No. 24048770

ATTORNEYS FOR RECEIVER

**CERTIFICATE OF CONFERENCE**

I hereby certify that prior to the filing of this motion, I contacted counsel for the SEC and the Defendants and they agree to the relief requested.

/s/ Michael J. Quilling  
Michael J. Quilling

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th of March, 2007, a true and correct copy of the foregoing document was served via electronic notice to all parties requesting same.

/s/ Michael J. Quilling  
Michael J. Quilling

# Exhibit “1”

**PROMISSORY NOTE**

(Master Revolving)

\$5,000,000.00

\_\_\_\_\_, 2007

FOR VALUE RECEIVED, the undersigned, **MICHAEL J. QUILLING**, as Receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "**Receivership Proceeding**"), and not individually ("Maker"), promises to pay to the order of **SOVEREIGN BANK, N.A.**, a national banking association ("Payee"), on \_\_\_\_\_, 2008 (the "Maturity Date"), the principal sum of **FIVE MILLION AND NO/100 DOLLARS (\$5,000,000.00)**, or, if less than such amount, the aggregate unpaid principal amount of all Advances (as defined below) made by Payee to Maker hereunder, on the terms herein stated, with interest thereon from this date on the unpaid principal amount hereof from time to time outstanding at the rate of interest provided below, both principal and interest payable as provided below in lawful money of the United States of America at the address of Payee set forth below or at such other place within Dallas County, Texas, as from time to time may be designated by the holder of this Note.

**I. Interest Rates and Payments**

The unpaid principal of this Note from time to time outstanding shall bear interest prior to maturity at the rate of interest per annum equal to the highest prime rate (or base rate) reported in the Money Rates column or section of *The Wall Street Journal* (or another similar publication selected by Payee, in the event the *Wall Street Journal* is no longer published) as announced from time to time by Payee automatically fluctuating upward and downward with each announcement without notice to Maker or any other person (the "**Index**"), **plus** one hundred fifty basis points (1.50%) the sum being, the ("**Floating Rate**"); provided, however, that in no event shall such interest rate exceed the maximum interest rate permitted under applicable law ("**Maximum Rate**"). If applicable law provides for a ceiling, that ceiling shall be the indicated rate ceiling. All interest accruing under this Note shall be calculated on the basis of a 360-day year applied to the actual number of days elapsed.

Payee may disburse the principal of this Note to Maker in one or more Advances (herein so called) from time to time, pursuant to the terms of this Note and that certain Revolving Credit and Loan Agreement (the "**Loan Agreement**"), dated of even date herewith, executed by and among Maker and Payee. Maker shall be entitled to receive disbursed Advances hereunder when Payee is delivered draw requests pursuant to, and otherwise complies with the terms of, this Note and the Loan Agreement.

Maker shall be entitled, and in certain instances may be required, to prepay the principal of the Note from time to time. Maker may borrow, repay, and reborrow up to the principal face amount of this Note. It is contemplated that by reason of prepayments hereon there may be times when no indebtedness is owing hereunder; but notwithstanding such occurrences, this Note shall

remain valid and shall be in full force and effect subsequent to each such occurrence until the Maturity Date.

Accrued interest on the outstanding principal balance that exists from time to time shall be due and payable quarterly commencing on \_\_\_\_\_, 2007 and continue to be payable on the last day of each successive calendar quarter thereafter until the Maturity Date, when all accrued but unpaid interest and all principal amounts outstanding shall be due and payable in full. Any payment received later than ten (10) days from the due date thereof must be accompanied by a late fee payment in the amount of five percent (5%) of the amount of such quarterly payment. Maker shall be entitled to notice of, as well as any applicable grace period with respect to, any default hereunder as provided in the Loan Agreement and the Assignment (as defined below).

The term "**Maximum Rate**," as used herein, shall mean, with respect to each holder hereof, the maximum nonusurious interest rate, if any, that at any time, or from time to time, may under applicable law be contracted for, taken, reserved, charged or received on the indebtedness evidenced by this Note under the laws which are presently in effect of the United States and the State of Texas applicable to such holder and such indebtedness or, to the extent allowed by law under such applicable laws of the United States of America and State of Texas which may hereafter be in effect, which allow a higher maximum non-usurious interest rate than applicable laws now allow; provided, that in determining the Maximum Rate, due regard shall be given, to the extent required by applicable law, to any and all relevant payments, fees, charges, deposits, balances, agreements and calculations which may constitute or be deemed to constitute interest, or be deducted from principal to calculate the interest rate or otherwise affect interest rate determinations, so that in no event shall the Payee contract for, charge, receive, take, collect, reserve or apply, on the Note, any amount in excess of the maximum non-usurious rate of interest permitted by applicable law. To the extent that Texas law determines the Maximum Rate, the Maximum Rate shall be determined by utilizing the "**indicated rate ceiling**" from time to time in effect pursuant to the Texas Finance Code (V.T.C.A. Finance Code Section 303.001 et seq.) (the "**Texas Finance Code**") or such successor statute, as then in effect, governing usury. The Maximum Rate shall not be limited to the applicable rate ceiling in the Texas Finance Code or such successor statute if Federal laws or other state laws now or hereafter in effect and applicable to this Note (and the interest contracted for, charged and collected hereunder) shall permit a higher rate of interest.

All principal and interest under this Note which remains in arrears five (5) or more consecutive days after their respective due dates shall bear interest at the lesser of four percentage points (4%) above the then current Floating Rate, or the Maximum Rate for which the undersigned may legally contract under applicable law, or, if no such rate is designated under applicable law, at the rate of twelve percent (12%) per annum. Further, in the event Maker shall be in default hereunder or under the Loan Agreement or any other document or instrument securing or evidencing this Note, beyond any applicable notice, grace, and/or cure periods, Payee may, at its election, accelerate the indebtedness evidenced hereby, and it shall at once become due and payable, as the holder may elect. It is further agreed that if this Note is placed in the hands of an attorney for collection or if collected by suit or through probate, bankruptcy,

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receivership or other applicable and/or appropriate proceedings, Maker agrees to pay reasonable attorneys' fees in addition to the principal and interest then due hereon, together with all costs of collection.

## II. Security

This Note is secured by (a) the Loan Agreement, (b) that certain Assignment of Life Insurance Policies as Collateral, executed by Borrower and Lender and dated of even date herewith (the "Assignment"), and (c) that certain Account Pledge and Security Agreement, executed by Borrower and Lender and dated of even date herewith (the "Pledge"), a reference to such Loan Agreement, Assignment and Pledge being made herein for a description of the collateral covered thereby (the "**Collateral**") and the nature and extent of the rights and powers of the holder of this Note in respect of such Collateral.

## III. Right to Accelerate Upon Default

The holder of this Note shall have the option of declaring the principal balance hereof and the interest accrued hereon to be immediately due and payable upon the failure of Maker to pay any installment of the principal of or interest on this Note as above promised or upon the occurrence of a default specified in the Loan Agreement, Assignment, Pledge or in any other document securing or evidencing the obligations established by this Note (which default remains uncured beyond any applicable notice, grace and/or cure period) (this Note, Loan Agreement, Assignment, Pledge, and any such other documents are called the "**Loan Documents**" below).

## IV. Waiver of Conditions and Defenses to Liability

Maker and any other party who is or becomes liable to pay all or any part of this Note, or who grants any lien or security interest to secure all or any part of this Note (each called an "**other liable party**" below), including but not limited to any drawer, acceptor, endorser, guarantor, surety or accommodation party, severally waive presentment for payment, demand, notice of demand and of dishonor and nonpayment of this Note, notice of intention to accelerate the maturity of this Note, protest and notice of protest, diligence in collecting, and the bringing of suit against any other party, except as may otherwise be required hereunder or under any other Loan Document.

Further, Maker and any other liable party severally waive any notice of or defense, except as may otherwise be required hereunder or under any other Loan Document, based upon any agreement or consent of the holder of this Note made or given from time to time, before or after maturity, to any of the following: the acceleration, renewal or extension of this Note; a change in the time or manner of payments required by this Note; a change in the rates of interest specified in this Note; acceptance or surrender of security; a substitution of security or subordination, amendment or release of security; an addition or release of any other liable party; changes of any sort whatever in the terms of payment of this Note or in the manner of doing business with Maker; and any settlement or compromise with Maker or any other liable party on such terms as the holder of this Note may deem appropriate in its sole and absolute discretion.

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Following a default not cured within any applicable notice, grace and/or cure period, the holder of this Note may apply all moneys received from Maker or others, or from any security (whether held under a security instrument or not), in such manner upon the indebtedness evidenced or secured by any Loan Documents (whether then due or not) as such holder may determine to be in its best interest, without in any way being required to marshal assets or to apply all or any part of such moneys upon any particular part of such indebtedness. The holder of this Note is not required to retain, hold, protect, exercise due care with respect to, perfect security interests in or otherwise assure or safeguard any security for this Note, and no failure by the holder of this Note to do any of the foregoing and no exercise or failure to exercise by such holder of any other right or remedy shall in any way affect any of Maker's or any other liable party's obligations hereunder or under other Loan Documents or affect any security or give Maker or any other liable party any recourse against the holder of this Note.

#### **V. Usury Savings Provision**

It is the intent of Maker and Payee in the execution of this Note and all other Loan Documents to contract in strict compliance with applicable usury law. In furtherance thereof, Maker and Payee stipulate and agree that none of the terms and provisions contained in this Note, or in any other instrument executed in connection herewith, shall ever be construed to create a contract to pay for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Rate. Neither Maker nor any guarantors, endorsers or other parties now or hereafter becoming liable for payment of this Note shall ever be obligated or required to pay interest on this Note at a rate in excess of the Maximum Rate, and the provisions of this paragraph shall control over all other provisions of this Note and any other Loan Documents now or hereafter executed which may be in apparent conflict herewith. Payee expressly disavows any intention to contract for, to charge or to collect excessive unearned interest or finance charges in the event the maturity of this Note is accelerated. If the maturity of this Note shall be accelerated for any reason or if the principal of this Note is paid prior to the end of the term of this Note, and as a result thereof the interest received for the actual period of existence of the loan evidenced by this Note exceeds the Maximum Rate, the holder of this Note shall credit the amount of such excess against the principal balance of this Note then outstanding and thereby shall render inapplicable any and all penalties of any kind provided by applicable law as a result of such excess interest; provided, however, that if the principal hereof has been paid in full, such excess shall be refunded to Maker. If the holder of this Note shall receive money (or anything else) which is determined to constitute interest and which would increase the effective interest rate on this Note or the other indebtedness secured by the Loan Documents to a rate in excess of the Maximum Rate, the amount determined to constitute interest in excess of the lawful rate shall be credited against the principal balance of this Note then outstanding or, if the principal balance has been paid in full, refunded to Maker, in which event any and all penalties of any kind under applicable law as a result of such excess interest shall be inapplicable. If the holder of this Note shall not actually receive, but shall contract for, request or demand, a payment of money (or anything else) which is determined to constitute interest and which would increase the effective interest rate contracted for or charged on this Note or the other indebtedness evidenced or secured by the Loan Documents to a rate in excess of the Maximum Rate, the holder of this Note

shall be entitled, following such determination, to waive or rescind the contractual claim, request or demand for the amount determined to constitute interest in excess of the Maximum Rate, in which event any and all penalties of any kind under applicable law as a result of such excess interest shall be inapplicable. By execution of this Note Maker acknowledges that Maker believes the loan evidenced by this Note to be non-usurious and agrees that if, at any time, Maker should have reason to believe that such loan is in fact usurious, Maker will give the holder of this Note notice of such condition and Maker agrees that the holder shall have sixty (60) days in which to make appropriate refund or other adjustment in order to correct such condition if in fact such exists. Additionally, if, from any circumstance whatsoever, fulfillment of any provision hereof or of any other Loan Documents shall, at the time fulfillment of such provision be due, involve transcending the Maximum Rate then, *ipso facto*, the obligation to be fulfilled shall be reduced to the Maximum Rate. The term "**applicable law**" as used in this Note shall mean the laws of the State of Texas or the laws of the United States, whichever laws allow the greater rate of interest, as such laws now exist or may be changed or amended or come into effect in the future.

#### VI. Miscellaneous

Should the indebtedness represented by this Note or any part thereof be collected at law or in equity or through any bankruptcy, receivership, probate or other court proceedings or if this Note is placed in the hands of attorneys for collection after default, Maker and all endorsers, guarantors and sureties of this Note jointly and severally agree to pay to the holder of this Note in addition to the principal and interest due and payable hereon all the costs and expenses of the holder in enforcing this Note including, without limitation, reasonable attorneys' fees and legal expenses.

This Note and the rights, duties and liabilities of the parties hereunder or arising from or relating in any way to the indebtedness evidenced by this Note or the transaction of which such indebtedness is a part shall be governed by and construed in accordance with the law of the State of Texas and the law of the United States applicable to transactions within such State.

No amendment of this Note shall be binding unless expressed in a writing executed by Maker and the holder of this Note. This Note may not be assigned except as set forth in, and subject to the terms and conditions of, the Loan Agreement.

**EXCEPT AS MAY OTHERWISE BE REQUIRED BY ANY COURT ORDER ISSUED IN CONNECTION WITH THE RECEIVERSHIP PROCEEDING, MAKER IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURT OF THE RECEIVERSHIP PROCEEDING, OR, IN THE EVENT SUCH COURT DOES NOT HAVE SUBJECT MATTER JURISDICTION, ANY TEXAS OR FEDERAL COURT SITTING IN DALLAS COUNTY, TEXAS, OVER ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS, AND MAKER HEREBY AGREES AND CONSENTS THAT, IN ADDITION TO ANY METHODS OF SERVICE OF PROCESS PROVIDED FOR UNDER APPLICABLE LAW, ALL SERVICE OF PROCESS IN ANY SUCH SUIT,**

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**ACTION OR PROCEEDING IN ANY TEXAS OR FEDERAL COURT SITTING IN DALLAS COUNTY, TEXAS (OR SUCH OTHER COUNTY IN TEXAS) MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO MAKER AT THE ADDRESS INDICATED BELOW, AND SERVICE SO MADE SHALL BE COMPLETE FIVE DAYS AFTER THE SAME SHALL HAVE BEEN SO MAILED.**

**[REMAINDER OF PAGE INTENTIONALLY OMITTED; SIGNATURE PAGES FOLLOW]**

**Maker's Address:**

2001 Bryan Street, Suite 1800  
Dallas, Texas 75201

**MAKER:**

**MICHAEL J. QUILLING**, as Receiver in the  
matter of *Securities and Exchange Commission v.*  
*ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136  
before the United States District Court for the  
Northern District of Texas, and not individually

**With Copy To:**

Quilling, Selander, Cummiskey & Lownds, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201  
Attn: Michael J. Quilling

**Payee's Address:**

**SOVEREIGN BANK, N.A.**  
17950 Preston Rd., Suite 5000  
Dallas, Texas 75252  
Attention: Molly Hobson

# Exhibit “2”

**REVOLVING CREDIT AND LOAN AGREEMENT**

**THIS REVOLVING CREDIT AND LOAN AGREEMENT** is made as of \_\_\_\_\_, 2007 by and between **MICHAEL J. QUILLING**, as Receiver in the Receivership Proceeding (defined below), and not individually, whose address is 2001 Bryan Street, Suite 1800, Dallas, Texas 75201 ("**Borrower**"), and **SOVEREIGN BANK, N.A.**, a national banking association, whose address is 17950 Preston Road, Suite 5000, Dallas, Texas 75252 ("**Lender**").

**WITNESSETH**

WHEREAS, Lender has agreed to lend the sum of up to Five Million and No/100 Dollars (\$5,000,000.00) to Borrower ("**Loan**"), for the purpose of permitting Borrower to make premium payments on the Collateral Policies (defined below) on an ongoing basis, such Loan being secured in part by the Collateral (as defined below) pursuant to the Assignment (defined below) and the Pledge (defined below); and

WHEREAS, pursuant to and in connection with the Loan, Borrower and Lender are entering into this Loan Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and to induce Lender to make the Loan to Borrower, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and Lender covenant and agree as follows:

**SECTION 1. DEFINITIONS.**

All terms defined in Section 1 of this Agreement or otherwise in this Agreement shall, unless otherwise defined therein, have the same meanings when used in the Note, Assignment, any other Loan Documents, or any certificate or other document made or delivered pursuant hereto. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement. The word "include(s)" when used in this Agreement and the other Loan Documents means "include(s), without limitation," and the word "including" means "including, but not limited to." In this Agreement, the following terms shall have the meanings set forth below:

**"Assignment"** means that certain Assignment of Life Insurance Policies as Collateral, executed by Borrower and Lender and dated of even date herewith.

**"Collateral Document"** means each security agreement, mortgage, pledge agreement, assignment, guaranty and every other agreement and document that has been or in the future is, or is required to be, given by Borrower or any third party to Lender to secure any Lender Indebtedness, and shall include the Assignment and the Pledge.

**"Collateral Policies"** means the Initial Collateral Policies and all other insurance policies that are owned by any Receivership Subject and in the future become subject to the administration of Borrower pursuant to an order of the Court.

**"Court"** means the United States District Court for the Northern District of Texas.

**"Default"** means an event, condition or circumstances that, with the lapse of time or giving of notice or both (absent any permitted cure), would be an Event of Default.

**"Event of Default"** has the meaning specified in *Section 8* of this Agreement.

**"Initial Collateral Policies"** means the insurance policies listed on **Schedule A**.

**"Lender Indebtedness"** means any indebtedness, obligation or liability of whatever type or nature, that Borrower now or in the future owes to Lender, including, without limitation, all indebtedness and obligations under the Note and/or this Agreement.

**"Loan Document"** means this Agreement, the Note and each other promissory note that Borrower has given or in the future gives to Lender, each renewal, extension, and replacement of the Note, each Collateral Document and every other agreement, instrument or document that has been or in the future is signed or delivered in connection with this Agreement or in connection with any Lender Indebtedness.

**"Material Adverse Effect"** means a material adverse effect upon the validity, performance or enforceability of this Agreement, the financial condition of Borrower, the Collateral, or the ability of Borrower to fulfill its obligations under this Agreement.

**"Pledge"** means that certain Account Pledge and Security Agreement, executed by Borrower and Lender and dated of even date herewith.

**"Premium Payment Policies"** means the insurance policies listed on **Schedule B**.

**"Receivership Estate"** means the estate made the subject of the Receivership Proceeding, with respect to which the Borrower is the receiver.

**"Receivership Proceeding"** means the proceeding captioned *Securities and Exchange Commission v. ABC Viaticals, et al*, Case No. 3:06-CV-2136, which is pending before the Court.

**"Receivership Subject"** at any given time means ABC Viaticals, Inc. and each other entity for which Borrower shall have been appointed by the Court and is then serving as Receiver in, or trustee or governing person in connection with, the Receivership Proceeding.

**"Underlying Assumptions"** means the underlying assumptions set forth in *Section 2* of this Agreement.

## **SECTION 2. UNDERLYING ASSUMPTIONS**

Lender's willingness to enter into this Agreement and to make Loans to Borrower is predicated upon each of the following statements set forth in this *Section 2* being correct, in all material respects, both now and in the future. Accordingly, Borrower hereby represents, warrants, and covenants unto Lender as follows:

2.1 Borrower has been appointed by the Court as, and continues to be, the Receiver for all Receivership Subjects and their assets including the Collateral.

2.2 Borrower is in compliance with all laws, rules and regulations that are applicable to the Borrower, its operations, or its assets.

2.3 Except for the Receivership Proceeding, there is not any proceeding pending, or to the knowledge of Borrower threatened, before any court, governmental authority or arbitration board or tribunal, against or affecting Borrower or the Collateral, that, if determined adversely to Borrower, could reasonably be expected to have a Material Adverse Effect. Borrower is not in default with respect to any order, judgment, or decree of any court, governmental authority or arbitration board or tribunal. Neither the execution and delivery of the Loan Documents, nor the payment of the indebtedness evidenced by the Loan Documents, will conflict with or result in a material breach by Borrower or constitute a default or an event of default under any contract, agreement, instrument, court order, judgment or law to which Borrower may be bound.

2.4 Lender has a first priority lien upon the Initial Collateral Policies and the Premium Payment Policies, and will have a first-priority lien upon each additional life insurance policy as and when it becomes a Collateral Policy. Lender has a first priority lien upon every other item constituting Collateral. There are no proceedings or claims pending or threatened against or affecting Borrower in any court of law or in equity, or before or by any instrumentality which, if determined adversely to the same, would have an Material Adverse Effect upon the priority or enforceability of Lender's rights under the Loan Documents.

2.5 Borrower has full power and authority, and all necessary actions have been undertaken to allow Borrower, to sign, deliver and perform the Loan Documents; the signing, delivery, and performance of the Loan Documents that Borrower has given or is required to give to Lender (1) have been duly authorized by the Court, (2) will not violate the provisions of any law, rule, judgment, order, agreement or instrument to which Borrower is a party or by which he or any of the Collateral is bound and (3) do not require any approval or consent of any public authority or other third party other than the Court; and the parties to the Loan Documents have properly signed and delivered them;



and the Loan Documents are the valid and binding obligations of the parties to them and are enforceable in accordance with their terms.

2.6 **Schedules A and B** are complete and accurate in all respects.

2.7 Borrower is the sole owner of all of the Collateral Policies, all of which are in full force and effect.

2.8 Other than the Receivership Proceeding, there is no action, suit, proceeding, governmental investigation or arbitration, at law or in equity, or before any governmental authority, pending or threatened against or affecting the Borrower, any other party to the Receivership Proceeding, or the Collateral which if determined adversely to any such party would (i) have a Material Adverse Effect upon the priority or enforceability of Lender's rights under the Loan Documents, (ii) have a Material Adverse Effect upon the ability of Borrower to perform its obligations under the Loan Documents, or (iii) have a Material Adverse Effect upon the Borrower or the Collateral.

2.9 Neither the execution and delivery of the Loan Documents nor the payment of the indebtedness evidenced by the Loan Documents nor the performance of the obligations and agreements contained in the Loan Documents will (a) conflict with, constitute an event of default under, or result in a breach of or a violation of the provisions of the Court orders [or any trust agreement or other entity or organizational documents of any party to the Receivership Proceeding], (b) result in a violation of any applicable law, statute, ordinance or regulation, any judgment, order, writ, injunction, decree or rule of any court or other governmental agency or authority or of any determination or award of any arbitrator, or subject Borrower or the Collateral to any fine, penalty or similar sanctions under any law or regulation, (c) conflict with, constitute an event of default under, or result in a breach of or a violation of the provisions of any agreement or other instrument to which Borrower or any party to the Receivership Proceeding is a party or by which their property or assets are bound, or (d) result in the creation of any lien or encumbrance on the Collateral, except as contemplated or permitted by the Loan Documents. The execution, delivery and performance by Borrower of the Loan Documents will not constitute grounds for acceleration of the maturity of any material contractual obligation to which Borrower or any other party to the Receivership Proceeding is bound.

### **SECTION 3. ADVANCES.**

3.1 Subject to satisfaction of the conditions precedent set forth in *Section 9* of this Agreement, and as long as there shall not have occurred any Default or Event of Default, and subject to all other provisions of this Agreement, Lender will advance and disburse the proceeds of the Loan in installments (each an "**Advance**" and collectively as, the "**Advances**"), less any amounts due Lender under the Note or other Loan Documents. All Advances shall be deposited directly into that certain direct deposit account held by Lender in the name of Borrower as account number 25000001 (the "**Account**"), which Account shall be subject to the terms and conditions of this

Agreement and the Pledge. Interest will be computed and paid in accordance with the terms of that certain Promissory Note, in the maximum principal amount of \$5,000,000.00, dated of even date herewith, from Borrower as maker to Lender as payee thereunder (the "Note"), a copy of which is attached hereto as **Schedule C** and incorporated herein for all purposes. Borrower acknowledges and agrees that an application for each Advance under the Note shall be made within a reasonable time before the date upon which each such Advance is desired. Borrower shall only be entitled to payment in the amount approved by Lender in accordance with the standards provided by this Loan Agreement. The Advances shall not at any time in the aggregate exceed \$5,000,000.00 ("**Commitment Amount**").

3.2 If the aggregate principal amount of the Advances outstanding at any time exceeds the Commitment Amount, then Borrower shall immediately repay the amount that is required to eliminate the excess.

3.3 Subject to satisfaction of the conditions precedent set forth in *Section 9* of this Agreement, and as long as there shall not have occurred any Default or Event of Default, and subject to all other provisions of this Agreement, each Advance shall be made as soon as commercially practicable, and in accordance with Lender's standard procedures following requests for advances on revolving lines of credit ("**Advance Request**").

3.4 Upon the occurrence of an Event of Default, Lender is authorized, but not required, to disburse each Advance, or other Loan proceeds if no Advance Request is made, directly to the issuer of the Premium Payment Policy to whom the premiums are to be paid. Each amount deposited by Lender into Borrower's controlled disbursement account with Lender, paid by Lender to Borrower, or paid by Lender to any issuer of the Premium Payment Policies for the payment of premiums shall constitute an Advance to Borrower under this Agreement. Lender may advance and incur such reasonable expenses as it may deem necessary to preserve the security of the Loan, which shall be secured by the Assignment, Pledge, and any other security for the Loan, and Borrower will pay the same upon demand in the event Lender, for the purposes specified in this sub-paragraph shall elect to pay any of the proceeds of the Loan to parties other than the Borrower. Lender may make advances upon the Loan, at any time, from time to time to provide funds for such purposes, irrespective of the provisions of *Section 3.1* of this Agreement, and the amount of Advances to which Borrower shall thereafter be entitled under this Agreement shall be correspondingly reduced. Lender shall not be entitled to exercise its rights under this sub-paragraph prior to default.

3.5 Borrower shall have the right to prepay all Advances, in whole or in part, at any time without penalty. Borrower may reborrow amounts that it prepays.

3.6 Upon the death of the insured under any Premium Payment Policy, Borrower shall make a mandatory prepayment in an amount equal to all Advances the proceeds of which were used to pay premiums on that Premium Payment Policy and all interest accrued on those Advances.

3.7 Lender may terminate its obligation to make Advances (a) upon 60 days' prior written notice to Borrower or (b) upon the occurrence of any Default or Event of Default. Unless it is sooner terminated in accordance with this *Section 3.7* or Lender extends it in writing, Lender's obligation to make or to renew Advances under the Loan shall expire on the Maturity Date (as defined in the Note). If Lender extends it, then Lender's obligation to make or renew Advances under the Loan shall expire on the date stated in the extension ("**Extended Maturity Date**"). If, thereafter, Lender's obligation to make or renew Advances terminates or expires, then the aggregate unpaid principal balance of the Loan, together with all accrued interest thereon, shall be payable in full on the termination date or Extended Maturity Date, as appropriate.

3.8 If Lender provides Borrower with 60 days' notice of termination, then as of the date of the notice, Lender shall have the right to apply all of the proceeds (whether by death, maturity, surrender, or otherwise) of all Collateral Policies to the unpaid principal balance of and accrued interest on the Loan.

3.9 Lender shall maintain records indicating the amount of each Advance and the aggregate, outstanding balance of the Loan. Lender's records shall be prima facie evidence of the Loan, all Advances and repayments, and of the Lender Indebtedness outstanding at any time. Lender shall furnish Borrower on the 15<sup>th</sup> day of each month in which there is an outstanding balance owed under the Loan with an account statement setting forth the borrowings and such other information as the Borrower may reasonably request from the Lender.

3.10 Lender has no liability or obligation whatsoever or howsoever in connection with the Collateral, and has no obligation except to advance the Loan as herein agreed, nor is Lender liable for the performance or non-performance of any obligation of Borrower to Lender, and nothing, including, without limitation, any disbursement hereunder, or the deposit or acceptance of any document or instrument, shall be construed as a limitation, any disbursement hereunder, or the deposit or acceptance of any document or instrument, shall be construed as a representation or warranty, express or implied, on Lender's part.

3.11 Lender may (but shall not be obligated to) commence, appear in or defend any action or proceeding purporting to affect the Collateral or the rights or duties of Lender or Borrower or the payment of any funds hereunder and, in connection therewith, may pay all necessary expenses, including reasonable attorneys' fees, which Borrower agrees to pay to Lender upon demand. Borrower hereby irrevocably appoints and authorizes Lender, as Borrower's agent, to execute, file, and record any document or any other notice which Lender deems necessary or advisable to protect its interest hereunder or the security for the Loan. Lender may file and record this Agreement.

3.12 Borrower may not assign or otherwise transfer this Agreement or any right hereunder without the consent of Lender; provided, however, that Lender shall be the sole judge of the financial condition of any such assignee or transferee.

3.13 Borrower shall promptly pay, or cause to be paid when due, all costs, charges and expenses incurred in connection with the Collateral, and shall keep the Collateral free and clear of any and all liens other than the liens, respectively, of the Assignment and Pledge, and the liens established under any other instrument or document securing or evidencing the Loan or any other indebtedness of Borrower to Lender. Within ten (10) days after written demand from Lender, Borrower will cause any lien claim filed by any person against the Collateral to be released of record; or, in lieu thereof, Borrower will furnish Lender with a bond, in form and with sureties satisfactory to Lender, indemnifying Lender against any loss, cost, damage, or expense on account of any such lien claim. Borrower will not do any act whereby the value of any part of the Collateral may be materially lessened.

#### **SECTION 4. APPLICATION OF PROCEEDS**

Borrower shall use the proceeds of each Advance and the Loan only in connection with Borrower's performance of its duties and obligations as receiver of the Receivership Proceeding, and for such other purposes as are necessary or incidental to the administration of the Receivership Estate and/or Receivership Proceeding, including, without limitation, to pay the premiums for the Premium Payment Policies.

#### **SECTION 5. SECURITY**

To secure payment and performance of all Lender Indebtedness:

5.1 Borrower shall sign and deliver to Lender an Assignment of Life Insurance Policies as Collateral, in the form attached as **Schedule D**, granting to Lender a valid, first-priority lien upon all Collateral Policies, and their proceeds (by death, maturity, surrender or otherwise) (collectively, the "**Collateral**"), and shall cause all the Collateral Policies to be maintained in full force and effect.

5.2 Borrower shall sign and deliver to Lender, and shall use its best efforts to cause third parties to sign and deliver, all financing statements, assignments, documents of title and other documents, agreements and instruments, and shall take all further actions, and shall cause third parties to take all further actions, that Lender reasonably requests in connection with the perfection or priority of the security provided for above.

#### **SECTION 6. AFFIRMATIVE COVENANTS**

From the date of this Agreement until all Lender Indebtedness is fully paid and Lender does not have any obligation to extend Advances or other credit facilities to Borrower, Borrower shall:

6.1 Maintain with Lender a controlled disbursement account into which Lender shall disburse the proceeds of each Advance under the Loan as provided for herein.

6.2 Maintain all records concerning the Collateral at Borrower's address appearing on the first page of this Agreement or at another address that is reasonable under the circumstances considering the Lender's need for access to the records and Borrower's need to have the records available for use in the administration of the receivership. In the event of a dispute on the location of the records, such dispute shall be resolved by order of the Court.

6.3 Allow Lender at any time during Lender's or Borrower's regular business hours to inspect, audit and make copies of and extracts from any records, documents and papers (including computer records and software) that relate in any way to any of the Collateral, Advances, or the Loan. Upon Lender's request at any time and from time to time, Borrower shall promptly furnish to Lender copies of any of those records, documents and papers (including computer records and software) and/or shall deliver possession of them to Lender.

6.4 Promptly inform Lender of any occurrence that is a Default or Event of Default and of any other occurrence that has, or could reasonably be expected to have, a Material Adverse Effect.

6.5 Maintain complete and accurate books and records of his transactions in accordance with good accounting practices.

6.6 Furnish to Lender any information that Lender reasonably requests concerning Borrower's financial affairs, the Collateral Policies, the Premium Payment Policies, premiums due on such policies and premiums paid on such policies within 10 days after Lender makes the request.

## **SECTION 7. NEGATIVE COVENANTS**

From the date of this Agreement and until all Lender Indebtedness is fully paid and Lender does not have any obligation to extend Advances or other credit facilities to Borrower, Borrower shall not, without the prior written consent of Lender:

7.1 Make any payment to any investor or other creditor of the estates administered by Borrower, except that Borrower may pay the ordinary and reasonable expenses of the receivership as provided in any Court order without Lender's prior written consent, provided that Borrower informs Lender in writing of any such action prior to obtaining a Court order with respect to same.

7.2 Sell, lease, surrender, or otherwise dispose of any of the Collateral, including the Collateral Policies or the Premium Payment Policies except that Borrower may sell, lease or otherwise dispose of any of the Collateral Policies or the Premium Payment Policies if all Lender Indebtedness is paid in full simultaneously with the sale, lease or other disposition, provided, however, that in such event Lender shall have no further obligation to extend Advances or other credit facilities to Borrower.

7.3 Make loans or advances to any third party.

## **SECTION 8. EVENTS OF DEFAULT AND REMEDIES**

8.1 Each of the following is an "**Event of Default**" under this Agreement:

A. If Borrower defaults in the payment of the principal or interest of any amount due under the Loan or if Borrower defaults in the payment of principal or interest of any other Lender Indebtedness, when and as it is due and payable, whether by acceleration or otherwise, and if the default is not cured within 10 days after Lender gives Borrower notice of it.

B. If Borrower fails to perform any of its other obligations under, or to comply with any of the terms, conditions and covenants, contained in this Agreement or any other Loan Document that Borrower or any third party has given or in the future gives to Lender to secure any Lender Indebtedness, or if there occurs any other Event of Default as defined in any Loan Document or in any such other agreement, instrument or document, and if such default is not cured within 15 days after Lender gives Borrower notice of it.

C. If any statement, warranty or representation that Borrower has made or in the future makes in any other Loan Document, certificate, report or other document, instrument or agreement that is delivered under this Agreement or in connection with any Lender Indebtedness, is false or inaccurate in any material respect when made.

D. If any court order compromises Lender's security interest in any of the Collateral, Collateral Policies or the Premium Payment Policies or if for any other reason Lender no longer has a first priority security interest in any of the Collateral Policies or the Premium Payment Policies.

E. If any Underlying Assumption is now or in the future incorrect in any material respect.

F. If the Receivership Proceeding is dismissed or terminated.

G. If Borrower or any Receivership Subject (1) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of his or its property, other than pursuant to the Receivership Proceeding; (2) makes a general assignment for the benefit of his or its creditors; (3) starts a voluntary case under the federal Bankruptcy Code (as now or in the future in effect); (4) files a petition that seeks to take advantage of any other law that provides for the relief of debtors; (5) fails to controvert in a timely or appropriate manner, or acquiesces in writing to, any petition filed against Borrower or any Receivership Subject in any involuntary

case under the Bankruptcy code; or (6) takes any action for the purpose of effecting any of the foregoing.

H. If a proceeding or case is started in any court of competent jurisdiction and is not dismissed within 60 days, seeking (1) the liquidation, reorganization, dissolution, winding up or composition or readjustment of Borrower or any Receivership Subject or his or its assets or the appointment of a trustee, receiver, custodian, liquidator or the like of Borrower or any Receivership Subject or of all or any substantial part of the assets of Borrower or any Receivership Subject; or (2) similar relief in respect of Borrower or any Receivership Subject under any law that provides for the relief of debtors; or if an order for relief against Borrower or any Receivership Subject is entered in an involuntary case under the Bankruptcy Code.

8.2 If an Event of Default that is described in *Subsections A through F* above occurs, then, at the option of Lender, Lender's obligation to make or renew Advances and/or the Loan shall terminate, and all or any part of the unpaid principal balance of and accrued interest on all Lender Indebtedness shall become immediately due and payable, without presentment, demand or notice of any kind, all of which Borrower waives.

8.3 If an Event of Default that is described in *Subsection G or H* above occurs, then Lender's obligation to make or renew Advances and/or the Loan shall immediately terminate, and the entire unpaid principal balance of and accrued interest on all outstanding Lender Indebtedness, shall automatically become due and payable without presentment, demand or notice of any kind, all of which Borrower waives.

8.4 Notwithstanding anything herein contained to the contrary, if an Event of Default that is described in *Subsections A through H* occurs, then, Lender may exercise any of the rights provided in the Assignment, Pledge, and under any other instrument or document securing or evidencing the Loan or any other indebtedness of Borrower to Lender and may (but shall not be obligated to) take possession of the Collateral. In addition, Lender may exercise any and all other remedies available at law or in equity.

8.5 No waiver of any default on the part of Borrower shall be considered a waiver of any other or subsequent default, and no delay or omission in exercising or enforcing the rights and powers of Lender shall be construed as a waiver of such rights and powers; and likewise, no exercise or enforcement of any rights or powers hereunder by Lender shall be held to exhaust such rights and powers, and every such right and power may be exercised from time to time.

8.6 In addition to the foregoing, Borrower covenants and agrees that all covenants referenced herein, or under any other instrument or document securing or evidencing the Loan or any other indebtedness of Borrower to Lender, shall be applicable to Borrower so long as the Loan, or any other indebtedness of Borrower to Lender, remains unpaid.

## SECTION 9. CONDITIONS PRECEDENT

The obligation of Lender to make the Loan and disburse Advances under this Agreement shall be subject to satisfaction of all of the following conditions precedent:

9.1 Lender shall have received a copy of an order from the Court authorizing Borrower's signing, delivery and performance of this Agreement and all other Loan Documents.

9.2 Borrower shall have signed and delivered to Lender all Loan Documents.

9.3 Borrower shall have delivered to Lender evidence satisfactory to Lender that Borrower is the owner of record of all Initial Collateral Policies and shall have obtained an order of the Court imposing a first lien on all of the Collateral Policies and the Premium Payment Policies.

9.4 There shall not have occurred any Default or Event of Default.

## SECTION 10. OTHER PROVISIONS

10.1 Borrower shall pay or reimburse Lender for all out-of-pocket expenses that Lender incurs (including, but not limited to, recording and filing fees and taxes, and fees and expenses of legal counsel, other professional advisers, consultants and experts) in connection with the enforcement of any of the provisions of this Agreement or the Note, the collection of the Lender Indebtedness, or the foreclosure of any security interests or other liens that at any time secure the Lender Indebtedness. Each fee and expense reimbursement that Borrower is obligated to pay to Lender under this Section shall be due and payable within ten days after Lender sends Borrower an invoice for it.

10.2 Borrower acknowledges that Lender has and shall have the right to set off any indebtedness that is at any time due and payable by Borrower to Lender against any indebtedness that Lender from time to time owes to Borrower, including without limitation any indebtedness arising as a result of any cause of action that Borrower may have against Lender. Neither Borrower nor any party claiming under Borrower shall have the right of setoff or recoupment against Lender.

10.3 Subject to the limitations set forth in *Section 10.2*, nothing in this Agreement is intended, nor shall it be interpreted, to affect or impair (1) any claims that Borrower may have against Lender or (2) any defenses that Lender may have with respect to such claims. In addition, nothing in this Agreement shall be construed as an admission by Lender that Borrower has any claims against Lender.

10.4 Borrower acknowledges that the Lender Indebtedness and Lender's security interest in the Collateral Policies and the Premium Payment Policies are priority obligations of Borrower and that any claim that Lender has against Borrower with respect



to the Lender Indebtedness is an administrative claim which shall be paid before any payment is made to any investor or other creditor of the estates administered by Borrower, except that Borrower may pay the ordinary and reasonable expenses of the receivership as provided in any Court order without Lender's prior written consent.

10.5 Borrower shall pay to Lender a loan administration fee of One Hundred Dollars (\$100.00) with respect to each Advance Request. All loan administration fees that are owing with respect to Advance Requests made during a calendar quarter shall be due and payable on the first day of the next succeeding quarter.

10.6 Each right and remedy that this Agreement or any other Loan Document grants to Lender or that the law allows to Lender shall be cumulative, and Lender may exercise it from time to time. Lender's failure to exercise, and Lender's delay in exercising, any right or remedy shall not be a waiver of it or of any other right or remedy.

10.7 Borrower authorizes Lender to furnish to any affiliate of Lender and to any prospective transferee of, or participant in, the Loan any or all information about Borrower, including, without limitation, financial statements and information regarding the operations, assets and properties, finances, strategies, plans, activities, transactions, owners, directors, officers, employees and customers of Borrower and its affiliates. Notwithstanding anything herein contained to the contrary, Lender agrees that it shall not, without Borrower's consent, assign this Agreement or the Note, unless such assignment is made in connection with the sale of Lender, whether by acquisition, merger, consolidation, or otherwise, or the sale by Lender of all or substantially all of the assets of Lender, and in such event this Agreement and the Note shall be freely assignable without consent. Borrower may not assign or attempt to assign any of its duties, obligations, rights, or interests under this Agreement, the Note, or any other Loan Document.

10.8 Borrower agrees that the Receivership Estate shall be responsible, and shall cause the Receivership Estate to reimburse Lender, for any and all losses, damages, charges, obligations, judgments, and expenses (including attorneys' fees) that Lender incurs by reason of any failure of Borrower to comply with any of its obligations under this Agreement or any of the other Loan Documents or by reason of any warranty or representation that Borrower makes to Lender in any of the Loan Documents being false in any material respect.

10.9 This Agreement and the other Loan Documents contain the entire agreement of Borrower and Lender, and neither Borrower nor Lender has made any other agreement, commitment, promise, warranty or representation to the other. A provision of the Loan Documents may not be modified, supplemented or waived except by a writing signed by an authorized officer of the Lender.

10.10 The terms and provisions of Section V (Usury Savings Provision) of the Note are incorporated herein by reference and made a part of this Agreement. Further, this Agreement and the rights and obligations of the parties under it shall be governed by and interpreted in accordance with the laws of the State of Texas. Either party may bring

any action that arises out of or is related to this Agreement or any other Loan Document (1) in the Court or (2) if the Court does not have subject matter jurisdiction of the action, in any state court located in Dallas County, Texas that has jurisdiction of any such court.

10.11 Any notice or other communication that this Agreement requires or permits shall be in writing and shall be served either personally or by certified United States mail with postage fully prepaid, or by a nationally-recognized, overnight courier service, to the parties at the addresses set forth on the first page of this Agreement or to any other address that either party shall designate by written notice given to the other party.

10.12 This Agreement shall be binding upon and shall inure to the benefit of Borrower and Lender and their respective successors and assigns, subject to the restrictions upon assignment herein contained. There are no third party beneficiaries of this Agreement.

10.13 Upon court approval, Borrower agrees to pay to Lender the attorney's fees and expenses of Lender's counsel, filing and recording fees, and any actual expenses incurred by the Lender in connection with the consummation of the transactions contemplated by this Agreement.

LENDER AND BORROWER EACH IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS OR HIS RIGHT TO A TRIAL BY JURY IN ANY ACTION, INCLUDING ANY CLAIM, COUNTERCLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM ("CLAIM"), THAT IS BASED UPON, ARISES OUT OF OR RELATES TO THIS LOAN AGREEMENT OR THE LENDER INDEBTEDNESS, INCLUDING, WITHOUT LIMITATION, ANY CLAIM THAT IS BASED UPON, ARISES OUT OF OR RELATES TO ANY ACTION OR INACTION OF LENDER IN CONNECTION WITH ANY ACCELERATION OF THE INDEBTEDNESS OR ANY ENFORCEMENT OR ANY SECURITY THAT LENDER AT ANY TIME HOLDS FOR ANY LENDER INDEBTEDNESS. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT NOTHING IN THIS PARAGRAPH OR OTHERWISE IS TO BE UNDERSTOOD TO WAIVE BORROWER'S RIGHT TO TRIAL BY JURY IN CONNECTION WITH ALL CLAIMS THAT AROSE BEFORE THE COMMENCEMENT OF THE RECEIVERSHIP PROCEEDING, OR THAT OTHERWISE ARISE OUT OF OR RELATE TO ANY ACTION OR INACTION OF LENDER SEPARATE AND APART FROM THE LOAN RELATIONSHIP PROVIDED FOR IN THIS LOAN AGREEMENT

[Remainder of Page Intentionally Omitted; Signature Pages Follow]

Borrower and Lender have signed this Agreement as of the date stated on the first page of this Agreement.

\_\_\_\_\_  
Michael J. Quilling, as Receiver in the  
Receivership Proceeding, and not  
individually

SOVEREIGN BANK, N.A. ("BANK")

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE A**

**Initial Collateral Policies**

**SCHEDULE B**

**Premium Payment Policies and Premium Payment Schedule**

**SCHEDULE C**

**Note**

**SCHEDULE D**

**Assignment of Life Insurance Policies as Collateral**

# Exhibit “3”



## ASSIGNMENT OF LIFE INSURANCE POLICIES AS COLLATERAL

- A. The undersigned, Michael J. Quilling, as Receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "**Receivership Proceeding**"), and not individually ("**Assignor**"), whose address is 2001 Bryan Street, Suite 1800, Dallas, Texas 75201, assigns, sets over, and transfers to Sovereign Bank, N.A., a national banking association, of 17950 Preston Road, Suite 500, Dallas, Texas 75252 ("**Assignee**"), as collateral security, the policies of life insurance described on the attached **Schedule A** and issued by the insurers named on **Schedule A** ("**Insurers**") and any supplementary contracts issued in connection with such policies (the policies and the supplementary contracts are called the "**Policies**") and all claims, options, privileges, rights, title and interest in and under the Policies (except as provided in *paragraph C*), subject to all the terms and conditions of the Policies. This document is intended to be an assignment for collateral security for Assignor's Indebtedness (as defined below) only, and not an absolute assignment.
- B. It is expressly agreed that, without detracting from the generality of the foregoing, all of the following specific rights are included in this Assignment and pass to Assignee:
1. The sole right to (a) collect from the Insurers the net proceeds of each Policy (i) when a Policy becomes a claim by death or maturity or (ii) when a Policy is sold, and (b) apply all net proceeds to that certain direct deposit account held by Assignee in the name of Assignor, account number 25000001 (the "**Account**"), such Account being subject to the terms and conditions of the Loan Agreement (defined below), as well as all other documents evidencing or securing the same or otherwise executed in connection therewith, including, without limitation, that certain Account Pledge and Security Agreement, dated of even date with the Loan Agreement, between Assignor and Assignee.
  2. The sole right to surrender a Policy and receive its surrender value at any time provided by the terms of the Policy and at other times that Insurer allows.
  3. The sole right to obtain one or more loans or advances on any Policy, either from the Insurer or from other persons, and to pledge or assign any Policy as security for those loans and advances.
  4. The sole right to collect and receive all distributions or shares of surplus, dividend deposits or additions to any Policy now or in the future made or apportioned to it and to exercise any and all options contained in such Policy with respect to those distributions, shares, deposits or additions; but unless and until Assignee notifies Insurer in writing to the contrary, the distributions or shares of surplus, dividend deposits and additions shall continue on the plan in force at the time of this Assignment.

5. The sole right to exercise all non-forfeiture rights permitted by the terms of any Policy or allowed by any Insurer and to receive all benefits and advantages derived from those rights.
- C. All of the following specific rights, as long as the Policy has not been surrendered, are reserved and excluded from this Assignment and do not pass to Assignee:
1. The right to collect from Insurer any disability benefit payable in cash that does not reduce the amount of insurance.
  2. The right to designate and change the beneficiary.

The reservation of these rights, however, shall not impair the right of Assignee to surrender a Policy completely with all its incidents or any other right of Assignee under this Assignment, and any designation or change of beneficiary shall be made subject to this Assignment and to the rights of Assignee under it.

- D. **THIS ASSIGNMENT IS MADE AND THE POLICIES ARE TO BE HELD AS COLLATERAL SECURITY FOR ANY AND ALL INDEBTEDNESS AND OBLIGATIONS NOW OR IN THE FUTURE OWING TO ASSIGNEE BY ASSIGNOR**, either now existing or that may hereafter arise under that certain Promissory Note (the "Note") in the stated principal amount of \$5,000,000.00, as further defined in and issued pursuant to that certain Revolving Credit and Loan Agreement (the "Loan Agreement"), dated on or about the same date herewith, by and between Assignee and Assignor, regardless of whether any such indebtedness, liabilities, or obligation is (1) not presently intended or contemplated by Assignee or Assignor, (2) indirect, contingent or secondary, (3) unrelated to any Policy, (4) of a kind or class that is different from any indebtedness or obligation now owing to Assignee by Assignee, Assignor or Debtor or (5) evidenced by a note or other document that does not refer to this Assignment, all of which indebtedness, liabilities and obligations, secured or to become secured, are herein called "**Indebtedness**" and all renewals, extensions, rearrangements, substitutions and replacements of the Indebtedness.

Without limiting the generality of the foregoing, and without limiting Assignee's rights, interests, and/or remedies herein contained, the parties acknowledge and agree that, in connection with and as a result of Assignor's role as receiver in the Receivership Proceeding and as an officer of the court having original jurisdiction over such Receivership Proceeding, Assignor shall maintain physical possession of the Policies, but shall nevertheless hold such Policies, in trust, for the benefit of Assignee. The Policies shall at all times during which the Indebtedness remains outstanding remain subject to Assignee's liens and security interests in such Policies, and Assignor shall take all actions necessary to (i) ensure that Assignee's liens and security interests in said Policies remain first in priority and (ii) preserve Assignee's liens and security interests in said Policies. Further, in connection with Assignee's rights and interests under Section B herein and/or in the event of

a default hereunder or under any other document or instrument evidencing or securing the Indebtedness, Assignor shall cooperate with Assignee in connection with Assignee's exercise of any rights and remedies hereunder in connection with the Policies.

E. Assignee agrees as follows:

1. Any balance of sums received under this Assignment from Insurer remaining after payment of the then-existing Indebtedness, matured or unmatured, shall be paid over by Assignee to Assignor.
2. Assignee will not exercise either the right to surrender the Policies or (except for the purpose of paying premiums) the right to obtain policy loans from Insurer until there has been default in any of the Indebtedness or a failure to pay any premium when due and Assignee has given Assignor any notice required by *paragraph H* of this Assignment.
3. Upon the request of Assignor, Assignee will send a Policy without unreasonable delay to the Insurer of such Policy for endorsement of any designation or change of beneficiary or any election of an optional mode of settlement and will reassign the Policy to Assignor upon full payment and performance of the Indebtedness.

F. Each Insurer of any Policy is authorized to recognize Assignee's claims to rights under this Assignment without investigating the reason for any action taken by Assignee or the validity or the amount of the Indebtedness or the existence of any default under the Loan Agreement or otherwise in connection with the Indebtedness or any other document or instrument evidencing or securing the same or the application to be made by Assignee of any amounts to be paid to Assignee. The sole signature of Assignee shall be sufficient for the exercise of any rights under the Policies assigned by this Assignment, and the sole receipt of Assignee for any sums received shall be a full discharge and release to Insurer.

G. Assignee shall not be under any obligation to pay any premium or the principal of or interest on any loan or advance on any Policy, whether or not obtained by Assignee, or any other charge on any Policy, but any such amounts paid by Assignee shall become a part of the Indebtedness, payable by Assignor in accordance with the terms of the Loan Agreement and the Note between the parties of even date with the Loan Agreement.

H. The exercise of any right, option, privilege or power given in this Assignment to Assignee shall be at the option of Assignee, but (except as restricted by *paragraph E.2.* above) Assignee may exercise the right, option, privilege or power without assent by, or affecting the liability of, or releasing any interest assigned in this Assignment by, the undersigned. Assignee shall not exercise any right, option, privilege, or power given in this Assignment, other than a right described in *paragraph B.1* or *paragraph B.4* of this Assignment, without giving Assignor ten (10) days' prior written notice of Assignee's intent to do so.

- I. The Assignee may take or release other security, may release any party primarily or secondarily liable for any of the Indebtedness, may grant extensions, renewals or indulgences with respect to the Indebtedness, or may apply to the Indebtedness in such order as the Assignee shall determine, the proceeds of any Policy hereby assigned or any amount received on account of such Policy by the exercise of any right permitted under this assignment, without resorting or regard to other security.
- J. In the event of any conflict between the provisions of this assignment and provisions of any note or other evidence of any Indebtedness, with respect to any Policy or rights of collateral security therein the provisions of this Assignment shall prevail.
- K. The undersigned, unless otherwise consented to in writing by Assignee in a particular case, hereby covenants and agrees to make all premium payments when due under the Policies and to maintain each Policy in full force and effect until the Indebtedness shall be fully paid and performed.
- L. For purposes of this assignment, an "Event of Default" or "Default" shall be deemed to have occurred at any time a Default (as defined in the Loan Agreement, or in any other document securing or evidencing the Indebtedness or any other indebtedness of the undersigned to the Assignee) shall have occurred and be continuing.
- M. Each of the undersigned declares that no proceedings in bankruptcy are pending against him and that his property is not subject to any assignment for the benefit of creditors.
- N. THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.
- O. The parties mutually acknowledge and agree that Michael J. Quilling is entering into the transactions contemplated hereunder in his capacity as the Receiver in the Receivership Proceeding, and not individually; hence, Michael J. Quilling shall have no personal liability in connection with his performance hereunder as Assignor.

[Remainder of Page Intentionally Omitted; Signature Pages Follow]

Signed as of \_\_\_\_\_, 2007

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Michael J. Quilling, as Receiver in  
the Receivership Proceeding, and not  
individually

**ACKNOWLEDGMENT**

**STATE OF** \_\_\_\_\_ )  
: ss.  
**COUNTY OF** \_\_\_\_\_ )

The foregoing Assignment of Life Insurance Policy as Collateral was acknowledged before me on \_\_\_\_\_, 2007, by Michael J. Quilling, as Receiver in the Receivership Proceeding, and not individually.

\_\_\_\_\_  
Notary Public

**SCHEDULE A**

**Policies**

<b>Policy No.</b>	<b>Issuer</b>	<b>Insured</b>
-------------------	---------------	----------------

# Exhibit “4”

**ACCOUNT PLEDGE AND SECURITY AGREEMENT**

THIS ACCOUNT PLEDGE AGREEMENT (this "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2007 (the "Effective Date") by and between **MICHAEL J. QUILLING**, as Receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "Receivership Proceeding"), and not individually ("Pledgor"), and **SOVEREIGN BANK, N.A.**, a national banking association ("Pledgee").

**WITNESSETH:**

WHEREAS, Pledgor and Pledgee have entered into that certain Revolving Credit and Loan Agreement (the "Loan Agreement"), dated of even date herewith, pursuant to which Pledgor has agreed that Advances (as defined in the Loan Agreement) under the Loan (defined below) as well as Proceeds (so called herein) payable in connection with the Collateral Policies (as defined in the Loan Agreement) shall be placed in a direct deposit account held by Pledgee in the name of Pledgor, account number 25000001 (the "Account"), which Account shall be pledged to Pledgee, all in accordance with the terms and conditions herein contained, in order to induce Pledgee to consummate the transactions contemplated under the Loan Agreement, as well as all other agreements executed in connection with that certain loan from Pledgee to Pledgor in the maximum principal amount of \$5,000,000.00 (the "Loan") (the Loan Agreement, together with all other documents evidencing or securing same and executed in connection therewith, collectively as, the "Loan Documents"); and

WHEREAS, in order to induce Pledgee to consummate the transactions contemplated under the Loan Documents and otherwise secure payment from Pledgor to Pledgee with respect to the liabilities contemplated under the Loan Agreement, in the event Pledgor fails to make any such payment or otherwise defaults with respect to the Loan Documents, Pledgor is desirous of pledging to Pledgee all of Pledgor's right, title, and interest now owned by Pledgor in and to the Account.

NOW, THEREFORE, in consideration of the above recitals, each of which are hereby incorporated herein by this reference for all purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Pledgor and Pledgee, Pledgor hereby covenants and agrees with Pledgee as follows:

1. **Pledge.** Pledgee shall disburse any and all Advances made under the terms and conditions of the Loan Agreement, and Pledgor shall deliver or cause to be delivered any and all Proceeds (as limited by Sections C(1) of that certain Assignment of Life Insurance Policies as Collateral, dated of even date with the Loan Agreement, between Pledgor and Pledgee [the "Assignment"]) into the Account, which shall be an account in the name of Pledgor to be held by Pledgee. The parties hereto agree that such amounts shall be held in accordance with such conditions and terms for release of such funds as are herein contained. The parties further agree that, in the event of a default beyond any applicable notice, grace or cure period by Pledgor under the Loan Agreement or any of the Loan Documents, the amounts held in such account shall be released to the Pledgee and applied toward the satisfaction of any amounts due the Pledgee pursuant to Loan Documents. The balance of the Account shall remain subject to the terms of this Agreement. Pledgor and Pledgee covenant and agree, each unto the other, that, so long as there is no continuing event of a default beyond any applicable notice, grace or cure period by Pledgor under the Loan Agreement or any of the Loan Documents, Pledgor shall be entitled to withdraw and disburse funds from the Account to be used solely for the administration of the receivership made the subject of the Receivership Proceeding, including, without limitation, making premium payments toward the Collateral Policies, as appropriate, and all other payments in compliance with and otherwise in accordance with the



terms and conditions of the Loan Agreement and the Assignment; provided, however, that at no time shall the balance of the Account ever fall below \$500,000.00.

1. **Purpose; Security Interest.** These presents are given to additionally secure and guarantee Pledgor's full and complete payment and performance of all obligations owed to Pledgee pursuant to the Loan Documents (collectively as, the "Obligations"). This Agreement shall also constitute a security agreement with respect to the Account, and shall be, during the existence of any Obligations of Pledgor to Pledgee, a first and prior security interest under the Uniform Commercial Code of Texas (as amended, the "UCC") as to the Account. In this regard, Pledgor has PLEDGED, TRANSFERRED and SET OVER, and by these presents does PLEDGE, TRANSFER and SET OVER, unto Pledgee, a first and prior security interest in and to the Account, to secure the full and timely payment of any and all Obligations. Pledgor hereby agrees to execute and deliver to Pledgee, in form and substance satisfactory to Pledgee, such Financing Statements (as defined in the UCC) and such further assurances as Pledgee may, from time to time, reasonably consider necessary to create, perfect and preserve Pledgee's security interest herein granted, and Pledgee may cause such Financing Statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

2. **Representations, Warranties, and Covenants of Pledgor.** Subject to the terms and conditions set forth herein, Pledgor represents, warrants, and covenants as follows:

(a) Pledgor has the full right, power, and capacity to make this Agreement and, except as to the Receivership Proceeding, that no person, firm or corporation other than Pledgor has or will have any right, title or interest in, to, or under Pledgor's interest in or right to the Account;

(b) Except as otherwise contemplated hereunder or under any of the other Loan Documents, Pledgor will not without the prior written consent of Pledgee (i) pledge, transfer, sell, mortgage, hypothecate, or otherwise encumber or assign any portion of the Account; or (ii) disaffirm, cancel, terminate, or consent to any surrender of the Account, or any portion thereof;

(c) Any default by Pledgor in the performance of any obligation or undertaking hereunder shall constitute and be deemed to be an event of default hereunder so as to entitle Pledgee to exercise any and all of the rights and remedies hereunder, including, without limitation, the right to receive the funds in the Account, as well as any and all rights and remedies available to Pledgee at law or in equity; and

(d) Pledgor will, upon demand by Pledgee, deliver to Pledgee a true and correct record of the Account, as well as any and all other information concerning such Account and deemed necessary or important by Pledgee, to carry out or otherwise effectuate the transactions herein referenced; and

3. **Default.** The term "Event of Default" as used herein shall mean the occurrence of any one of the following:

(a) The failure of Pledgor to pay to Pledgee all or any portion of the Obligations when due and owing pursuant to the Loan Agreement;

(b) If Pledgor shall default in the performance of any obligation or undertaking required hereunder or pursuant to the Loan Documents;

(c) If at any time any representation or warranty made by Pledgor herein shall be materially incorrect at any time when made.

4. **Amendments.** This Agreement may not be modified, amended, or supplemented except by an agreement in writing signed by all of the parties hereto.

5. **Assignability.** This Agreement and the rights and obligations hereunder shall not be assignable without the express written consent of the nonassigning party.

6. **Construction of Agreement.** Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement.

7. **Court Costs and Attorneys' Fees.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover costs of court and reasonable attorneys' fees from the other party or parties to such action, as approved by the court in the Receivership Proceeding, which fees may be set by the court in the trial of such action or may be enforced in a separate action brought for that purpose, and which fees shall be in addition to any other relief that may be awarded.

8. **Remedies.** If an Event of Default shall have occurred beyond any applicable notice and grace periods as herein contained or under any other Loan Document, Pledgor hereby authorizes Pledgee, at its option, to collect the sums held in the Account; to bring or defend any suits in connection with the Account in Pledgor's name or Pledgee's own name; and to perform such other acts in connection with the Account as Pledgee, in its reasonable discretion, may deem proper. Further, Pledgor agrees that the Receivership Estate (as defined in the Loan Agreement) shall be responsible, and shall cause the Receivership Estate to reimburse Pledgee, for any and all losses, damages, charges, obligations, judgments, and expenses (including attorneys' fees) that Pledgee incurs by reason of any failure of Pledgor to comply with any of its obligations hereunder or under any of the other Loan Documents or by reason of any warranty or representation that Pledgor makes to Pledgee in any of the Loan Documents being false in any material respect.

9. **Omitted.**

10. **Entire Agreement.** This Agreement, together with the Loan Agreement and other Loan Documents, shall constitute the entire agreement between the parties hereto with respect to the transactions contemplated hereby and shall supersede all prior or contemporaneous negotiations, understandings and agreements. There are no representations, agreements, arrangements, or understandings, oral or written, between or among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein.

11. **Further Assurances.** Each party hereto, without further consideration, shall, at the reasonable request of any other party hereto after the consummation of the transactions contemplated by the Agreement, execute and deliver any instruments of conveyance, assignment, transfer, assumption, or other instrument or document and take such other actions, as such other party may reasonably request to more effectively consummate the transactions contemplated by this Agreement.

12. **GOVERNING LAW; VENUE.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS RULES OR CHOICE OF LAWS RULES THEREOF. Either party may bring any action that arises out of or is related to this Agreement or any other Loan Document (1) in the court of the Receivership Proceeding or (2) if

**such court does not have subject matter jurisdiction of the action, in any state court located in Dallas County, Texas that has jurisdiction of any such court.**

13. **Headings.** The headings of sections contained in this Agreement are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Agreement.

14. **Inurement.** Subject to the restrictions against transfer or assignment as herein set forth, the provisions of this Agreement shall inure to the benefit of, and shall be binding on, the heirs, assigns, successors, personal representatives, estates, and legatees of each of the parties hereto, whether by merger, sale of substantially all of the assets of any party hereto, or otherwise.

15. **Invalid Provisions.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, and if the rights or obligations of either of the parties hereto would not be materially and adversely affected thereby, (a) such provisions shall be fully severable; (b) this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provisions had never comprised a part hereof; (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance; and (d) in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

16. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

17. **Number and Gender of Words.** When the context so requires in this Agreement, words of gender shall include the neuter and either or both genders and the singular number shall include the plural.

18. **Waiver.** The failure of any party to insist, in any one or more instances, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver or a relinquishment of any right or claim granted or arising hereunder or of the future performance of any such term, covenant, or condition, and such failure shall in no way affect the validity of this Agreement or the rights and obligations of the parties hereto. No waiver of any provision or condition of this Agreement shall be valid unless executed in writing and signed by the party to be bound thereby, and then only to the extent specified in such waiver. No waiver of any provision or condition of this Agreement shall be construed as a waiver of any other provision or condition of this Agreement, and no present waiver of any provision or condition of this Agreement shall be construed as a future waiver of such provision or condition.

**[REMAINDER OF PAGE INTENTIONALLY OMITTED]**

IN WITNESS WHEREOF, the undersigned have set their hands effective as of the Effective Date.

**PLEDGOR:**

\_\_\_\_\_  
Michael J. Quilling, as Receiver in the  
Receivership Proceeding, and not  
individually

**PLEDGE:**

**SOVEREIGN BANK, N.A.,**  
a national banking association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# Exhibit “5”

**ATTORNEY REPRESENTATION AND FEE LETTER**

Date: \_\_\_\_\_, 2007

To: **DAVID, GOODMAN & MADOLE,**  
A Professional Corporation

Lender: **SOVEREIGN BANK, N.A.**

Borrower: **MICHAEL J. QUILLING**, as Receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "Receivership Proceeding"), and not individually

Loan: \$5,000,000.00

Legal instruments involved in the above-referenced loan transaction have been prepared for Lender, by the law firm of DAVID, GOODMAN & MADOLE, A Professional Corporation. As a part of the obligation of the undersigned to pay the reasonable expenses of the Lender in connection with the preparation of the aforementioned legal documents, the undersigned herewith agrees to pay the legal fees charged by DAVID, GOODMAN & MADOLE, A Professional Corporation in connection with the preparation of the said legal instruments, such payment to be made immediately upon approval by the court of the Receivership Proceeding. The undersigned acknowledges that DAVID, GOODMAN & MADOLE, A Professional Corporation has acted only as counsel to Lender, and has not, in any manner, undertaken to assist or render legal advice to the undersigned with respect to the loan described above, or with respect to any of the documents described above, or with respect to any of the documents or instruments being executed in connection therewith. The undersigned have been and are hereby advised to obtain counsel of their own choice to represent them in this transaction.

**[Remainder of Page Intentionally Omitted; Signatures Below]**

**BORROWER:**

---

Michael J. Quilling, as Receiver in the  
Receivership Proceeding, and not  
Individually

The fee due and payable to DAVID, GOODMAN & MADOLE, A Professional Corporation, in accordance with the foregoing is as follows:

Legal Fees: \$ \_\_\_\_\_ .00

TOTAL DUE .....\$                      .00

**Please remit to:**

DAVID, GOODMAN & MADOLE,  
A Professional Corporation  
5420 LBJ Freeway, Suite 1200  
Two Lincoln Centre  
Dallas, Texas 75240  
(972) 991-0889



# Exhibit “6”

**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional] Clinton J. David (972-991-0889)	
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
DAVID, GOODMAN & MADOLE Two Lincoln Centre 5420 LBJ Freeway, Suite 1200 Dallas, Texas 75240 Attn: Clinton J. David, Esq.	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only <u>one</u> debtor name (1a or 1b) - do not abbreviate or combine names				
1a. ORGANIZATION'S NAME Michael J. Quilling, as receiver in the matter of <i>Securities and Exchange Commission v. ABC Viaticals, Inc., et al</i> , Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas				
OR 1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS 2001 Bryan Street, Suite 1800		CITY Dallas	STATE TX	POSTAL CODE 75201
1d. TAX I.D.# SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL I.D.#, if any <input type="checkbox"/> NONE
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only <u>one</u> debtor name (2a or 2b) - do not abbreviate or combine names				
2a. ORGANIZATION'S NAME				
OR 2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
2d. TAX I.D.# SSN OR EIN	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL I.D.#, if any <input type="checkbox"/> NONE
3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) insert only <u>one</u> secured party (3a or 3b)				
3a. ORGANIZATION'S NAME SOVEREIGN BANK, N.A., a national banking association				
OR 3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS 17950 Preston Road, Suite 5000		CITY Dallas	STATE TX	POSTAL CODE 75252
4. This FINANCING STATEMENT covers the following collateral:				

See Exhibit "A" and Schedule 1 attached hereto and incorporated herein for all purposes.

5. ALTERNATIVE DESIGNATION [if applicable]: <input type="checkbox"/> LESSEE/LESSOR <input type="checkbox"/> CONSIGNEE/CONSIGNOR <input type="checkbox"/> BAILEE/BAILOR <input type="checkbox"/> SELLER/BUYER <input type="checkbox"/> AG. LIEN <input type="checkbox"/> NON-UCC FILING				
6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]		7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) <input checked="" type="checkbox"/> All Debtors <input type="checkbox"/> Debtor 1 <input type="checkbox"/> Debtor 2 (ADDITIONAL FEE) [OPTIONAL]		
8. OPTIONAL FILER REFERENCE DATA				

**EXHIBIT "A"**  
**TO**  
**UCC-1 FINANCING STATEMENT**

The Collateral covered by this Financing Statement consists of the following:

a. All of policies of insurance in collateral and proceeds therefrom, of every nature whatsoever, and wherever located, as the same are subject to the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "Receivership Proceeding"), including, without limitation, such policies of insurance as are listed on Schedule 1 attached hereto and incorporated herein for all purposes.

b. All substitutes and replacements for, accessions, attachments and other additions to, and proceeds of, the above Collateral (including all income and benefits resulting from any of the above, such as dividends or proceeds payable or distributable in cash, property or stock; interest, premium and principal payments; redemption proceeds; and any securities in Collateral), and returned or repossessed Collateral, any of which, if received by Debtor, shall be delivered immediately to Secured Party.

c. The balance of that certain deposit account of Debtor under control of Secured Party, account number 25000001, and any other claim of Debtor against Secured Party, now or hereafter existing, liquidated or unliquidated, and all money, instruments, securities, general intangibles, accounts, receivables, contract rights, documents of title, notes, drafts, documents, chattel paper, credits, claims, demands, income, savings certificates, certificates of deposit, contract rights and any other property, rights and interests of Debtor which at any time shall come into the possession or custody or under the control of Secured Party or any of its agents, affiliates or correspondents, for any purpose, and the cash and non-cash proceeds of any thereof. Secured Party shall be deemed to have possession of any of the Collateral in transit to or set apart for it or any of its agents, affiliates or correspondents.

d. All policies of insurance covering the Collateral and proceeds thereof.

e. All security for the payment of any of the Collateral, and all goods which gave or will give rise to any of the Collateral or are evidenced, identified or represented therein or thereby.

f. All property similar to the above hereafter acquired by Debtor.

The security interest hereunder shall attach to after acquired consumer goods only to the extent permitted by Sec. 9.204(b) of the Texas Business and Commercial Code (UCC), as amended, as well as any applicable and like section of the Delaware Uniform Commercial Code.

200055v1/3136.470

**Schedule 1**

**Insurance Policies**

**[To be Attached]**

# Exhibit “7”

**CERTIFICATE OF BORROWER**

The undersigned DOES HEREBY CERTIFY that, in connection with that certain loan(s) (whether one or more, the "Loan") from **SOVEREIGN BANK, N.A.**:

1. The undersigned **MICHAEL J. QUILLING**, is the duly appointed, acting, and qualified receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "Receivership Proceeding"), and not individually ("Borrower"), and is familiar with the facts herein certified.

2. Attached hereto as Exhibit A and made a part hereof for all purposes is a true and correct copy of certain orders issued by the United States District Court for the Northern District of Texas (the "Court") in connection with the Receivership Proceeding, including, without limitation, the order of the Court approving the terms and conditions of the Loan (collectively, the "Court Orders").

3. Borrower has been duly appointed by the Court, and currently serves as, the receiver in the Receivership Proceeding. Borrower has all necessary power and authority, and all necessary action has been taken to allow Borrower, to enter into, execute, deliver, and perform its obligations under the documents evidencing and/or securing the Loan (the "Loan Documents") to which it is a party and that such documents are binding and enforceable obligations of the Borrower. Borrower has all necessary power and authority to carry on its business as it is currently being conducted in connection with the Receivership Proceeding, as well as any and all dealings and transactions in connection with the receivership assets of the receivership estate, including, without limitation, the life insurance policies making up the bulk of the receivership estate (the "Policies").

4. Each trust or other entity that owns Policies is bound by the terms and conditions of the Court Orders concerning the Receivership Proceeding and Borrower's activities as receiver therein in connection with the Loan.

5. Based on the Court Orders, all terms and conditions of the Loan Documents to be executed in connection with the Loan have been duly authorized.

6. The Borrower has the authorization and ability to (a) enter into the transaction constituting the Loan, (b) assign the Policies to Lender pursuant to the Loan Documents, (c) satisfy the indebtedness under the Loan out of proceeds payable in connection with such Policies, and (d) undertake its obligations under the Loan.

7. Neither the execution and delivery of the Loan Documents, nor the payment of the indebtedness evidenced by the Loan Documents, will conflict with or result in a material breach by Borrower or constitute a default or an event of default under any contract, agreement, instrument, court order, judgment or law to which Borrower may be bound.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the \_\_\_\_ day of \_\_\_\_\_, 2007.

**BORROWER:**

\_\_\_\_\_  
Michael J. Quilling, as Receiver in the  
Receivership Proceeding, and not  
Individually

200053.1/3136.470

**EXHIBIT A**

**COURT ORDERS**

[attached following this page]



# Exhibit “8”

**NOTICE OF FINAL AGREEMENT**

Reference is made to the following documents (the "**Loan Documents**") dated effective as of \_\_\_\_\_, 2007, and executed in connection with the loan ("**Loan**") from **SOVEREIGN BANK, N.A. ("Lender")**, to **MICHAEL J. QUILLING**, as Receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "**Receivership Proceeding**"), and not individually ("**Borrower**"):

1. Promissory Note in the maximum principal amount of \$5,000,000.00;
2. Revolving Credit and Loan Agreement;
3. Assignment of Life Insurance Policies as Collateral;
4. Account Pledge and Security Agreement;
5. Certificate of Borrower;
6. UCC-1 Financing Statements to be filed in the Office of the Secretary of State of Texas;
7. Correction Agreement;
8. Attorney Representation and Fee Letter;
9. Notice of Final Agreement; and
10. All other documents executed in connection with the Loan.

Borrower and Lender hereby take notice of and agree to the following:

1. PURSUANT TO SUBSECTION 26.02(b) OF THE TEXAS BUSINESS AND COMMERCE CODE, A LOAN IN WHICH THE AMOUNT INVOLVED THEREIN EXCEEDS \$50,000 IN VALUE IS NOT ENFORCEABLE UNLESS THE AGREEMENT IS IN WRITING AND SIGNED BY THE PARTY TO BE BOUND OR BY THAT PARTY'S AUTHORIZED REPRESENTATIVE.

2. PURSUANT TO SUBSECTION 26.02(c) OF THE TEXAS BUSINESS AND COMMERCE CODE, THE RIGHTS AND OBLIGATIONS OF THE PARTIES TO THE LOAN DOCUMENTS SHALL BE DETERMINED SOLELY FROM THE LOAN DOCUMENTS, AND ANY PRIOR ORAL AGREEMENTS BETWEEN THE PARTIES ARE SUPERSEDED BY AND MERGED INTO THE LOAN DOCUMENTS.

3. THE LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES REFERENCED THEREIN AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES THERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[remainder of page intentionally left blank]

**BORROWER:**

\_\_\_\_\_  
Michael J. Quilling, as Receiver in the  
Receivership Proceeding, and not  
Individually

**LENDER:**

**SOVEREIGN BANK, N.A.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

# Exhibit “9”

**CORRECTION AGREEMENT**

Date: \_\_\_\_\_, 2007

Lender: **SOVEREIGN BANK, N.A.**

Borrower: **MICHAEL J. QUILLING**, as Receiver in the matter of *Securities and Exchange Commission v. ABC Viaticals, Inc., et al*, Case No. 3:06-CV-2136 before the United States District Court for the Northern District of Texas (the "Receivership Proceeding"), and not individually

Loan: \$5,000,000.00

In consideration of the Lender disbursing the loan proceeds, the undersigned Borrower agrees that Lender may correct clerical errors or execute any documentation reasonably necessary to accurately reflect the true and correct terms of the Loan. Borrower understands that this may mean correction of the existing Promissory Note or execution of a new note or additional loan documents. Borrower agrees that upon the written request of Lender (or persons acting on Lender's behalf), Borrower will comply with Lender's reasonable request to supply additional documentation.

Borrower hereby agrees that this Correction Agreement constitutes an additional covenant under the Loan documents. In the event Borrower does not correct, execute, and deliver any and all additional documents within ten (10) days of such request, Lender may, in its sole and absolute discretion, deem Borrower's failure to timely cooperate as a default under the terms and conditions of the Loan documents, Lender may then proceed to enforce its rights under the Loan documents, which enforcement may include acceleration of all sums due under the Note, and in the event such sums are not promptly paid, the exercise by Lender of any and all remedies available under the Loan documents, at law or in equity.

**BORROWER:**

\_\_\_\_\_  
Michael J. Quilling, as Receiver in the  
Receivership Proceeding, and not  
Individually

200047.1/3136.470

# Exhibit “10”



Two Lincoln Centre ■ 5420 LBJ Freeway, Suite 1200 ■ Dallas, Texas 75240  
 PH: (972) 991-0889 ■ FX: (972) 404-0516 ■ www.dgmlegal.com

## STATEMENT

Sovereign Bank  
 17950 Preston Rd.  
 Suite 250  
 Dallas TX 75252

ATTN: Molly Hobson

Page: 1  
 03/05/2007  
 FILE NO: 3136-470M  
 STATEMENT NO: 2

### QUILLING RECEIVER LOAN

		Rate	HOURS	
01/26/2007	CJD			
	review and revise memorandum regarding terms of Court Order; work on transaction;	375.00	0.60	225.00
	JPL			
	continue preparation of memorandum regarding Court Order approving financing; extensive attention to matters necessary for Court Order; conference with Clinton J. David regarding same; receive and assess email and chart memorandum from Receiver's counsel regarding insurance policies;	280.00	3.60	1,008.00
01/29/2007	CJD			
	finalize memorandum regarding terms for Court Order;	375.00	0.80	300.00
01/30/2007	JPL			
	editions and revisions to Quilling memorandum; email communications with client;	280.00	1.20	336.00
	CJD			
	review emails from client regarding comments to proposed Order terms; review revisions and exchange emails with clients;	375.00	0.60	225.00
02/01/2007	CJD			
	lengthy conference call with Mike Quilling regarding loan transaction, initial structure of loan documents and opinion letter;	375.00	1.20	450.00
	JPL			
	begin preparation of loan documents and opinion letter; telephone conference with Mike Quilling regarding memorandum for Court Order and related matters;	280.00	4.20	1,176.00
02/02/2007	CJD			
	review and revise proposed opinion letter; office			



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## QUILLING RECEIVER LOAN

		Rate	HOURS	
	conferences throughout the day with J.P. Lunn on loan document structure and initial review of same;	375.00	0.80	300.00
JPL	attention to drafting of loan documents; attention to loan terms and opinion letter matters;	280.00	4.50	1,260.00
02/05/2007				
JPL	attention to drafting of loan documents throughout day; extensive attention to file throughout day; numerous email communications with client regarding loan terms and documents matters; email to borrower regarding security matters; analyze and assess statutory authority regarding lien perfection matters on insurance policies and proceeds;	280.00	6.70	1,876.00
CJD	attention to perfection issues; review and revise opinion letter and all loan documents; multiple office conferences with J.P. Lunn regarding revisions;	375.00	1.90	712.50
02/06/2007				
JPL	attention to loan documentation and insurance policy security matters; email communications with clients and borrower;	280.00	2.30	644.00
02/07/2007				
CJD	work on perfection language in Pledge Agreement; telephone conference with client regarding update; lengthy telephone conference with Steve Harr regarding all aspects of transaction; preparation of lengthy email to Molly Hobson and Tom Mastor regarding update and status;	375.00	1.60	600.00
JPL	edit and revise assignment of insurance policies based on borrower comments; analyze and assess Court Orders regarding bank financing and receivership matters;	280.00	3.20	896.00





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		Rate	HOURS		
02/12/2007	CJD	review Abcexaminer.com and Secreceiver.com websites regarding receivership proceedings and Order, per Steve Harr;	375.00	0.40	150.00
02/14/2007	JPL	email loan document drafts for borrower; attention to revisions to documents;	280.00	0.70	196.00
02/15/2007	CJD	address status of loan documentation revisions; attention to opinion letter requirements; follow-up regarding status of confirmation from insurance carriers of receipt of notice;	375.00	0.60	225.00
02/22/2007	CJD	office conferences with JP Lunn to discuss all comments to loan documents and attention to same; review comments;	375.00	1.10	412.50
	JPL	telephone conference with Mike Quilling and Chuck Baum regarding loan document matters; email communication with client regarding requested revisions and related closing matters;	280.00	1.70	476.00
02/23/2007	JPL	numerous telephone conferences with borrower's counsel and client regarding loan document matters; begin editions and revisions to documents;	280.00	2.40	672.00
	CJD	office conference with JP Lunn; exchange emails with client; review proposed changes;	375.00	1.10	412.50
02/25/2007	JPL	edit and revise loan documents; telephone conference with Chuck Baum regarding document revisions; email communication to transaction parties;	280.00	3.70	1,036.00



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QUILLING RECEIVER LOAN

		Rate	HOURS	
02/26/2007				
JPL	numerous email communications and telephone conference with client and borrower's counsel regarding loan document and pre-closing matters; additional editions and revisions to documents; attention to file throughout day;	280.00	2.70	756.00
CJD	work on issues regarding requested revisions from borrower; review same; lengthy discussions with client regarding same; telephone conference with Chuck Baum regarding same; review revised documents; office conference with JP Lunn regarding same;	375.00	2.90	1,087.50
02/28/2007				
CJD	work on document changes; multiple telephone conferences with Molly Hobson; conference call with Mike Quilling; review and revise indemnity language;	375.00	1.20	450.00
JPL	conference with client and Mike Quilling; conference with Chuck Baum; editions and revisions to Loan Agreement, Pledge Agreement and Note; email communications with parties;	280.00	3.10	868.00
03/02/2007				
JPL	telephone conference with Chuck Baum; telephone conference with Mike Quilling; telephone conference with Molly Hobson; numerous email communications regarding loan documents and closing matters; edit and revise documents;	280.00	2.20	616.00
	FOR LEGAL SERVICES RENDERED		57.00	17,366.00

## RECAPITULATION

TIMEKEEPER	HOURS	HOURLY RATE	TOTAL
CLINTON J. DAVID-PTNR	14.80	\$375.00	\$5,550.00
JOHN-PAUL LUNN	42.20	280.00	11,816.00



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QUILLING RECEIVER LOAN

TOTAL CURRENT WORK	17,366.00
PREVIOUS BALANCE	\$7,506.50
BALANCE DUE	<u>\$24,872.50</u>

  

PAST DUE AMOUNTS					
<u>0-29</u>	<u>30-55</u>	<u>56-86</u>	<u>87-120</u>	<u>121-181</u>	<u>182+</u>
17,366.00	7,506.50	0.00	0.00	0.00	0.00

"Clinton J. David is the managing shareholder of David, Goodman & Madole, with a billing rate of \$375 per hour, licensed for 27 years, with extensive experience representing banks and financial institutions in secured lending transactions. John-Paul Lunn is a shareholder at David, Goodman & Madole, with a billing rate of \$280 per hour, licensed for eight years, with extensive experience representing banks and financial institutions in secured lending transactions."

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**ALL FEES DUE AND PAYABLE UPON RECEIPT**  
**WE NOW ACCEPT ALL MAJOR CREDIT CARDS**  
**PLEASE INDICATE FILE NO. WITH REMITTANCE**