

IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

DISTRICT COURT  
**FILED**

AUG 29 2002

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA. TULSA COUNTY

Oklahoma Department of Securities )  
*ex rel.* Irving L. Faught, )  
Administrator, )  
  
Plaintiff, )  
  
v. )  
  
Lane Langley, an individual, )  
  
Defendant. )

CJ 2002 05005

Case No.

DEBORAH C. BULLOCK

**PETITION FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF**

Plaintiff, Oklahoma Department of Securities ("Department") *ex rel.* Irving L. Faught, Administrator ("Administrator"), for its claims against the named Defendant, alleges and states as follows:

1. The Administrator, pursuant to Section 406.1 of the Oklahoma Securities Act ("Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701-703 (2002), is the proper party to bring this action against Defendant.

2. Defendant Lane Langley ("Langley" or "Defendant") has engaged in acts and practices in violation of the Act. Unless enjoined, he will continue to engage in the acts and practices set forth herein and acts and practices of similar purport and object.

3. Pursuant to Sections 2 and 413 of the Act, Defendant, in connection with the offer or sale of securities, is subject to the provisions of the Act. By virtue of his transaction of business by contract and otherwise and commission of other acts in this state, Defendant is subject to the jurisdiction of this Court and to service of summons within or outside of this state.

4. Langley, an individual, was, at all times relevant hereto, an agent of Liberte Capital Group, Inc. ("Liberte Capital") who offered and/or sold securities from Tulsa, Oklahoma.

## NATURE OF CASE

5. The Department realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 4 above.

6. A viatical settlement contract is a written agreement for the purchase of the life insurance policy of an individual ("Viator") by a viatical settlement company. Traditionally, the Viator is a person who is terminally ill and has a life expectancy of only a few years or less. However, some viatical settlement companies also offer viatical settlement contracts to persons who are not terminally ill but may be elderly or have a limited life expectancy. A viatical settlement contract establishes the terms under which a viatical settlement company pays compensation or anything of value to the Viator, which compensation or value is less than the expected death benefit of the insurance policy, in return for the Viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy to the viatical settlement company. The payment is based on the amount of the policy and the life expectancy of the Viator.

7. Liberte Capital, an Ohio limited liability company, at all times relevant hereto was a viatical settlement company that offered and/or sold the right to all or a proportionate share of the proceeds of an insurance policy owned or to be acquired from a Viator through a viatical settlement contract (hereinafter referred to as "Viatical Investment Contract"). The efforts of Liberte Capital in effecting the Viatical Investment Contract transaction include:

- a. collecting a sufficient amount of investor funds necessary to purchase a policy or policies from viator;
- b. holding investor funds in an escrow account;
- c. using a third party to review the Viator's medical history and medical records;
- d. determining if the Viator is of sound mind;
- e. estimating the life expectancy of the Viator;
- f. determining the rating of the issuing insurance company;

- g. determining the contestability of the life insurance policy;
- h. purchasing the policy of the Viator;
- i. assuming responsibility for payment of premiums on the life insurance policy for a specified period of time through the creation of a Premium Reserve Account;
- j. tracking the health status of the Viator;
- k. filing the death benefits claim when the Viator dies;
- l. collecting the death benefits from the insurance company; and
- m. distributing the life insurance proceeds to the purchasers of interests in the Viatical Investment Contract.

8. Purchasers of a Viatical Investment Contract are asked to specify the life expectancy term for which the purchaser prefers to invest and how much money to allocate among various policies if a purchaser funds more than one policy purchase. Langley represented to the public ("Investors") that an investment of \$10,000 in the policy of a Viator with a twenty-four (24) month life expectancy would generate a total return of \$12,875.00.

9. Langley offered and/or sold Viatical Investment Contracts issued by Liberte Capital in and/or from the state of Oklahoma.

10. Each purchaser of a Viatical Investment Contract is required to execute a "Preference Form". A purchaser is only allowed to specify the preferred life expectancy term and how much money he/she will invest.

11. Each purchaser also executes an "Agency Agreement and Special Power of Attorney Appointment" ("Agency Agreement"). The Agency Agreement appoints the viatical settlement company to "fund viatical settlements of qualified, terminally ill applicants on behalf of purchaser" and more specifically to enter into contracts or agreements to facilitate the purchase of life insurance policies and payment of premiums of the purchased life insurance policies on the purchaser's behalf.

12. A purchaser who executes the Agency Agreement and the Preference Form has no role in the evaluation of a Viator's medical condition or

life expectancy or the actual selection of a life insurance policy and is entirely dependent upon Liberte Capital for a return on the investment.

13. The Viatical Investment Contract issued by Liberte Capital is a security as defined under Section 2 of the Act.

14. Langley is a broker-dealer as defined under Section 2 of the Act or, alternatively, Langley is an issuer agent of Liberte Capital as defined under Section 2 of the Act.

### **FIRST CAUSE OF ACTION**

(Violation of Section 301 of the Act:  
Offer and Sale of Unregistered Securities)

15. The Department realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 14 above.

16. Beginning in September of 1997, Langley offered and/or sold securities in this state to Investors in the nature of Viatical Investment Contracts.

17. The securities that Langley offered and/or sold were not registered under the Act as required by Section 301 of the Act or offered and sold pursuant to an exemption from registration pursuant to Section 401 of the Act or federal covered securities.

18. By reason of the foregoing, Langley, directly or indirectly, has violated, is violating, and unless enjoined, will continue to violate, Section 301 of the Act.

### **SECOND CAUSE OF ACTION**

(Violation of Section 201 of the Act:  
Failure to Register as a Broker-Dealer or Agent)

19. The Department realleges and incorporates by reference each and every allegation contained in the first cause of action.

20. Langley is not and has not been registered under the Act to transact business in this state as a broker-dealer or agent as required by Section 201 of the Act.

21. By reason of the foregoing, Langley, directly or indirectly, has violated, is violating, and unless enjoined, will continue to violate, Section 201 of the Act.

### **THIRD CAUSE OF ACTION**

(Violation of Section 101(2) of the Act:

#### **Making Untrue Statements of Material Fact and Omitting Material Facts In Connection With The Offer and Sale Of Securities)**

22. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

23. Langley, directly and indirectly, made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading in connection with the offer and sale of securities.

24. As part of the conduct described in paragraph 23 above, Langley utilized promotional literature that represented that Liberte Capital's Viatical Investment Contracts would provide guaranteed profits or returns while providing complete protection of principal when in fact, neither the time of payment nor the actual return is guaranteed and the principal is not completely protected.

25. As part of the conduct described in paragraph 23 above, Defendant, directly and indirectly, offered and/or sold Viatical Investment Contracts issued by Liberte Capital through the use of promotional literature, newspaper advertisements and oral and written communications that contained untrue statements of material facts, including, but not limited to, the following matters:

- a. the Viatical Investment Contract bears no risk and the principal is protected;
- b. the return of the investment is tax free; and
- c. the Viatical Investment Contract is a guaranteed investment with returns of nine percent (9%) to eighty percent (80%) depending on the length of the contract.

26. As part of the conduct described in paragraph 23 above, Defendant, directly and indirectly, offered and sold Viatical Investment Contracts issued by Liberte Capital through the use of promotional literature, newspaper advertisements and oral and written communications that omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following matters:

- a. the risk factors involved;
- b. an explanation of how Investor returns are calculated and in what sense the returns are guaranteed; and
- c. the impact on the Investor's rate of return if premium payments are not maintained or if the Viator lives beyond his estimated life expectancy.

27. by reason of the foregoing, Langley, directly and indirectly, has violated, is violating, and unless enjoined, will continue to violate, Section 101(2) of the Act.

#### **FOURTH CAUSE OF ACTION**

(Violation of Section 101(3) of the Act:

Engaging In Any Act, Practice, or Course of Business Which Operates or Would Operate As a Fraud or Deceit Upon Any Person)

28. The Department realleges and incorporates by reference each and every allegation contained in the preceding causes of action.

29. Defendant directly and indirectly, engaged in an act, practice, or course of business which operated as a fraud or deceit including, but not limited to, the acts, practices, or course of business set forth in paragraphs 24, 25 and 26 above, in connection with the offer and/or sale of securities.

30. By reason of the foregoing, Defendant, directly and indirectly, has violated, is violating, and unless enjoined will continue to violate, Section 101(3) of the Act.

## **PRAYER FOR RELIEF**

WHEREFORE, based upon the foregoing, and pursuant to the authority specifically granted by Section 406.1 of the Act, the Department prays for relief as follows:

1. A permanent injunction forever enjoining and restraining Defendant, from the offer and/or sale of securities in and/or from this state and from directing other natural persons, corporations, limited liability companies or other business entities acting on his behalf to offer and/or sell securities in and/or from this state;

2. A permanent injunction forever enjoining and restraining Defendant from acting as a broker-dealer or agent, or from employing agents, in connection with the offer and/or sale of securities in and/or from this state;

3. A permanent injunction forever enjoining and restraining Defendant, from making any untrue statements of material fact or omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, in connection with the offer, sale, and/or purchase of any security in and/or from this state;

4. A permanent injunction forever enjoining and restraining Defendant from, directly or indirectly, engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with the offer, sale and/or purchase of any security in and/or from this state;

5. An order revoking Defendant's ability to rely on exemptions from registration under Section 401 of the Act;

6. An order requiring Defendant to make restitution to any and all Investors who purchased Viatical Investment Contracts from Defendant;

7. An order requiring Defendant to pay a civil monetary penalty in the amount of Fifty Thousand Dollars (\$50,000) to the Department; and

8. Such other legal or equitable relief as the Court may deem necessary, just and proper in connection with the enforcement of the Act.

Respectfully submitted,

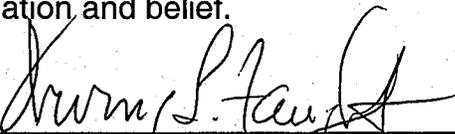
OKLAHOMA DEPARTMENT OF SECURITIES  
Irving L. Faught, Administrator

By: Rebecca Cryer  
Rebecca Cryer #2065  
Enforcement Attorney  
Oklahoma Department of Securities  
120 North Robinson, Suite 860  
Oklahoma City, Oklahoma 73102  
(405) 280-7700

STATE OF OKLAHOMA )  
 )  
COUNTY OF OKLAHOMA) SS.

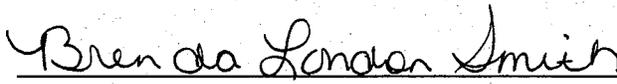
Irving L. Faught, of lawful age, being first duly sworn deposes and says: that he is the Administrator of the Oklahoma Department of Securities, that he has read the foregoing Petition and knows the contents thereof, and that the matters and things stated therein have been provided to him by staff members of the Department under his authority and direction, and are true and correct to the best of his knowledge, information and belief.

(SEAL)

  
IRVING L. FAUGHT, ADMINISTRATOR OF THE  
OKLAHOMA DEPARTMENT OF SECURITIES  
120 North Robinson, Suite 860  
Oklahoma City, Oklahoma 73102  
(405) 280-7700

Subscribed and sworn to before me this 28<sup>th</sup> day of August,  
2002.

(NOTARIAL SEAL)

  
Brenda London Smith  
Notary Public

My Commission Expires:

August 26, 2005

Commission No.:  
01013792