

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CASE NO. 8:03-CV-01895-SDM-TGW

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**VIATICAL CAPITAL, INC. d/b/a LIFE
SETTLEMENT NETWORK, LIFE
INVESTMENT FUNDING ENTERPRISES, INC.,
CHARLES D. YORK, and ROBERT K. COYNE,**

Defendants.

**DEFAULT JUDGMENT OF PERMANENT INJUNCTION AND OTHER RELIEF
AGAINST DEFENDANT ROBERT KINGSTON COYNE**

THIS MATTER, having come before the Court upon Plaintiff Securities and Exchange Commission's ("Commission") Motion for Entry of Default Judgment of Permanent Injunction and Other Relief Against Defendant Robert Kingston Coyne ("Coyne"). and it appearing to the Court that Coyne was duly served and failed to file a responsive pleading within the time prescribed by law, and the Court being fully advised, renders final judgment in this cause.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Coyne and the subject matter of this action.
2. Notice of this action was duly served upon Coyne pursuant to Rule 4(e). Fed. R. Civ. P.

3. Pursuant to Rule 4(1), Fed. R. Civ. P., proof of service was filed with the Court on September 17, 2003 [D.E. 23].

4. As of the date of the Commission's Motion for Entry of Default Judgment of Permanent Injunction and Other Relief, Coyne has failed to answer or otherwise plead to the Commission's Amended Complaint as required by the Federal Rules of Civil Procedure.

5. On February 1, 2005, the Clerk of Court entered a default against Coyne pursuant to Fed. R. Civ. P. 55(a).

6. By virtue of his failure to answer or otherwise plead, Coyne is deemed to have admitted the well pleaded allegations of the Amended Complaint; accordingly, the Court finds that Coyne committed the violations alleged therein.

7. Coyne is not an infant or incompetent person and has no general guardian, committee, conservator or other such persons appearing on his behalf.

8. The Court did not find it necessary to conduct a hearing prior to entering final judgment in this action or carrying its judgment to effect.

9. Pursuant to Rule 54(b), Fed. R. Civ. P., the Court expressly determines that there is no just reason for delay and expressly directs that judgment be entered in this action as to Coyne. Accordingly.

I.

IT IS HEREBY ORDERED AND ADJUDGED that Plaintiff's Motion for Entry of Default Judgment of Permanent Injunction and Other Relief Against Coyne is **GRANTED**.

II.

VIOLATION OF SECTION 5 OF THE SECURITIES ACT

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Coyne, his directors, officers, agents, escrow agents, trustees, servants, employees, attorneys, accountants and those persons in active concert or participation with him, are hereby permanently restrained and enjoined from directly or indirectly:

(a) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell securities in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such securities;

(b) carrying securities, in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), or causing them to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or for delivery after sale, unless and until a registration statement is in effect with the Commission as to such securities; or

(c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy, through the use or medium of any prospectus or otherwise, any securities, in the form of units, common stock, warrants or any other securities (including, but not limited to, the investment contracts, promissory notes or limited liability companies), unless a registration statement

is filed with the Commission as to such securities, or while a registration statement filed with the Commission as to such security is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act of 1933 ("Securities Act"), 15 § U.S.C. 77h, in violation of Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77e(a) and 77e(c).

III.

VIOLATION OF SECTION 17(a) OF THE SECURITIES ACT

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Coyne, his officers, agents, servants, employees, attorneys in fact, and all persons in active concert or participation with him, and each of them, who receive notice of this Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails:

- (a) knowingly or recklessly employing any device, scheme or artifice to defraud;
- (b) obtaining money or property by means of any untrue statement of a material fact or omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) engaging in any practice, transaction, or course of business which operates or would operate as a fraud or deceit upon the purchaser of any such

security, in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1), 77q(a)(2) and 77q(a)(3).

IV.

VIOLATION OF SECTION 10(b) OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULE 10b-5

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Coyne, his officers, agents, servants, employees, attorneys in fact, and all persons in active concert or participation with him, and each of them, who receive notice of this Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities, knowingly or recklessly:

(a) employing devices, schemes or artifices to defraud;

(b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(c) engaging in acts, practices and courses of business which have operated, are now operating or will operate as a fraud upon the purchasers of such securities in violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

V.

OFFICER AND DIRECTOR BAR

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], Coyne is prohibited from

acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

DISGORGEMENT AND CIVIL PENALTY

IT IS HEREBY FURTHER ORDERED AND ADJUDGED, that Coyne is liable for disgorgement of \$5,018,148 representing alleged profits and ill-gotten gains received in connection with the conduct alleged in the Amended Complaint, together with prejudgment interest thereon.

Coyne shall satisfy this disgorgement obligation by paying \$5,018,148 to the Court-appointed Receiver David Levine. Coyne shall simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. By making this payment, Coyne relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant.

IT IS HEREBY FURTHER ORDERED AND ADJUDGED that Coyne shall pay a civil money penalty pursuant to Section 20(d) of the Securities Act, 15 U.S.C. §77t(d), based upon his conduct as alleged in the Complaint. The amount shall be determined upon a filing of a motion by the Securities and Exchange Commission.

VII.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction over this matter and Coyne in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for

additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

BY: **SHERYL L. LOESCH**



DEPUTY CLERK

28 FEB 2005

Copies to:
Alise Johnson
801 Brickell Avenue, Suite 1800
Miami, Florida 33131
Counsel for Securities and Exchange Commission
Phone: (305) 982-6322
Fax: (305) 536-4154

Robert Kingston Coyne, pro se
P.O. Box 25415
Sarasota, FL 34277