

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**07-20061-CR-COOKE/BROWN**  
CASE NO. \_\_\_\_\_  
(18 U.S.C. § 371)

UNITED STATES OF AMERICA

v.

CAROL TRAINA and  
BARI WIGGINS,

Defendants.

INFORMATION

COUNT 1  
CONSPIRACY TO COMMIT SECURITIES FRAUD  
(18 U.S.C. § 371)

At all times material to this Information:

GENERAL ALLEGATIONS

1. Mutual Benefits Corp. ("MBC") was a business with principal offices in the Southern District of Florida, initially at 2881 E. Oakland Park Blvd., Suite 200, Fort Lauderdale, Florida 33306, and subsequently at 200 E. Broward Blvd., 10<sup>th</sup> Floor, Fort Lauderdale, Florida 33301.
2. MBC was in the business of selling viatical and life settlements to the general public.
3. A viatical settlement is a transaction in which a terminally ill person sells the death benefit of his or her life insurance policy to a third party in return for a lump-sum cash payment, which is a discounted percentage of the policy's face value.

4. A life settlement is a transaction which is identical to a viatical settlement, except the seller of the insurance death benefit is not terminal, but instead is usually a senior citizen.

5. Viatical and life settlements are illiquid investments that pay upon death of the insured individual. All premiums due prior to the death of the insured must be paid, in full and on a timely basis, to prevent additional costs or a lapse. If an insurance policy lapses for any reason, such as failure to properly pay premiums, the policy's death benefit and any investment dependent on that benefit may be lost.

6. In the sale and purchase of viatical and life settlements, the assessment of an insured's life expectancy determines: (i) investors' anticipated term of investment in the insured's policy; (ii) the fixed return paid on that investment; and (iii) the amount of money to be held in escrow for payments of anticipated future premiums.

7. An investor in a viatical or life settlement only realizes a profit if, when the insured dies, the policy benefit is greater than the purchase price, adjusted for any post-purchase costs.

8. Between in or around 1995 and May 2001, Clark Mitchell was a licensed medical doctor engaged to perform services for MBC in connection with their determination of life expectancies.

9. Participants in MBC's viatical and life settlement program were solicited to invest money into MBC's common enterprise upon the promise of profits. These profits were to be derived solely from MBC's purported ability to identify, acquire rights to, and collect valuable insurance policy death benefits. As a result, the viatical and life settlements sold by MBC are securities, which are subject to regulation by the U.S. Securities and Exchange Commission and the federal securities laws.

10. Peter Lombardi was a founding partner and sole shareholder of MBC. In his daily activities, Peter Lombardi supervised MBC's accounting department and falsely represented himself to be MBC's principal executive officer to the investing public.

11. **CAROL TRAINA** was an employee at MBC from in or around 1995 through May 2004. During that time, she held various positions at MBC, including Office Manager. As Office Manager, **CAROL TRAINA'S** responsibilities included personnel management, assisting in supervising MBC's marketing directors and outside sales force, and responding to investor complaints.

12. **BARI WIGGINS** was an employee at MBC from in or around 1995 through May 2004. During that time, she held various positions at MBC, including Director of Policy Services. As Director of Policy Services, **BARI WIGGINS'** daily activities included, among other things, overseeing the evaluation and acquisition of insurance policies from viatical brokers.

### **THE CONSPIRACY**

13. Paragraphs 1 through 12 of the General Allegations section of this Information are re-alleged and incorporated by reference as though fully set forth herein.

14. From in or around 1995, and continuing to at least May 2004, in the Southern District of Florida, and elsewhere, the defendants,

### **CAROL TRAINA and BARI WIGGINS,**

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree with others known and unknown, to commit certain offenses against the United States, that is, to willfully, knowingly, and unlawfully, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges,

directly and indirectly, use and employ, in connection with the purchase and sale of securities, that is, the purchase of investment interests in viatical and life settlements, manipulative and deceptive devices and contrivances by: (a) employing a device, scheme, and artifice to defraud; (b) making and causing others to make untrue statements of material facts, and omitting to state and causing others to omit to state, material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which would and did operate as a fraud and deceit upon others, in violation of Title 15, United States Code, Sections 78j(b) and 78ff(a); and Title 17, Code of Federal Regulations, Section 240.10b-5.

#### **PURPOSE OF THE CONSPIRACY**

15. The purpose of the conspiracy was for the defendants and their co-conspirators to unjustly enrich themselves by misappropriating investor funds and by making materially false representations and by omitting to state material facts concerning, among other things, the accuracy and reliability of life expectancy determinations, the ability to continue payment of anticipated premium obligations, the identity of MBC's true management personnel, and the regulatory and criminal histories of MBC's principals.

#### **MANNER AND MEANS TO ACCOMPLISH THE CONSPIRACY**

The manner and means by which the defendants and their co-conspirators sought to accomplish the conspiracy included, but were not limited to, the following:

16. Peter Lombardi, **CAROL TRAINA**, **BARI WIGGINS**, their co-conspirators, and others, directly and indirectly, fraudulently offered and sold investment interests in MBC viatical and

life settlements to the general public, raising more than \$1.3 billion from more than 30,000 investors worldwide, resulting in investor losses of approximately \$830 million.

17. To perpetrate the conspiracy, Peter Lombardi was installed by his co-conspirators as the titular President of MBC, to conceal from investors and others that the true controlling principal of MBC was an individual who had been previously federally convicted of mail and wire fraud, as well as enjoined by a United States District Court from committing further violations of the anti-fraud provisions of the federal securities laws.

18. To further perpetrate the conspiracy, Peter Lombardi, **CAROL TRAINA**, their co-conspirators, and others solicited investors through an international network of sales agents and marketing directors, who reported, directly or indirectly, to Peter Lombardi and MBC's principals. Peter Lombardi, his co-conspirators, and others, also solicited investors through an Internet website, investment seminars held around the nation, advertisements, and by telephone.

19. To further perpetrate the conspiracy, **BARI WIGGINS**, her co-conspirators, and others, fraudulently acquired group insurance policies, by creating false documentation which made it appear that group policies were being assigned as gifts to individuals, when in truth MBC was surreptitiously purchasing the policies, despite prohibitions within the policies prohibiting their sale.

20. MBC's sales agents and marketing directors, acting under the supervision of Peter Lombardi, **CAROL TRAINA**, their co-conspirators, and others, falsely represented to investors that MBC had a strong track record of accurately predicting life expectancies.

21. MBC's sales agents and materials touted MBC's success in predicting the life expectancy of terminally ill and elderly individuals, assuring investors that each insured individual's

medical condition was reviewed by an “independent” state licensed physician who would determine each insured’s life expectancy.

22. From in or around 1995 to in or around May 2001, Clark Mitchell was a licensed medical doctor engaged by MBC to provide these “independent” determinations of life expectancy. Clark Mitchell memorialized these life expectancy determinations in letters or affidavits that MBC mailed to investors.

23. The letters and affidavits completed by Clark Mitchell falsely assured investors that he had reviewed the insured’s medical records to make an “independent” assessment of the insured’s life expectancy. In truth, all life expectancy determinations were assigned by an undisclosed MBC principal, who was dictating the life expectancy determinations to Clark Mitchell.

24. MBC’s sales agents and marketing directors, acting under the supervision of Peter Lombardi, **CAROL TRAINA**, their co-conspirators, and others, directly and indirectly, disseminated and caused others to disseminate, written sales materials and other documents to investors to solicit their funds. Investors received MBC’s sales materials and documents by a commercial overnight courier service, the United States Postal Service, through an online web-site, and directly from MBC’s sales agents and marketing directors.

25. To compensate for inadequate premium reserves, Peter Lombardi, his co-conspirators, and others, pooled monies in various premium escrow accounts, and used premium monies obtained from recently sold viatical and life settlements to pay premium obligations on older policies that failed to mature within the represented life expectancy or were otherwise deficient.

26. To induce investors to purchase investment interests in viatical and life settlements, Peter Lombardi, **CAROL TRAINA**, their co-conspirators, and others, provided, and caused others

to provide, sales materials and other documents to investors that contained numerous materially false statements and omissions of material facts, and themselves made, and caused other to make, numerous materially false statements and omissions to investors, including, among others, the following:

**Materially False Statements**

a. That the life expectancies of insured individuals, whose policies were sold to investors, were determined by an “independent” state licensed physician after review of the insured’s medical condition, when in reality an undisclosed MBC principal was assigning life expectancies and dictating those determinations to physicians hired by MBC;

b. That the majority of the viatical and life settlements sold by MBC matured within the assigned life expectancy, when in reality the overwhelming majority of the viatical and life settlements sold by MBC failed to mature, and only a very small percentage matured within the assigned life expectancy;

c. That, for each policy, there were sufficient funds escrowed to pay the anticipated premium costs for the life expectancy of the insured, when in reality there were insufficient funds escrowed to pay these premium costs;

d. That MBC’s viatical and life settlements were “safe” investments, offering a level of risk comparable to a certificate of deposit, when in reality, as a result of the conditions described above, investors were exposed to substantial risk;

e. That the investments offered by MBC’s were “secure,” when in reality the ability of certain investors to collect benefits was jeopardized because some of the investments involved

group life insurance policies that MBC fraudulently purchased, in that there were restrictions within the policies which only permitted them to be assigned as gifts;

f. That investors in MBC's viatical and life settlements would become "irrevocable" beneficiaries of life insurance policies, when in reality many MBC investors received interests in group life policies that were subject to litigation;

**Omissions of Material Fact**

g. That an undisclosed controlling principal, who had been previously federally convicted of mail and wire fraud, as well as enjoined by a United States District Court from committing further violations of the anti-fraud provisions of the federal securities laws, was a principal of MBC;

h. That this same undisclosed controlling principal, who had been previously federally convicted of mail and wire fraud, as well as enjoined by a United States District Court from committing further violations of the anti-fraud provisions of the federal securities laws, was assigning the life expectancies of insured individuals, whose policies were sold by MBC to investors;

i. That a second principal of MBC was enjoined by a United States District Court from committing further violations of the anti-fraud provisions of the federal securities laws;

j. That to compensate for inadequate premium reserves, Peter Lombardi, his co-conspirators, and others, pooled monies in various premium escrow accounts, and used monies obtained from recently sold viatical and life settlements to pay premium obligations on older policies that failed to mature within the represented life expectancy or were otherwise deficient;

k. That investors placed on certain group life insurance policies were at risk of losing their investments because MBC fraudulently purchased these policies, which were only permitted to be assigned as gifts; and

l. That the MBC's principals were misappropriating investor funds for their own personal use and benefit.

#### **OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

In furtherance of the conspiracy, and to accomplish its purpose and object, at least one of the co-conspirators committed, or caused to be committed, in the Southern District of Florida and elsewhere, at least one of the following overt acts, among others:

1. On or about February 10, 1999, **CAROL TRAINA** received and processed a facsimile from D.O., a sales agent located in Ontario, Canada, complaining that an MBC principal, and others, "misled" investors by representing "that 80% of all Mutual Benefit's policies mature early" and identifying concerns that MBCs' life expectancies "have been underwritten inaccurately."

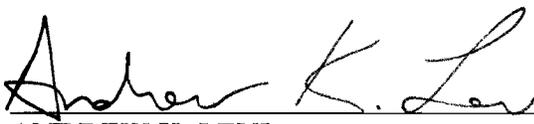
2. On or about February 25, 2004, **CAROL TRAINA** sent an e-mail communication to A.Y., an individual in Bermuda, confirming that money was to be invested in MBC policies.

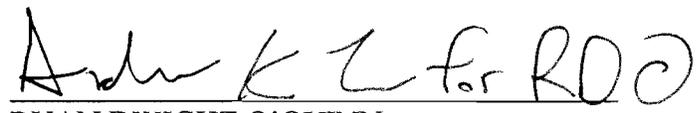
3. On or about May 14, 1995, **BARI WIGGINS** signed a false affidavit submitted to MetLife that made it appear as if a group policy death benefit was assigned as a "gift" to an individual, when in truth, MBC was purchasing the policy.

4. On or about September 16, 1997, **BARI WIGGINS** sent a facsimile letter to a co-conspirator warning that a representative from an insurance company was "sniffing around," investigating assignments falsely recorded as "gift assignments."

All in violation of Title 18, United States Code, Section 371.

  
\_\_\_\_\_  
R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ANDREW K. LEVI  
ASSISTANT UNITED STATES ATTORNEY

  
\_\_\_\_\_  
RYAN DWIGHT O'QUINN  
SPECIAL ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

**CERTIFICATE OF TRIAL ATTORNEY\***

CAROL TRAINA and  
BARI WIGGINS,

Defendants.

**Superseding Case Information:**

Court Division: (Select One)

New Defendant(s) Yes \_\_\_\_\_ No X  
Number of New Defendants \_\_\_\_\_  
Total number of counts \_\_\_\_\_

X Miami \_\_\_\_\_ Key West  
\_\_\_\_\_ FTL \_\_\_\_\_ WPB \_\_\_\_\_ FTP

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No  
List language and/or dialect \_\_\_\_\_

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:  
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:  
Judge: \_\_\_\_\_ Case No. \_\_\_\_\_  
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:  
Magistrate Case No. \_\_\_\_\_  
Related Miscellaneous numbers: 06-20665-CR-HUCK/SIMONTON(s)  
Defendant(s) in federal custody as of \_\_\_\_\_  
Defendant(s) in state custody as of \_\_\_\_\_  
Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? \_\_\_\_\_ Yes X No
- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? \_\_\_\_\_ Yes X No  
If yes, was it pending in the Central Region? \_\_\_\_\_ Yes \_\_\_\_\_ No
- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? \_\_\_\_\_ Yes X No
- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? \_\_\_\_\_ Yes X No

  
ANDREW K. LEVI  
ASSISTANT UNITED STATES ATTORNEY  
Court Identification No. A5500806

\*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Carol Traina

Case No: \_\_\_\_\_

Count #: 1

Conspiracy To Commit Securities Fraud

18 U.S.C. § 371

**\* Max. Penalty** 5 years' imprisonment

Count # : \_\_\_\_\_

**\* Max. Penalty** \_\_\_\_\_

Count # : \_\_\_\_\_

**\*Max. Penalty:** \_\_\_\_\_

Counts # : \_\_\_\_\_

**\*Max. Penalty:** \_\_\_\_\_

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

**Defendant's Name:** Bari Wiggins

**Case No:** \_\_\_\_\_

**Count #:** 1

Conspiracy To Commit Securities Fraud

18 U.S.C. § 371

**\* Max. Penalty** 5 years' imprisonment

**Count # :**

**\* Max. Penalty**

**Count # :**

**\*Max. Penalty:**

**Counts # :**

**\*Max. Penalty:**

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**