



OFFICE OF INSURANCE REGULATION

KEVIN M. McCARTY  
DIRECTOR

IN THE MATTER OF:

CASE NO.: 66751-03-CO

KELCO, INC.  
Viatical Settlement Provider

\_\_\_\_\_ /

ORDER OF REVOCATION

To: KELCO, INC.  
269 West Main Street  
Lexington, KY 40507-1716

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of the Florida Insurance Code, the OFFICE OF INSURANCE REGULATION of the FINANCIAL SERVICES COMMISSION within the DEPARTMENT OF FINANCIAL SERVICES (hereinafter referred to as "the OFFICE") has caused an investigation to be made of your activities as a viatical settlement provider in this State and as a result find:

1. The OFFICE has jurisdiction over the subject matter and of the parties herein pursuant to Chapters 120 and 626, Florida Statutes.
2. Kelco, Inc., a Kentucky corporation (henceforth referred to as KELCO), is a Florida licensed viatical settlement provider authorized under the name Kelco, Inc. d/b/a Kelco Viatical, Inc., to effectuate viatical settlement contracts in the State of Florida, subject to the jurisdiction and regulations of the Florida Office of Insurance

Regulation, pursuant to Chapter 626, Florida Statutes, and further subject to restrictions imposed by Orders issued by the former Florida Department of Insurance.

3. On or about July 11, 2002, Stephen L. Keller, Robert G. Sutherlin, and Sterling Keith Drach were indicted in Case Number 5:02-cr-00095-KSF-ALL in the U.S. District Court for the Eastern District of Kentucky ("THE INDICTMENT") (Copy of The Indictment attached as Exhibit "A") and charged with One Count of Conspiracy, Eight Counts of Mail Fraud, Fourteen Counts of Wire Fraud, One Count of Conspiracy to Commit Money Laundering, and Twenty-two Counts of Money Laundering. KELCO was also indicted in THE INDICTMENT.

4. At all times relevant to the charges set forth in THE INDICTMENT, Stephen L. Keller was the owner, Chairman, President and Chief Executive Officer of KELCO, Robert G. Sutherlin was Secretary of KELCO, and Sterling Keith Drach was Treasurer and Chief Financial Officer of KELCO.

5. All charges set forth in THE INDICTMENT, relate to, or result from the conduct of viatical business by KELCO, Stephen L. Keller, Robert G. Sutherlin, Sterling Keith Drach, and Genesis Viatical, Inc.

6. Based upon THE INDICTMENT, on July 23, 2002, the State of Kentucky suspended the provider license of Kelco, Incorporated.

7. A federal jury on March 14, 2003, found KELCO, sister company Genesis Viatical, founder and chief executive Stephen Keller, and vice president of sales Grant Sutherlin guilty of fraud, conspiracy, and money laundering. Keith Drach, Lexington-based KELCO's chief financial officer, was found guilty of conspiracy.

8. Section 626.9914(1)(b), Florida Statutes, provides that the license of a viatical settlement provider shall be revoked if it has engaged in fraudulent or dishonest practices, or otherwise has been shown to be untrustworthy or incompetent to act as a viatical settlement provider.

9. Section 626.9914(1)(d), Florida Statutes, provides that the license of a viatical settlement provider shall be revoked if it has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court.

10. Section 626.9914(1)(i), Florida Statutes, provides that the license of a viatical settlement provider shall be revoked if it employs any person who materially influences the licensee's conduct and who fails to meet the requirements of this act.

11. Section 626.9914(1)(j), Florida Statutes, provides that the license of a viatical settlement provider shall be revoked if it no longer meets the requirements for initial licensure.

15. Pursuant to Section 626.9915(1), Florida Statutes, KELCO is ordered to immediately conclude the affairs it is transacting under its provider license. KELCO may not solicit, negotiate, advertise, or effectuate new contracts. The OFFICE retains jurisdiction over KELCO until all contracts have been fulfilled or canceled or have expired.

WHEREFORE, KELCO is hereby notified that its licenses as a viatical settlement provider is REVOKED.

Furthermore, KELCO has, as set forth in the attached Notice of Rights, 21 days from the receipt of this order to contest this Order of Revocation. If KELCO does not contest this order within that 21-day period, this order will become final.

## NOTICE OF RIGHTS

You have the right to request a proceeding to contest this action by the Office pursuant to sections 120.569 and 120.57, Florida Statutes, and Rule 28-107, Florida Administrative Code. The proceeding request must be in writing, signed by you, and must be filed with the Office within twenty-one (21) days of your receipt of this notice. Completion of the attached Election of Proceeding form and/or a petition for administrative hearing will suffice as a written request. The request must be filed with the General Counsel as acting Agency Clerk, at the Office of Insurance Regulation, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. Your written response must be received by the Office no later than 5:00 p.m. on the twenty-first day after your receipt of this notice. Mailing the response on the twenty-first day will not preserve your right to a hearing.

YOUR FAILURE TO RESPOND IN WRITING WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF YOUR RIGHT TO REQUEST A PROCEEDING ON THE MATTERS ALLEGED HEREIN AND THIS ORDER OF REVOCATION WILL BECOME FINAL.

If you request a proceeding, you must provide information that complies with the requirements of Rule 28-107.004, Florida Administrative Code. As noted above, completion of the attached Election of Proceeding form conforms to these requirements. Specifically, your response must contain:

- (a) The name and address of the party making the request, for purpose of service;

(b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and

(c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

If a hearing of any type is requested, you have the right to be represented by counsel or other qualified representative at your expense, to present evidence and argument, to call and cross-examine witnesses, and to compel the attendance of witnesses and the production of documents by subpoena.

If a proceeding is requested and there is no dispute of material fact, the provisions of section 120.57(2), Florida Statutes, apply. In this regard, you may submit oral or written evidence in opposition to the action taken by the Office or a written statement challenging the grounds upon which the Office has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary, one will be conducted in Tallahassee, Florida, or by telephonic conference call upon your request.

However, if you dispute material facts which are the basis for the Office's action, you must request an adversarial proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes. These proceedings are held before a State administrative law judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Office will request that the hearing be conducted in Tallahassee, Florida.

Failure to follow the procedure outlined with regard to your response to this notice may result in the request being denied. All prior oral communication or correspondence in this matter shall be considered freeform agency action, and no such oral communication or correspondence shall operate as a valid request for an administrative proceeding. Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation of this matter pursuant to section 120.573, Florida Statutes, is not available. No Office attorney will discuss this matter with you until the response has been received by the Office of Insurance Regulation.

DONE and ORDERED this \_\_\_\_\_ day of March, 2003.

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Kevin McCarty  
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER OF REVOCATION has been furnished by certified mail to: KELCO, INC., 269 West Main Street, Lexington, KY 40507-1716, this \_\_\_\_ day of \_\_\_\_\_, 2003.

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Bob Prentiss  
OIR  
Division of Legal Services  
612 Larson Building  
200 East Gaines Street  
Tallahassee, FL 32399-0333

OFFICE OF INSURANCE REGULATION

IN THE MATTER OF:  
KELCO, INC.

CASE NO.: 66751-03-CO

Viatical Settlement Provider /

ELECTION OF RIGHTS

I have received and read the Order of Revocation filed in the above titled matter, including the Notice of Rights contained therein, and understand the options. KELCO, INC., requests disposition of this matter as indicated below. (Choose one)

1.      KELCO, INC., does not desire a proceeding. The Order of Revocation may become final.
  
2.      KELCO, INC., does not dispute any of the Office's factual allegations and hereby elects an informal proceeding to be conducted in accordance with Section 120.57(2), Florida Statutes. In this regard, KELCO, INC., desires to
  - submit a written statement and documentary evidence
  - attend an informal hearing to be held in Tallahassee; or
  - attend an informal hearing by way of telephone conference call.
  
3.      KELCO, INC., does dispute the Office's factual allegations and has attached to this form a statement indicating the specific issues of fact which are disputed and other required information indicated in the Notice of Rights. KELCO, INC., hereby requests a formal adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes, to be held before the Division of Administrative Hearings.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Petitioner

TO PRESERVE YOUR RIGHT TO A PROCEEDING, YOU MUST RETURN THIS FORM WITHIN TWENTY-ONE (21) DAYS OF RECEIPT TO THE DEPARTMENT OF INSURANCE AT THE ADDRESS INDICATED IN THE NOTICE OF RIGHTS.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_



COPIES FURNISHED TO:

ROBERT A. WILLIS  
Chief  
Bureau of Specialty Insurers  
200 East Gaines Street  
Larson Building  
Tallahassee, FL 32399-0331

BOB PRENTISS, ESQ.  
Division of Legal Services  
200 East Gaines Street  
Tallahassee, FL 32399-4206

INTER-OFFICE MEMORANDUM

TO: Kevin McCarty, Deputy Insurance Commissioner  
FROM: Jack Herzog  
DATE:  
SUBJECT: Kelco, Inc.  
Order of Revocation  
Case No.: 66751-03-CO

Attached hereto for your approval and signature you will find an Order of Revocation to be issued in the above referenced matter.

Kelco, Inc., is a Kentucky company licensed as a viatical settlement provider.

The consent order represents that Kelco and its officers were found guilty of numerous felony counts by a Federal jury in Kentucky on March 14, 2003, and that these felonies relate to its viatical business.

This order revokes Kelco's license as a viatical settlement provider.

The attorney handling this case is Bob Prentiss.

Representing Specialty Insurers in this matter is Ted Straughn and Eric Lingswiler.

Attachment

cc: Bureau Chief, Specialty Insurers

Authorized for signature:

\_\_\_\_\_  
Steve Parton, Chief Counsel