BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE AT NASHVILLE

TENNESSEE SECURITIES DIVISION,	)	
Petitioner,	)	
	)	
vs.	)	**No.: 00-0004**
	)	
SENIOR CARE PLUS, INC.,	)	
AMERICAN BENEFITS SERVICES, INC.,	)	
WM. PAGE & ASSOCIATES, INC.,	)	
NATIONAL VIATICAL TRUST, INC.,	)	
EXPLORE FINANCIAL GROUP, INC.,	)	
MICHAEL D. SULLIVAN,	)	
JAMES A. TORCHIA, LARRY J. SULLIVAN,	)	
NANCY M. THAYER, ERIC D. REYNOLDS,	)	
and BEVERLY A. SULLIVAN	)	
Respondents.	)	

ORDER TO CEASE AND DESIST

This Order issues as a result of a Petition and its exhibits attached hereto filed by the Tennessee Securities Division (hereinafter referred to as the "Division") of the Department of Commerce and Insurance and is predicated upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Senior Care Plus, Inc. (hereinafter referred to as "SCP"), is a Tennessee corporation with its principal place of business being 7200 Goodlett Farms Parkway, Suite 101, Cordova, Tennessee 38108. SCP has never registered with the Division as a broker-dealer.

2. American Benefits Services, Inc. (hereinafter referred to as "ABS"), is a Florida corporation with its principal place of business being 25400 U.S. 10, North, Suite 113, Clearwater, Florida 33763. ABS has never registered any securities with the Division.

3. Wm. Page & Associates, Inc. (hereinafter referred to as "PAA"), is a Florida corporation with its principal place of business being 2810 East Oakland Park Boulevard, Suite 300, Fort Lauderdale, Florida 33306. PAA has never registered any securities with the Division.

4. National Viatical Trust, Inc. (hereinafter referred to as "NVT"), is a Florida corporation with its principal place of business being 8200 North West 74 Avenue, Tomorac, Florida 33321. NVT has never registered any securities with the Division.

5. Explore Financial Group, Inc. (hereinafter referred to as "EFG"), is a Tennessee corporation with its principal place of business being 7200 Goodlett Farms Parkway, Suite 101, Cordova, Tennessee 38108. EFG has never registered with the Division as a broker-dealer, nor has it registered a securities offering with the Division.

6. Michael D. Sullivan (hereinafter referred to as "M. Sullivan") is a citizen and resident of the State of Tennessee, with his residence being 7662 Spirit Lake Court, Cordova, Tennessee 38018. M.Sullivan is employed by, and/or has ownership interests in, and/or holds officer positions with SCP, EFG, and NVT. M.Sullivan has never registered with the Division as a broker-dealer, an agent of a broker-dealer or as an investment adviser, nor has he ever registered a securities offering with the Division.

7. James A. Torchia (hereinafter referred to as "Torchia") is a citizen and resident of the State of Florida, with his residence being 8200 North West 74 Avenue, Tomorac, Florida 33321. Torchia is the president of NVT. Torchia has never registered any securities with the Division.

8. Larry J. Sullivan (hereinafter referred to as "L.Sullivan") is a citizen and resident of the State of Tennessee, with his residence being 2765 Nubbin Ridge Road, Middleton, Tennessee 38052.

L.Sullivan has never registered with the Division as a broker-dealer, an agent of a broker-dealer or as an investment adviser.

9. Nancy M. Thayer (hereinafter referred to as "Thayer") is a citizen and resident of the State of Tennessee, with her residence being 6494 Cohay, Bartlett, Tennessee 38134. Thayer has never registered with the Division as a broker-dealer, an agent of a broker-dealer or as an investment adviser.

10. Eric D. Reynolds (hereinafter referred to as "Reynolds") is a citizen and resident of the State of Tennessee, with his residence being 99 North Century, Memphis, Tennessee 38111. Reynolds has never registered with the Division as a broker-dealer, an agent of a broker-dealer or as an investment adviser.

11. Beverly A. Sullivan (hereinafter referred to as "B.Sullivan") is a citizen and resident of the State of Tennessee, with her residence being 2765 Nubbin Ridge Road, Middleton, Tennessee 38052. B.Sullivan has never been registered with the Division as a broker-dealer, an agent of a broker-dealer or as an investment adviser.

12. The Respondents are presently and will continue to be engaged in the sale of securities to Tennessee citizens, which are not registered with the Securities Division, and do not qualify for any of the exemptions provided in the Tennessee Securities Act of 1980, as amended, Tenn. Code Ann. §§ 48-2-101, *et seq*. As a result of this activity, the public will suffer immediate and irreparable injury, loss or damage.

13. The Respondents, SCP, EFG, M.Sullivan, L.Sullivan, B.Sullivan, Thayer, and Reynolds, are presently acting as and will continue to act as a broker-dealer and agents without proper

registration, and will continue to solicit Tennessee residents. As a result of this activity, the public will suffer immediate and irreparable injury, loss or damage.

14. The Respondents, SCP and EFG, are presently employing and will continue to employ persons to act as their agents without the proper registration, and will continue to solicit Tennessee residents to invest in unregistered securities. As a result of this activity the public will suffer immediate and irreparable injury, loss or damage.

15. The Respondents, ABS, PAA, NVT, Torchia, and M. Sullivan, are presently offering and will continue to offer unregistered securities to Tennessee investors through persons acting as unregistered broker-dealers and unregistered agents to sell the unregistered securities to Tennessee investors. As a result of this activity the public will suffer immediate and irreparable injury, loss or damage.

16. The Respondents, in connection with the offer, sale and purchase of a security in this state, are engaged in acts, practices or courses of business which operate as a fraud or deceit upon citizens of this state.

17. This Order is in the public interest and necessary for the protection of investors, and is consistent with the purposes fairly intended by the Act.

CONCLUSIONS OF LAW

1. Tennessee Code Annotated § 48-2-104 provides that it is unlawful for any person to sell any security in this state unless it is registered under this part, the security transaction is exempted under § 48-2-103, or the security is a covered security.

2. Tennessee Code Annotated § 48-2-102 provides that a security includes investment contracts. In *State v. Brewer*, 932 S.W.2d 1, 11 (Tenn.Crim.App. 1996), the court held that an instrument or agreement would be considered an investment contract when (1) an offeree furnishes initial value to an offeror, (2) a portion of this initial value is subjected to the risks of the enterprise, (3) the furnishing of the initial value is induced by the offeror's promises or representations which give rise to a reasonable understanding that a valuable benefit of some kind, over and above the initial value, will accrue to the offeree as a result of the operation of the enterprise, and (4) the offeree does not receive the right to exercise practical and actual control over the managerial decisions of the enterprise.

3. Tennessee Code Annotated § 48-2-102(3) defines a "broker-dealer" as any person engaged in the business of effecting transactions in securities for the account of others, or any person engaged in the business of buying or selling securities issued by one (1) or more other persons for such person's own account and as part of a regular business rather than in connection with such person's investment activities.

4. Tennessee Code Annotated § 48-2-102(2) defines an "agent" as any individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities from, in or into this state.

5. Tennessee Code Annotated § 48-2-109(a) provides that it is unlawful for any person to transact business from or in this state as a broker-dealer or agent unless such person is registered as a broker-dealer or agent under this part.

6. Tennessee Code Annotated § 48-2-109(b) provides that it is unlawful for any broker-dealer to employ an agent to transact business as an agent unless the agent is registered under this part.

7. Tennessee Code Annotated § 48-2-121(a) provides that it is unlawful for any person, in connection with the offer, sale or purchase of any security in this state, directly or indirectly, to employ any device, scheme, or artifice to defraud, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

8. Based upon the Findings of Fact, the Respondents have violated and are violating Tennessee Code Annotated § 48-2-104(a) by engaging in the offer and/or sale of an unregistered security.

9. Based upon the Findings of Fact, the Respondents, SCP and EFG, have violated and are violating Tennessee Code Annotated § 48-2-109(a) and (b) by acting as unregistered broker-dealers and employing unregistered agents.

10. Based upon the Findings of Fact, the Respondents, M.Sullivan, L.Sullivan, Thayer, Reynolds, and B.Sullivan, have violated and are violating Tennessee Code Annotated § 48-2-109(b) by acting as unregistered agents.

11. Based upon the Findings of Fact, the Respondents, SCP, EFG, M.Sullivan, and L. Sullivan, have violated and are violating Tennessee Code Annotated § 48-2-121(a) by telling [potential] investors that the investments being offered and/or sold are not securities and the entities and people offering and/or selling the investments do not have to be registered with the Division as broker-dealers, or agents of broker-dealers.

12. Based upon the Findings of Fact, the Respondents, Thayer, Reynolds, and B.Sullivan, have violated and are violating Tennessee Code Annotated § 48-2-121(a) by not disclosing to

[potential] investors that the security being offered and/or sold is not registered with the Division as a security, as well as failing to disclose that the Respondents are not registered with the Division as agents.

13. Based upon the Findings of Fact, the Respondents, ABS, PAA, NVT, Torchia, and M. Sullivan have violated and are violating Tennessee Code Annotated § 48-2-121(a) by either telling [potential] investors through SCP, EFG, B. Sullivan, L. Sullivan, Thayer, and Reynolds that the investments being offered and/or sold are not securities and therefore do not have to be registered with the Division, nor offered and/or sold by registered broker-dealers and registered agents of broker-dealers, or omitting from their statements to [potential] investors the fact that the investments being offered and/or sold are securities and therefore subject to securities related registration requirements.

14. Based upon the Findings of fact, the Respondents have violated and are violating Tennessee Code Annotated § 48-2-121(a) by representing to [potential] Tennessee investors that their investments are protected by the Tennessee Life and Health Insurance Guaranty Fund.

15. Tennessee Code Annotated § 48-2-116 provides that the Commissioner may make, promulgate, amend, and rescind such Orders as are necessary to carry out the provisions of the Tennessee Securities Act of 1980, as amended, and that such Order is in the public interest, necessary for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

16. Tennessee Code Annotated § 48-2-116(e)(2) provides that no Order may be entered without prior notice to affected parties (unless the Commissioner determines that prior notice would not be in the public interest and would be detrimental to the protection of investors), an opportunity for a hearing before the Commissioner, and written Findings of Fact and Conclusions of Law.

17. Based upon the Findings of Fact, it would not be in the public interest and it would be detrimental to the protection of investors if prior notice of this Order were given to affected parties.

NOW, THEREFORE, in consideration of the foregoing, it is **ORDERED** that:

1. The Respondents shall comply with the provisions of the Tennessee Securities Act of 1980, as amended.

2. The Respondents shall cease and desist in the future conduct of offering and/or selling any unregistered security from, in, or into the State of Tennessee until such time as all securities offered and/or sold are effectively registered with the Division.

3. The Respondents, SCP, EFG, M. Sullivan, L. Sullivan, B. Sullivan, Thayer, and Reynolds shall cease and desist in the further conduct as broker-dealers or agents of a broker-dealer from, in, or into the State of Tennessee until such time as they are effectively registered with the Division to engage in such activity.

4. The Respondents, SCP and EFG, shall cease and desist in the future conduct of employing persons whom are not registered with the Division as agents from offering and/or selling securities on behalf of the Respondents to Tennessee residents.

5. The Respondents, ABS, PAA, and NVT, shall cease and desist offering and/or securities in the State of Tennessee through persons acting as unregistered broker-dealers and unregistered agents of broker-dealers.

6. The Respondents shall cease and desist in the future conduct of employing any device, scheme, or artifice to defraud, making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under

which they are made, not misleading, or engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person in the State of Tennessee.

7. All persons in any way assisting, aiding, or helping any of the aforementioned Respondents in any of the aforementioned violations of the Tennessee Securities Act of 1980, as amended, Tennessee Code Annotated §§ 48-2-101, *et seq.*, shall cease and desist from all such activities in violation of the Tennessee Securities Act of 1980, as amended.

This Order is not intended to prohibit any lawful conduct in which the Respondents might be engaged.

Entry of this Order shall not in any way restrict the Tennessee Securities Division or the Commissioner of Commerce and Insurance from taking further action with respect to these or other possible violations by the Respondents of the Act or any of the Rules promulgated thereunder.

This Order shall become a Final Order thirty (30) days from the date of its entry, unless written notification requesting a hearing is made within that thirty (30) day period.

You are advised that you have the right to a hearing as to all matters raised in this Order. If you wish to exercise your right to a hearing, please notify:

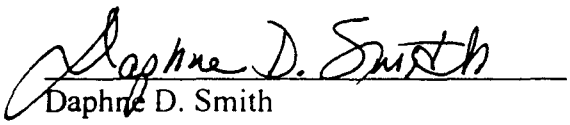
DAPHNE D. SMITH
ASSISTANT COMMISSIONER FOR SECURITIES
STATE OF TENNESSEE, DEPARTMENT OF COMMERCE AND INSURANCE
DAVY CROCKETT TOWER, SUITE 680
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243

Such request must be received within thirty (30) days of the date of entry of this Order.

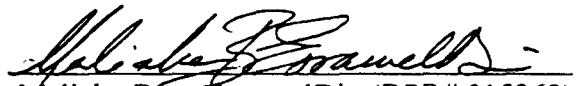
ENTERED this the 24 day of April, 2000.

Anne B. Pope, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



Daphne D. Smith
Assistant Commissioner for Securities
Department of Commerce and Insurance



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