

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Securities Act of Washington by:

Carl M. Ogren
Ogren & Associates, Inc.
Reliance Financial Group, Inc.
Paragon Capital Group, Inc.

Respondents

SDO - 47 - 00

STATEMENT OF CHARGES AND NOTICE OF
INTENTION TO ENTER ORDER TO CEASE AND
DESIST

Case No. 99-02-041

THE STATE OF WASHINGTON TO:

Carl M. Ogren
605 N. Perkins Ave.
Colfax, WA 99111

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that the Respondents have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 to cease and desist from such violations. The Securities Administrator finds as follows:

TENTATIVE FINDINGS OF FACT

I. RESPONDENTS

1. Carl M. Ogren ("Ogren") is an insurance salesman who is licensed to sell life and health insurance in the state of Washington. Ogren conducts business through his company, Ogren & Associates, Inc.

2. Ogren & Associates, Inc. is a Washington corporation with its principal place of business located at 405 North Main Street in Colfax, Washington. Ogren & Associates, Inc. is owned and controlled by Carl Ogren.

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
360-902-8760

1 3. Reliance Financial Group, Inc. (“Reliance”) is a business entity with agents located in the state of
2 Florida. It produces and sells investment products known as “viatical settlements.” Reliance is not licensed as an
3 insurance company or viatical settlement provider in the state of Washington.

4 4. Paragon Capital Group, Inc. (formerly American Benefits Group, Inc.) is a business entity located in
5 the state of Florida. Paragon markets the viatical settlement investments created by Reliance.

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7 **II. RELIANCE PROGRAM**

8 1. The Reliance Financial Group is a viatical settlement company. It creates investment products
9 known as “viatical settlements” by purchasing insurance policies which cover the lives of terminally ill people,
10 dividing them into separate pieces, and reselling the pieces to individual investors. Among the investments
11 offered by Reliance is a product known as the “Reliance Program.”

12 2. Reliance purchases each insurance policy from its owner at a discount to the policy’s face value.
13 The amount of the discount is negotiated between the parties and provides the source of funds used to pay the
14 company, its sales agents, and the individual investors.

15 3. Reliance and its agents perform all services necessary to create the viatical settlement on behalf of
16 investors. First, they locate terminally ill individuals (“viators”) who are covered by policies of life insurance.
17 Reliance then determines whether each viator and insurance policy meet precise medical and legal conditions
18 (“underwriting criteria”) established by the company for participation in a viatical settlement. The full set of
19 these underwriting criteria is not disclosed to investors. Instead, investors must rely upon the company to use its
20 judgment and discretion to create a viatical settlement that is suitable for investment purposes.

21 4. Some of the Reliance underwriting criteria pertain to the financial condition of the insurance
22 company which issued the policy. To be eligible for purchase, the company which issued the policy must have at
23

1 least a 'B' rating by A.M. Best or a similar ratings service. The policy must also be in good standing and must
2 permit change of ownership and beneficiary designation.

3 5. After evaluating the terminally ill person's insurance policy, Reliance employs a medical doctor to
4 diagnose the insured's condition and to estimate his or her life expectancy. The company uses this information to
5 establish the return which will be paid to investors — 30% for the Reliance Program and up to 56% with other
6 investments options.

7 6. While Reliance searches for terminally ill people with suitable insurance policies, Paragon recruits
8 agents to sell the viatical settlements it creates. Representatives from Paragon contact salespeople and arrange for
9 them to begin selling Reliance products. Paragon provides the sales agents with promotional materials,
10 application packages, and information about the Reliance viatical settlements (including the Reliance Program)
11 available for purchase by investors.

12 7. Investors in the Reliance Program supply the funds required to purchase a qualified insurance policy.
13 Their money is deposited with an escrow agent, pooled together, and delivered to the company once a sufficient
14 amount has been raised. Reliance completes the transaction by negotiating a price, purchasing the life insurance
15 policy, and obtaining an irrevocable assignment of interest from its owner. It also arranges with the issuing
16 insurance company for each investor to be recorded as the irrevocable beneficiary of his or her proportional share
17 of the policy. Ownership of the policy may, in some cases, be transferred to a trust created by the company.

18 8. After a policy is acquired, Reliance and its agents administer all aspects of the investment. They
19 establish a reserve account and ensure that policy premiums are paid in a timely manner so that coverage does not
20 lapse. Some programs require investors to provide additional funds in the event that the reserve account becomes
21 depleted. With the Reliance Program, however, the company pays all premiums on behalf of investors regardless
22 of how long the insured remains living. Reliance Program investors simply sign the viatical settlement agreement,
23 deliver their money, and wait passively to receive their share of the insured's death benefits.

1 4. Ogren suggested that viatical settlements were perfect for estate planning purposes. His sales
2 presentation included a chart showing different types of investments arranged according to their respective risk
3 characteristics. Viatical settlements were depicted as among the safest of all possible investments and were
4 grouped with United States treasury bonds and bank certificates of deposit.

5 5. Ogren stressed that viatical settlements provided a “high fixed guaranteed rate of return,” that they
6 were not speculative, and that they were not subject to market risk. Ogren also claimed that, with viatical
7 settlements, there was never a risk to the return of investor principal.

8 6. Ogren guided investors in the selection of their investment. Before meeting with clients, he
9 carefully reviewed his inventory of available viatical settlements and selected those contracts which appeared
10 most likely to provide the highest rate of return. Ogren used a medical encyclopedia and considered the viator’s
11 age, diagnosis, t-cell count, viral load, and other available information in making this determination. During his
12 meetings with clients, Ogren would recommend one or more pre-selected viatical settlements for purchase.
13 Investors often purchased the policies Ogren recommended despite his lack of medical training.

14 7. Ogren told investors that there were only two risks associated with viatical settlements. First, the
15 insurance company which issued the underlying policy could go out of business. However, the probability of this
16 happening was extremely low because of the selection criteria utilized by the viatical settlement company. As
17 noted above, to be included in the Reliance Program, an insurance company must have been rated ‘B’ or better by
18 A.M. Best. In addition to the ratings requirements, Ogren explained that there were various government
19 mechanisms in place to ensure that benefits were paid in the event that an insurance company failed. Thus, failure
20 of the company that issued the policy posed only a very minute risk.

21 8. Ogren indicated that the other risk associated with investing in viatical settlements involved the
22 viator living longer than expected. If a viator lived longer than expected, time-based rates of return would fall.
23 However, as with failure of the issuing insurance company, Ogren assured investors that the chance of this

1 happening was very small. He supplied a chart which indicated that 79% of viators die within six months of their
2 projected life expectancy. When viators who die before their projected life expectancy are taken into account, a
3 total of 89% of all insureds would supposedly die no more than six months after their estimated time. Thus, the
4 odds that an investor would receive a lower than expected return due to viator longevity were only about 1 in 10.

5 9. Ogren failed to disclose material information about viatical settlements, including the Reliance
6 Program, before he sold them to investors. He did not tell investors they risked losing their principal in the event
7 that policy premiums were not paid in a timely manner. He did not disclose that investors might lose their
8 principal if it was determined that the insurance policy was fraudulently obtained by the viator. Ogren did not
9 indicate that the investment would be compromised if the viatical settlement company failed to properly record
10 investor interests with the issuing insurance company. Finally, Ogren did not disclose the method by which the
11 viatical settlement company would track the viator's health nor did he indicate what might happen if the company
12 was unable to determine the viator's location or date of death.

13 10. Ogren also failed to provide investors with important information about Reliance and Paragon
14 Capital. He did not inform investors of the companies' respective operating histories or identify their key
15 personnel. Ogren did not provide any information about their financial condition or their ability to continuing
16 providing essential investment services to investors. Ogren did not explain why these companies were chosen by
17 the Viatical Associates or what its two year investigation of the industry actually consisted of. Finally, Ogren did
18 not provide investors with any factual basis to support his representations concerning the accuracy of the life
19 expectancy projections.

20 11. From 1997 to 1999, Ogren sold more than \$2,000,000 worth of viatical settlement investments. Of
21 this amount, it appears that at least \$50,000 was invested in the Reliance Program.

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IV. REGISTRATION STATUS

1. Reliance Financial Group, Inc. is not currently registered to sell its securities in the state of Washington and has not previously been so registered.

2. Paragon Capital Group, Inc. is not currently registered as a broker-dealer in the state of Washington and has not previously been so registered.

3. Carl M. Ogren is not currently registered as a securities salesperson or broker-dealer in the state of Washington and has not previously been so registered.

4. Ogren & Associates, Inc. is not currently registered as a broker-dealer in the state of Washington and has not previously been so registered.

Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

CONCLUSIONS OF LAW

1. The offer and/or sale of Reliance Program viatical settlements constitutes the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), to wit: an investment contract.

2. The offer and/or sale of said securities is in violation of RCW 21.20.140 because no registration or notification of claim of exemption for such offer and/or sale is on file with the Administrator of Securities, state of Washington.

3. Carl M. Ogren has violated RCW 21.20.040 by offering and/or selling said securities while not registered as a securities salesperson or broker-dealer in the state of Washington.

4. Ogren & Associates, Inc. has violated RCW 21.20.040 by offering and/or selling said securities while not registered as a broker-dealer in the state of Washington.

1 5. Paragon Capital Group, Inc. has violated RCW 21.20.040 by offering and/or selling said securities
2 while not registered as a broker-dealer in the state of Washington.

3 6. Respondents have each violated RCW 21.20.010 because, as described above, they failed to provide
4 investors with information necessary to make their statements, in light of the circumstances under which they
5 were made, not misleading.

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7 **NOTICE OF INTENTION TO ORDER THE RESPONDENT TO CEASE AND DESIST**

8 Based upon the above Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to
9 order that Respondents, their agents, and employees permanently cease and desist from violations of RCW
10 21.20.010 and RCW 21.20.140. In addition, the Securities Administrator intends to order that respondents Carl
11 M. Ogren, Ogren & Associates, Inc., and Paragon Capital Group, Inc. permanently cease and desist from
12 violations of RCW 21.20.040.

13 **AUTHORITY AND PROCEDURE**

14 This STATEMENT OF CHARGES AND NOTICE OF INTENTION TO ENTER ORDER TO CEASE AND
15 DESIST is entered pursuant to the provisions of RCW 21.20.390 and is subject to the provisions of ch. 34.05
16 RCW. Respondents may each make a written request for a hearing as set forth in the NOTICE OF
17 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING which accompanies this order. If a
18 Respondent does not request a hearing, the Securities Administrator intends to adopt the Tentative Findings of
19 Fact and Conclusions of Law set forth above as final as to that respondent. Based upon the Tentative Findings
20 of Fact and Conclusions of Law set forth above, the Securities Administrator intends to order that the
21 Respondents, their agents, and employees permanently cease and desist from violations of RCW 21.20.010, RCW
22 21.20.040, and RCW 21.20.140.

1 DATED this 2nd day of May, 2000.

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4 _____
5 DEBORAH R. BORTNER
6 Securities Administrator

7 Presented by:

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9 _____
10 Steven Raney
11 Securities Examiner

12 Approved by:

13 _____
14 Michael E. Stevenson
15 Chief of Compliance

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