

**UNITED STATES BANKRUPTCY COURT  
FOR THE NOTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In re:</b>  <b>A&amp;O LIFE FUND, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32678</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>A&amp;O RESOURCE MANAGEMENT, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32677</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>A&amp;O BONDED LIFE SETTLEMENT, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32681</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>A&amp;O BONDED LIFE ASSETS, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32679</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>LIFE FUND, 5.1, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32672</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>LIFE FUND, 5.2, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32674</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>HOUSTON TANGLEWOOD PARTNERS, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32676</b>  <b>Hon. A. Benjamin Goldgar</b>

**NOTICE OF MOTION**

To: See attached Service List

PLEASE TAKE NOTICE that on **Wednesday, September 23, 2009 at 9:30 a.m.** or as soon thereafter as counsel may be heard, we will appear before United States Bankruptcy A. Benjamin Goldgar, or any other judge sitting in his stead, in Courtroom 613 of the Dirksen Federal Building, 219 S. Dearborn St., Chicago, Illinois, on the attached **DEBTORS' MOTION PURSUANT TO 11 U.S.C. §363 TO BORROW AGAINST CASH VALUE OF INSURANCE POLICIES TO PAY POLICY PREMIUMS AND OTHER ADMINISTRATIVE EXPENSES OF BANKRUPTCY PROCEEDINGS ON SHORTENED NOTICE**, at which time and place you may appear as you see fit.

**A&O LIFE FUND, et. al.**  
**Debtors and Debtors in Possession**

By: /s/ Miriam R. Stein  
One of Their Proposed Attorneys

Michael L. Gesas (06186924)  
Thomas P. Yardley (06208239)  
Miriam R. Stein (06238163)  
ARNSTEIN & LEHR LLP  
120 S. Riverside Plaza, Suite 1200  
Chicago, IL 60606  
Tel: (312) 876-7100  
Fax: (312) 876-0288

**CERTIFICATE OF SERVICE**

I, Miriam R. Stein, an attorney, certify that I caused a copy of the Notice of Motion and Motion to be served on the parties listed on the attached service list by U.S. Mail with proper postage prepaid and by the Court's ECF System to those entities entitled to electronic service, on September 10, 2009.

By: /s/ Miriam R. Stein  
One of Their Proposed Attorneys

SERVICE LIST

Aguilar, Jorge and Amelia  
JTWROS  
2310 Engeling Road  
Rosenburg, TX

AIG American General  
8430 W. Bryn Mawr Avenue  
3rd Floor  
Chicago, IL 60631

AVIVA  
P.O. Box 14590  
Des Moines, IA 50306

Bush, Jon M.  
8324 NW Lakeview Drive  
Parkville, MO 64152

Cohn, Barry H.  
3010 Powderhorn Point  
Richmond, TX 77802

Curtis, Blaine W. & Claudia B.  
JTIC  
1910 London Plane Road  
Salt Lake City, UT 84124

Dabelic, Ivo  
326 Gleneagles Drive  
Friendswood, TX 77546

Danielowicz, David  
1913B Nantuckett  
Houston, TX 77057

Elizabeth A. Bryant Living Trust  
316 Cedar Valley Road  
Delafield, WI 53018

Foulis, Robert F.  
773 CR439  
Laward, TX 77970

Geiger, Charles C.  
265 Claremont Avenue  
Elmhurst, IL 60126

Genworth Life and Annuity  
Insurance Company  
3100 Albert Lankford Drive  
Lynchburg, VA 24501

Gerdes, Adolph  
8823 Tanager Street  
Houston, TX 77036

Gibson, Evelyn L.  
2309 Bristol  
Bryan, TX 77802

Giger, James J. and Therese M.  
1675 Estate Circle  
Naperville, IL 60565

Harper, Carrie J. & Joseph M.  
JTWRO  
12309 Johnson Road  
Petersburg, VA 23805

ING ReliaStar Life  
8132 Innovation Way  
Chicago, IL 60682

ING Security Life  
8408 Innovation Way  
Chicago, IL 60682

John Hancock Life Insurance  
Company  
197 Clarendon Street  
Billing C-6  
Boston, MA 02116

Lincoln Benefit Life Company  
2940 S. 84th Street  
Lincoln, NE 68506

Lincoln Financial Group  
100 N. Green Street  
Greensboro, NC 27401

Madden, Charles D.  
6210 Campbell Road  
#160  
Dallas, TX 75246

Massachusetts Mutual Life  
Insurance Co.  
P.O. Box 371368  
Pittsburgh, PA 15250

McCoy Family First Ltd.  
Partnership  
1701 Jennifer Circle  
Corsicana, TX 75110

McKellom Revocable Marital  
Trust  
17202 North Bridge Ct.  
Spring, TX 77379

McNally, Georgette H.  
1812 Locklaine  
Pasadena, TX 77502

Metlife  
P.O. Box 990019  
Hartford, CT 06199

Motiff, Jan  
723 Chantilly Rue  
Green Bay, WI 54301

Mozley, Loretta  
405 Windsor Drive  
Friendswood, TX 77546

National Life Insurance Co.  
P.O. Box 21209  
Roanoke, VA 24018

Pacific Life  
1299 Farnam Street  
4th Floor  
Omaha, NE 68103

Pacific Life Insurance Company  
P.O. Box 2030  
Omaha, NE 68103

Parsons, Doug  
15 Crescent Falls Ct.  
Spring, TX 77381

Phoenix Life Insurance  
Company  
P.O. Box 8027  
Boston, MA 02266

Principal Financial Group  
711 High Street  
Des Moines, IA 50392

Prudential Financial  
P.O. Box 41594  
Philadelphia, PA 19176

Prudential Financial Life  
Insurance  
751 Broad Street  
Newark, NJ 07102

Pyron, Dina A.  
2924 Georgetown  
Houston, TX 77005

Self, Mark  
1464 Drake Lane  
Lancaster, PA 17601

Shannon, Edward J., Jr.  
1865 Old Willow Road  
Northfield, IL 60093

Sirk, Fay M.  
9705 Kingussle Lane  
Richmond, TX 23236

Smith, Dorothy A.  
318 N. Lind  
Hillside, IL 60162

Spalding, John E and Laura H.  
910 Travis  
Suite 1700  
Houston, TX 77002

Sun Life Financial  
One Sun Life Executive Park  
SC1242  
Wellesley Hills, MA 02481

Taylor, Tad S.  
2625 N. Hwy 360  
Apt. 621  
Grand Prairie, TX 75050

Transamerica  
P.O. Box 30266  
Los Angeles, CA 90030

West Coast Life Insurance  
Company  
2801 Highway 280 South  
Birmingham, AL 35223

West Coast Life Insurance  
Company  
343 Sansome Street  
San Francisco, CA 94104

WIEC Properties, LLC  
15521 Edgewood Drive  
Baxter, MN 56401

Illinois Department of Revenue  
Bankruptcy Section  
100 W. Randolph – Level 7-425  
Chicago, IL 60606

Internal Revenue Service  
Centralized Insolvency  
Operations  
P.O. Box 21126  
Philadelphia, PA 19114-0326

Secretary of State Securities  
Dept. Chicago Division  
69 W. Washington St, Suite 1220  
Chicago, IL 60602-3048

Secretary of State Securities  
Dept.  
Jefferson Terrace, Suite 300A  
300 W. Jefferson St.  
Springfield, IL 62702-5041

Texas State Securities Board  
Houston Division  
1919 N. Loop West, Suite 300  
Houston, TX 77008-1354

Texas State Securities Board-  
Austin  
208 E. 10<sup>th</sup> Street, 5<sup>th</sup> Fl, Rusk  
Building  
Austin, TX 78701-2407

William T. Neary  
Office of the U.S. Trustee,  
Region 11  
219 S. Dearborn St., Room 873  
Chicago, IL 60604-1702

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In re:</b>  <b>A&amp;O LIFE FUND, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32678</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>A&amp;O RESOURCE MANAGEMENT, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32677</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>A&amp;O BONDED LIFE SETTLEMENT, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32681</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>A&amp;O BONDED LIFE ASSETS, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32679</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>LIFE FUND, 5.1, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32672</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>LIFE FUND, 5.2, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32674</b>  <b>Hon. A. Benjamin Goldgar</b>
<b>In re:</b>  <b>HOUSTON TANGLEWOOD PARTNERS, LLC</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 09-32676</b>  <b>Hon. A. Benjamin Goldgar</b>

**DEBTORS' MOTION PURSUANT TO 11 U.S.C. §363 TO BORROW AGAINST CASH  
VALUE OF INSURANCE POLICIES TO PAY POLICY PREMIUMS AND OTHER  
ADMINISTRATIVE EXPENSES OF BANKRUPTCY PROCEEDINGS ON  
SHORTENED NOTICE**

NOW COMES the above captioned debtors and debtors in possession (collectively, the "Debtors"), by and through their counsel, Arnstein & Lehr LLP, with their Motion pursuant to 11 U.S.C. §363 to Borrow Against the Cash Values of the Debtors' respective Insurance Policies to Pay Policy Premiums and Other Administrative Expenses of the Debtors' Bankruptcy Proceedings On Shortened Notice, and in support thereof, state as follows:

**Introduction**

The Debtors are seven (7) affiliated limited liability companies. The respective managing members (also LLC's) of the Debtors share a common managing member, A&O Life Fund LP. Each of the Debtors holds life insurance policies for the benefit of their members. For reasons discussed below, the Debtors lack reserve funds to pay the premiums on the respective life insurance policies, which with the exception of bonds securing payment of the policies,<sup>1</sup> are the only assets in the Debtors' estates. However, some of the life insurance policies have sufficient cash values to support the payment of the policy premiums and the administrative costs of the Debtors' bankruptcy proceedings until such time as the policies are liquidated or payment is made pursuant to the terms of one or more of the policies. This motion seeks authority to borrow against the cash values of the insurance policies in order to pay the premiums and the administrative expenses to preserve and protect the assets for the benefit of the

---

<sup>1</sup> It is not clear at this time whether the bonds have value to the estates.

creditors. Without the use of the cash reserves, the policies will default and, therefore, lapse, to the detriment of the creditors.

### **Background Information**

1. On September 2, 2009 ("Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors have filed a motion to consolidate their cases for procedural purposes only. The motion to consolidate is still pending.

2. Since the Petition Date, the Debtors have operated their businesses and managed their assets as debtors in possession. No trustee, committee or examiner has been appointed in any of the Debtors' cases.

3. The Debtors are each limited liability companies. Life Fund 5.1 LLC, A&O Bonded Life Assets, LLC, Life Fund 5.2 LLC, A&O Bonded Life Settlements LLC and A&O Life Fund LLC are Illinois limited liability companies. The remaining two companies – Houston Tanglewood Partners LLC and A&O Resource Management LLC – are Texas limited liability companies. All of the Debtors' business office is located at 203 N. LaSalle, Suite 2100, Chicago, Illinois. Life Funds LP and its managing member Physicians Trust, LLC are directly or indirectly the managing member and/or controlling entity of each of the seven Debtors.<sup>2</sup>

---

<sup>2</sup> All seven of the Debtors are managed by Shepherd Management, LLC pursuant to the terms of a Management Agreement dated January 30, 2008. Under the terms of the Management Agreement, Shepherd Management has agreed to maintain and wind down each of the seven LLC's upon payment of the final insurance policy. Shepherd Management is also responsible for among other things: (1) maintaining the corporate status of the seven LLC's; (2) paying premiums on the various insurance policies; (3) obtaining death certificates upon the death of one of the insured; (4) making claims upon bonds securing the policies; and (5) when applicable, making claims on the policies upon the death of the insured. Shepherd Management is no longer in contact with nor can it obtain any additional authority from either Life Funds LP or Physicians Trust LLC, the managing members of the seven LLC's. Shepherd Management obtained authority to file the instant Petitions and Schedules from an Order entered by Cook County Circuit Court Judge Stuart Palmer. A Copy of that Order is attached as Exhibit A).

4. The Debtors operate in the life settlement industry. The Debtors operational funds came from investor contributions. The Debtors used the investment funds to purchase life insurance policies and create a reserve account to satisfy policy premiums for the duration of the policy (i.e. until the insured's death). The insurance proceeds collected upon maturity of any policies were to be distributed to the investors. The Debtors' operations, including the payment of policy premiums and distribution of proceeds, were managed by Shepherd Capital Management LLC.

5. The Debtors' life insurance policies have a total face value of over \$178,000,000 and a total current cash value of more than \$3,000,000.

6. An escrow account was established pre-petition at Prestige Title, Inc., a corporation organized and existing under the laws of the State of Mississippi, to hold all of the reserve funds of the Debtors which were used to pay insurance premiums.

7. On February 13, 2009, Wachovia Bank N.A. filed a Complaint for Interpleader, Declaratory Judgment and Other Related Relief against Prestige Title, Inc. and other related entities to Prestige Title in the Chancery Court of Harrison County, Mississippi, Second Judicial District. In its Complaint, Waucovia Bank alleged that Prestige Title improperly withdrew funds from various escrow accounts held by Prestige Title and used funds for purposes other than the intended purpose of the escrow account, without notice to or consent by the account holder.

8. Upon information and belief, most (if not all) of the Debtors' reserve funds held in escrow at Prestige Title were transferred from the accounts by representatives of Prestige Title. Due to the Waucovia litigation, all of the remaining escrow and corporate funds held by Prestige Title have been frozen since approximately February 2009. To

date, the Debtors have been unable to access any of those funds to pay the required policy premiums on the various insurance policies.

9. Many of the insurance companies insuring the policies have commenced proceedings to terminate the policies due to the non-payment of policy premiums.

10. Due to the issues with the Debtors' escrow reserve account, the Debtors do not have sufficient cash to sustain its administrative expenses including, without limitation, the payment of the insurance premiums. In the event that the premiums are not paid, the policies will have minimal, if any, value to the estates.

11. The Debtors have delineated on the attached Group Exhibit B a list of all of the Debtors' respective life insurance policies along with the premium amounts due for each policy and the estimated cash and face values of each policy. It is in the best interest of the Debtors' creditors and their estates to borrow against the cash value of the premiums set forth on Exhibit B in order to pay the insurance premiums and satisfy other administrative expenses of the estate. The premium payments must be paid immediately to preserve the values of the policies. The payment of the other administrative expenses shall be made upon further order of the Court.

**RELIEF REQUESTED**

12. By this Motion, the Debtors are requesting authority pursuant to Section 363 of the Bankruptcy Code to borrow against the cash values of the insurance policies per the limits set forth on Exhibit B, and to pay the outstanding policy premiums due as shown on Exhibit B.

13. The Debtors will file a separate motion to seek authority to use the cash funds to pay other administrative expenses of the estates.

14. The Debtors are further requesting that the relief requested in this Motion be provided on shortened notice.

### **DISCUSSION**

15. Section 363(b)(1) of the Bankruptcy Code provides that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. §363(b)(1). The Debtors are seeking to "use" and/or borrow against the property of their respective estates, i.e. the cash values of the respective policies.

16. The courts have uniformly held that approval of a proposed sale of property pursuant to Section 363(b) of the Bankruptcy Code is appropriate if a court finds that the transaction represents a reasonable business judgment on the part of the trustee. See *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983); *Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 391 (6th Cir. 1986); *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991) (holding that a court must be satisfied that there is a "sound business reason" justifying the pre-confirmation sale of assets); *In re Phoenix Steel Corp.*, 82 B.R. 334, 335 (Bankr. D. Del. 1987) (stating that the elements necessary for approval of a Section 363 sale in a chapter 11 case are "that the proposed sale is fair and equitable, that there is a good business reason for completing the sale and the transaction is in good faith.").

17. In making its decision, the Bankruptcy Court "should consider all salient factors pertaining to the proceedings and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike." *Lionel*, 722 F.2d at 1071; *McClung*, 789 F.2d at 389; *Delaware & Hudson Ry.*, 124 B.R. at 175-76. Relevant

factors the court might consider are: the amount of time elapsed since the filing, the current status and future of the case; the effect of the disposition; and whether the asset is increasing or decreasing in value. *Id.*

18. The Debtors maintain that sound business judgment dictates using the cash value of the insurance policies to satisfy the delinquent and ongoing insurance premiums and any other administrative expenses of the Estates, including the payment of professional fees pursuant to further Order of the Court. If the premiums are not satisfied, the policies will be in default and the insurance companies will seek modification of the stay to terminate the policies. In such event, the creditors will be deprived of any meaningful recovery from the insurance policies.

19. The Debtors lack any other resource to pay the premiums or satisfy ongoing administrative expenses of the estates.

20. Exhibit B to this Motion sets out the respective policies, their respective cash values and the premium payments that are due for each policy. With respect to the insurance policies that have cash surrender values, the Debtors are seeking authority to execute the appropriate paperwork to submit to the respective insurance companies to borrow the available cash in an amount up to the cash surrender value.

21. The funds will be used to pay the respective premiums and to satisfy other administrative expenses of the Debtors pursuant to further Order of the Court.

**Notice**

22. The Debtor requests that the relief requested herein be provided on shortened notice. Fourteen (14) days notice of this Motion has been provided to (i) an aggregate list of the thirty largest creditors of the Debtors; (ii) the insurance companies

insuring all of the policies; (iii) the taxing authorities; (iv) the Securities and Exchange Commission; and (v) to the United States Trustee. The Debtor respectfully requests a finding that notice as provided is sufficient.

WHEREFORE, the Debtors respectfully request the following relief:

A. That this Court enter an Order authorizing the Debtors to execute the appropriate documents to borrow against and/or liquidate the cash surrender value available under their respective life insurance policies pursuant to the limits set forth in Exhibit B of this Motion and to use the cash values to satisfy the outstanding and ongoing insurance premiums owed by the Debtors

B. That this Court further authorize the Debtors to use the cash values to pay administrative expenses of the Debtors including without limitation professional fees upon further Order of the Court;

C. That this Court grant the relief requested herein on shortened notice; and

D. That this Court grant the Debtor such other and further relief as is appropriate under the circumstances.

Dated: September 10, 2009

Respectfully Submitted,  
**A&O LIFE FUND, LLC, et. al.**  
**Debtors and Debtors in Possession**

By: /s/ Miriam R. Stein  
One of Their Proposed Attorneys

Michael L. Gesas  
Thomas P. Yardley  
Miriam R. Stein  
ARNSTEIN & LEHR LLP  
120 S. Riverside Plaza, Suite 1200  
Chicago, IL 60606  
Tel: (312)876-7100  
Fax: (312)876-0288