

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

LAWYERS TITLE INSURANCE CORP.

V.

CIVIL ACTION NO. 1:09-170-JMR

PRESTIGE TITLE, INC.,ADVANCED TITLE
& ESCROW, LLC, TITLE 1, INC., PRESTIGE
TITLE OF ALABAMA, LLC, STEPHEN R. COLSON,
TED A. MARTIN AND JOHN DOES # 1-10

URGENT AND NECESSITOUS MOTION FOR PARTIAL RELEASE OF FUNDS

COME NOW the Movants, A&O Bonded Life Assets Management, LLC, et al. (hereafter “Movants”)¹ pursuant to Fed. R. Civ. P. 24(c) and Uniform Local Rule 7.2(H), and move this Court for an order releasing from sequestration a portion of the funds due and owing to Movants from Defendants herein, in order to fulfill the purpose of having deposited escrow funds with Defendants. Specifically, Movants are in dire need of a portion of their own money (currently sequestered by the Court) to pay premiums on various insurance policies which have either already lapsed and are into their “grace period” or which are in imminent danger of lapsing.

Movants will be irreparably harmed if this Motion is not granted, in that the affected policies are life insurance policies which, once finally lapsed, cannot be reinstated, and the beneficiaries will have entirely lost the face amount of the policies despite having fully and faithfully paid all premiums due from the policies’ inception dates until February of 2009.

¹ The Movants herein are: A&O Bonded Life Assets Management, LLC; A&O Bonded Life Assets, LLC; A&O Bonded Life Settlements Management, LLC; A&O Bonded Life Settlements, LLC; A&O Capital Management, LLC ; A&O Capital Management, LLC; A&O Life Fund Management, LLC; A&O Life Fund, LLC; A&O Life Funds Management, LLC; A&O Life Funds, LLC; A&O Resource Management, Ltd.; Houston Tanglewood Partners, LLC; Life Fund 5.1 Management, LLC; Life Fund 5.1, LLC; Life Fund 5.2 Management, LLC; and Life Fund 5.2, LLC, all of which have a direct, substantial and legally cognizable interests in the subject matter of the instant suit.

Currently, Movants are the beneficial owners of fifty-seven (57) active policies with a total payout value of One Hundred Seventy-nine Million Twenty-Five Thousand Dollars (\$179,025,000.00). See Exhibit D. Of these fifty-seven (57) policies, at least **ten (10) policies** with a total payout value of Twenty-nine Million Dollars (\$29,000,000.00) **are currently in their “grace periods” or are in imminent danger of lapsing** unless the respective premium payments are made immediately. See Exhibit E ²; see also Affidavit of Russell Mackert, Exhibit F.

In further support of Movants’ motion for partial release of funds, they would show the Court the following, to wit:

1.

Movants are the beneficial owners of certain life insurance policies (the “Policies”) insuring the lives of various individuals. As the Policies mature, Movants distribute the funds realized from the relevant policies to their individual investors. However, for the Policies to remain in force until maturity, periodic premiums must be paid on the Policies. In order to ensure proper and timely payment of Policy premiums for the benefit of their investors, Movants entered into an Escrow Management Services Agreement (the “Agreement”) with Prestige Title, Inc. on February 15, 2008. A true and correct copy of the Agreement is attached hereto as Exhibit A.

2.

Under the terms of the Agreement, Prestige Title acted as escrow agent for the Movants and accepted deposits of funds from Movants, from which funds Prestige Title agreed to pay premiums on the Policies as they came due, and to discharge other duties in connection with the Policies for

² Several of the policies have technically lapsed, but are currently in a “grace period” during which they may be re-activated by payment of the premiums due.

a period of six (6) years. In exchange, Prestige Title was paid a flat fee One Hundred Fifty Thousand Dollars (\$150,000.00), and was required to increase its “errors and omissions” insurance coverage and its “directors and officers” insurance coverage to Ten Million Dollars (\$10,000,000.00). See Exhibit A.

3.

In accordance with the Agreement (and as alleged in paragraph thirty (30) of the Complaint in this case), in February of 2008, Movants did, in fact, deposit funds with Prestige Title for the purpose of paying premiums on the Policies as they came due. Specifically, on February 29, 2008, Movants deposited Four Million Six Hundred Thousand Dollars (**\$4,600,000.00**) with Prestige Title as escrow agent for Movants.³ True and correct copies of the wire transfer orders establishing the deposit of said monies are attached hereto as Exhibit B.

4.

Pursuant to the Agreement, these funds were to be deposited by Prestige Title in separate, federally insured interest-bearing accounts for the purpose of paying periodic premiums on the Policies as they came due. See Agreement, page 1. Receipt of said funds by Prestige Title as escrow agent was verified by an independent accounting firm as of March 31, 2008. A true and correct copy of the audit result is attached hereto as Exhibit C.

5.

During calendar year 2008, Movants caused periodic audits to be conducted by an independent accounting firm to determine that policies remained in full force and effect, that they

³ The Complaint incorrectly alleges that only Three Million Six Hundred Thousand Dollars (\$3,600,000.00) was deposited with Prestige Title. Compare Complaint paragraph 30 with Exhibit B attached hereto.

had not lapsed, and that required premiums were being paid as agreed on all policies audited. See Exhibit C. Additionally, Prestige Title periodically provided ledger sheets detailing the transactions they purportedly took on Movants' behalf in furtherance of the Agreement. See Exhibit D-1, purporting to set forth policy premiums paid on Movants' behalf from April 2008 through and including February of 2009.

6.

Thus, from April 2008 through February 2009, it appeared that Prestige Title was performing its duties under the Agreement, and that premiums on the Policies were paid as they came due. However, in February 2009, Movants were alerted to potential irregularities in Prestige Title's handling of the funds deposited with Prestige Title under the Agreement, and Movants subsequently made further inquiries to assure the Agreement was being properly performed, that all Policies remained in force, and that all Policy premiums were being paid when due. In the course of their investigation, Movants discovered that the instant suit had been filed against Prestige Title and others, and that the funds it had deposited with Prestige Title had been sequestered by this Court. See Affidavit of Russell Mackert, Exhibit F.

7.

Further, and of critical importance, Movants discovered that since funds were sequestered in this case, premiums for several of its Policies had not been paid when due, and said Policies have now entered their "grace periods" or are in immediate danger of lapsing. In particular, at least ten (10) policies with a total payout value of **Twenty-nine Million Dollars (\$29,000,000.00)** are currently in imminent danger of lapsing unless the respective premium payments are timely made.

See Exhibit E; ⁴ see also Affidavit of Russell Mackert, Exhibit F.

8.

As an immediate emergency measure, some of the former principals associated with Movants arranged to lend the Movants their own personal funds to pay premiums on policies which were in most immediate danger and about to be entirely lost. See Affidavit of Russell Mackert, Exhibit F. However, premiums continue to come due on other policies, and due to the large number of premium payments involved, these former principals cannot afford to continue paying premiums on policies due to lapse. Accordingly, unless the Court grants Movants' motion and releases to the Movants a portion of the funds they deposited with Prestige Title for payment of premiums, these policies will lapse, and hundreds of individual investors will lose millions of dollars.

9.

The ten (10) Policies that are currently in the most imminent danger of lapsing require immediate payment of premiums totaling Two Hundred Seven Thousand Five Hundred Ninety-two and 45/100 Dollars (\$207,592.45). Further, other policy premiums will continue to come due throughout calendar year 2009, with monthly average premium payments of One Hundred Twenty Thousand Dollars (\$120,000.00). See Affidavit of Russell Mackert, Exhibit F. Movants submit that ninety (90) days' worth of premium payments are required as an emergency stop-gap measure to keep all policies in force and provide the Movants sufficient time to make alternative arrangements for further premium payments in the event they are not able to recover all remaining funds deposited with Prestige Title. Accordingly, Movants seek an order of this Court releasing a total of **Three**

⁴ Several of the policies have technically lapsed, but are currently in a "grace period" during which they may be re-activated by payment of the premiums due.

Hundred Sixty Thousand and No/100 Dollars (\$360,000.00) of the funds Movants deposited with Prestige Title for the purpose of paying necessary policy premiums as they come due during the next ninety (90) days.

WHEREFORE, Movants, A&O Bonded Life Assets Management, LLC, A&O Bonded Life Assets, LLC, A&O Bonded Life Settlements Management, LLC, A&O Bonded Life Settlements, LLC, A&O Capital Management, LLC, A&O Capital Management, LLC , A&O Life Fund Management, LLC, A&O Life Fund, LLC, A&O Life Funds Management, LLC, A&O Life Funds, LLC, A&O Resource Management, Ltd., Houston Tanglewood Partners, LLC, Life Fund 5.1 Management, LLC, Life Fund 5.1, LLC, Life Fund 5.2 Management, LLC and Life Fund 5.2, LLC request an order of this Court, pursuant to Local Rule 7.2(H), directing the immediate release to Movants of **Three Hundred Sixty Thousand and No/100 Dollars (\$360,000.00)** of the funds Movants deposited with Prestige Title for the purpose of paying necessary policy premiums as they come due during the next ninety (90) days. Movants further request such other relief, either general or special, to which they may be entitled in law or equity.

Respectfully submitted:

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A&O Life Funds Management, LLC
A&O Life Funds, LLC
A&O Resource Management, Ltd.
Houston Tanglewood Partners, LLC
Life Fund 5.1 Management, LLC
Life Fund 5.1, LLC
Life Fund 5.2 Management, LLC
Life Fund 5.2, LLC

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 5th day of May, 2009 served a copy of the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to counsel for all parties.

/s/ John M. Herke _____

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