

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

In re:)	Chapter 11
)	
LIFE FUND 5.1, LLC, et. al.,)	
)	
Debtors.)	Case No. 09-32672
)	(Jointly Administered)
<hr style="width: 40%; margin-left: 0;"/>		
PATRICK COLLINS, solely as TRUSTEE)	
of LIFE FUND 5.1, LLC, et. al.,)	
)	Hon. A. Benjamin Goldgar
Plaintiff,)	
v.)	Adversary No.:
)	
BRENT ONCALE; RUSSELL MACKERT;)	
ADLEY ABDULWAHAB, a/k/a ADLEY)	
WAHAB; CHRISTIAN ALLMENDINGER;)	
A&O LIFE FUNDS, LP; A&O LIFE)	
FUNDS MANAGEMENT, LLC; and)	
SHEPHERD CAPITAL MANAGEMENT,)	
LLC,)	
)	
Defendants.)	

COMPLAINT

Patrick M. Collins, not individually, but solely in his capacity as chapter 11 Trustee (the “Trustee”) of the bankruptcy estates of Life Fund 5.1, LLC (Case No. 09-32672), Life Fund 5.2, LLC (Case No. 09-32674), A&O Life Fund, LLC (Case No. 09-32678), Houston Tanglewood Partners, LLC (Case No. 09-32676), A&O Resource Management, Ltd. (Case No. 09-32677), A&O Bonded Life Assets, LLC (Case No. 09-32679), and A&O Bonded Life Settlement, LLC (Case No. 09-32681) (collectively, the “Debtors”), by and through his undersigned counsel, brings this adversary complaint seeking to avoid and recover fraudulent conveyances from the Debtors to the Defendants and others pursuant to sections 548 and 550 of the Bankruptcy Code and the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.*, and/or the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.* In addition, the

Complaint seeks recovery from various individuals and entities that were involved in or facilitated the looting of and misapplication of A&O accounts and investor funds in or about late 2007 and 2008, in breach of their fiduciary and contractual duties and other applicable law. In support this adversary complaint, the Trustee states as follows:

SUMMARY OF CLAIMS

1. In late 2007, the Debtors were purportedly sold to one or more Nevis-based entities in exchange for \$3 million, which was to be paid to then-owners Brent Oncale (“Oncale”), Adley Abdulwahab, also known as Adley Wahab (“Wahab”), and Christian Allmendinger (“Allmendinger”). Upon information and belief, the purported sale was engineered by Wahab, Oncale, Russell Mackert (“Mackert”) an attorney for the Debtors and perhaps others to create the illusion that these principals had relinquished their financial stake in and control of the Debtors. At the time, regulatory investigations were proceeding in multiple states and, upon information and belief, the principals knew that there were significant issues with the “investments” that had been marked and sold to investors.

2. The sale was a sham and, in reality, at least Oncale, Wahab and Mackert maintained and continued to exercise authority and control over the financial accounts of the Debtors and investor funds, as well as the Debtors generally. In particular, as detailed below, at least Oncale, Wahab and Mackert engaged in a series of circular and fraudulent transfers of A&O investor funds through which Oncale, Wahab, and Allmendinger effectively received millions of dollars from the Debtors to “sell” the Debtors.

3. This purported sale was only one part of a larger series of insider transactions through which the Defendants caused over \$37 million dollars to be transferred from accounts of the Debtors into the accounts of A&O Life Funds, LP, a non-debtor affiliate of the Debtors. Millions of dollars of investor funds in A&O Life Funds, LP were then transferred directly to

A&O principals for their own personal use. In addition, over \$12 million of these funds were transferred to Mackert's lawyer trust fund account, and distributed for the benefit of the A&O principals and Mackert, including but not limited to over \$5 million each in transfers to and for the benefit of Oncale and Wahab. Through this adversary complaint, the Trustee seeks to avoid and recover these fraudulent transfers, and seeks further relief from A&O Life Funds, LP and the other Defendants.

PARTIES

4. Plaintiff Patrick Collins is the duly appointed Chapter 11 Trustee of the Debtors A&O Life Fund, LLC; A&O Bonded Life Settlements, LLC; A&O Bonded Life Assets, LLC; Life Fund 5.1, LLC; Life Fund 5.2, LLC; Houston Tanglewood Partners, LLC; and A&O Resource Management, Ltd.

5. Defendant A&O Life Funds, LP is a limited partnership. A&O Life Funds, LP has been held out as managing member and/or controlling entity of all the Debtors. *See Shepherd Capital Management, LLC v. A&O Life Funds, LP, et al.*, 09 CH 22301 (Circuit Ct. Cook Cty. filed July 8, 2009). Upon information and belief, in or about December 2006, A&O Life Funds, LP was created to serve as an umbrella entity for the Debtors.

6. Defendant A&O Life Funds Management, LLC is a Delaware limited liability company. A&O Life Funds Management, LLC was the general partner of A&O Life Funds, LP at all relevant times.

7. Collectively, the Debtors, A&O Life Funds, LP, and A&O Life Funds Management, LLC are referred to herein as the "A&O Entities."

8. Upon information and belief, Defendant Wahab was an owner of the A&O Entities.

9. Upon information and belief, Defendant Oncale was an owner of the A&O Entities.

10. Upon information and belief, Defendant Allmendinger was an owner of the A&O Entities. Upon information and belief, however, Allmendinger was not involved in the control of the A&O Entities after approximately August 31, 2007.

11. Collectively, Wahab, Oncale, and Allmendinger are referred to herein as the “A&O Principals.”

12. At all relevant times after December 2006 and before August 31, 2007, the A&O Principals jointly owned and controlled all of the A&O Entities.

13. Defendant Mackert is an attorney who, at relevant times, represented the A&O Entities. Upon information and belief, Mackert also owns and controls Shepherd Capital. Upon information and belief, at all relevant times Mackert had a close personal relationship with Wahab.

14. Defendant Shepherd Capital Management LLC (“Shepherd Capital”) is a Texas limited liability company. Upon information and belief, Shepherd Capital served as a “manager” of the Debtors for a period beginning in early 2008 and continuing up through the time of the filing of these bankruptcy cases on September 2, 2009 (the “Filing Date”).

15. Upon information and belief, in his role as an attorney for the A&O Entities and, later, through his control of Shepherd Capital Management, Mackert participated in, facilitated and assisted the fraudulent transfers and activities of Wahab, Oncale, and others, as set forth herein. Mackert’s activities included the use of his attorney trust fund account in an attempt to facilitate and conceal certain transfers of A&O investor funds for the personal use of A&O Principals, as well as his own use.

JURISDICTION

16. This Court exercises jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of these bankruptcy cases and this motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

17. The statutory bases for the relief requested herein are sections 105(a), 544, 548, 550 and 1106(a)(2) of the Bankruptcy Code.

18. On the Filing Date, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

19. On September 16, 2009, the Court entered an Order Directing Joint Administration of Related Chapter 11 Cases, which directed joint administration of the Debtors' cases under Case No. 09-32672.

20. On September 21, 2009, the Court approved the Office of the United States Trustee appointment of the Trustee as chapter 11 Trustee of the Debtors' estates.

GENERAL ALLEGATIONS

The A&O Business

21. Oncale and Allmendinger founded the original A&O business and at all relevant times prior to August 31, 2007, held themselves out to be business managers, owners and principals of the A&O Entities.

22. Upon information and belief, Wahab became and held himself out as an owner and principal of the A&O Entities beginning in approximately December 2006 and prior to that time was an integral part of the marketing and sale of investments in the A&O Entities, through his role as a sales agent and sales manager.

23. The Debtors operated in the “life settlement industry,” under which existing life insurance policies are sold on a secondary market to investors. In a typical life settlement, a life insurance policy is purchased from an insured or an intermediary for a cash payment that is a discount to the face value of the policy. The purchase price is based on a variety of factors, including the estimated life expectancy of the insured.

24. Beginning around approximately late 2004 and continuing through around early 2008, the A&O Principals solicited and received tens of millions of dollars from hundreds of investors who were told by A&O Principals and others that they were investing in life insurance policies owned by one or more of the A&O Entities. In total, over 700 investors transferred approximately \$100 million to the A&O Entities.

25. The investment vehicles offered by the A&O Entities evolved over time, but consisted generally of an investment with a specified rate of return that was purportedly secured by an interest in a specific life insurance policy or a pool of life insurance policies. Typically, the security of the investment was allegedly supported further by a “bond” purportedly issued by a foreign-based entity, Provident Capital Indemnity (“Provident Capital”). The amount of investments varied greatly, from approximately \$10,000 to several hundred thousand dollars or more.

26. The investments were solicited primarily by the A&O Principals and various agents and brokers—some of whom worked closely with the A&O Principals to facilitate the investments into the A&O Entities.

27. Upon information and belief, the A&O Principals each held senior management positions in the A&O Entities that included overseeing the day-to-day operations of the A&O

Entities, marketing the A&O Entities' services, recruiting and training brokers and financial advisors to sell the Policies, and overseeing all aspects of the A&O Entities' operations.

28. To induce investors to purchase an interest in the Policies, the A&O Principals made numerous representations, including, upon information and belief, the following:

- (a) the A&O Entities maintained sufficient cash reserves to pay the premiums necessary to keep the Policies in force;
- (b) the A&O Entities paid necessary premiums up front;
- (c) the Policies would yield annual returns of up to 15%; and
- (d) the life settlements were "bonded," meaning if the individuals insured under the Policies lived beyond their life expectancies, a third-party bonding company, Provident Capital, would assume ownership of the Policies and pay the full-face amount of the Policies to the investors.

29. In addition, as early as 2006, Mackert lauded the A&O investments in communications with investors and/or their agents and brokers. For example, in a letter dated March 27, 2006, Mackert represented that he had "found that the product being offered by A&O is sound and the represented returns on the investment are real" and that "A&O has ensured that all the requirements necessary to effect the seamless transfer of the life policies to the investor are in place." Upon information and belief, A&O Principals used Mackert's letter to solicit investments.

30. By way of example only, and upon information and belief, the A&O Principals and others working with them made representations to investors that were misleading, false, and/or inaccurate, including:

- (a) representations relating to the nature of the underlying investments offered by the Debtors (e.g., "guaranteed" returns);
- (b) representations regarding the transfers of the policies in the records of the insurance carriers;

- (c) representations regarding the role and function of purported escrow agents;
- (d) representations regarding the nature of the reinsurance and bonding; and
- (e) representations regarding the type of life insurance policies that were owned (e.g., single life versus dual life policies).

31. In addition, at all relevant times prior to August 31, 2007, upon information and belief, the A&O Entities operated such that:

- (a) A&O Principals served as the shareholders, officers, directors and managers of the A&O Entities;
- (b) the funds of the A&O Entities were commingled;
- (c) the A&O Entities operated out of the same office location; and
- (d) the A&O Entities failed to observe corporate formalities.

The Transfers of Investor Funds to A&O Life Funds, LP

32. Upon information and belief, in late 2006, Allmendinger and Oncale decided to enter into a partnership with Wahab, whereby each of the three individuals would have a one-third interest in the A&O Entities.

33. On December 2, 2006, at approximately the same time that the A&O Principals created A&O Life Funds, LP, a Wells Fargo bank account identified as account number XXX-XXX2369 was opened in the name of A&O Life Funds, LP (the "LP Account"). At the time the account was opened, the authorized signatories to this account were the A&O Principals.

34. The LP Account was initially funded on January 10, 2007 with a transfer of \$139,308 from the Wells Fargo bank account of A&O Life Funds Management, LLC, account number XXX-XXXX2385.

35. Upon information and belief, at relevant times thereafter, the LP Account was used as a "slush fund" by the A&O Principals, where they pooled funds from the various Debtors and underlying investors and paid numerous business expenses, commissions and payroll

expenditures. The A&O Principals also directed disbursements of millions of dollars from the LP Account for their own personal benefit.

36. Prior to the Filing Date, the Defendants caused the Debtors to make in excess of \$37 million in transfers to the LP Account (collectively, the "LP Transfers"). In addition, upon information and belief, over \$2 million in the Debtors' investors' funds were deposited directly into the LP Account at the direction of certain Defendants.

37. Upon information and belief, the LP Transfers were made primarily to or for the benefit of the Defendants, and included the following transactions:

- (a) from May 1, 2007 through October 15, 2007, approximately \$2 million was transferred from A&O Bonded Life Assets' Wells Fargo Account # 4139 into the LP Account;
- (b) from May 14, 2007 through October 24, 2007, approximately \$5.4 million was transferred from A&O Bonded Life Settlements' Wells Fargo Account # 4113 into the LP Account;
- (c) from January 24, 2007 through November 21, 2007, approximately \$14.6 million was transferred from A&O Life Fund, LLC's Wells Fargo Account # 7329 into the LP Account;
- (d) from September 17, 2007 through December 10, 2007, approximately \$9.2 million was transferred from Life Fund 5.1, LLC's Wells Fargo Account # 7073 into the LP Account;
- (e) from October 31, 2007 through December 28, 2007, approximately \$5.9 million was transferred from Life Fund 5.2, LLC's Wells Fargo Account # 7107 into the LP Account; and
- (f) on December 26, 2007, approximately \$460,000 was transferred from an A&O Resource Management Encore Account #1004 into the LP Account.

38. Upon information and belief, the LP Transfers were conducted without formal observance of corporate formalities.

39. Upon information and belief, the LP Transfers were made for the benefit of the A&O Principals and A&O Life Funds, LP with the actual intent to defraud the Debtors.

40. The LP Transfers were made for less than reasonably equivalent value.

41. At the time of the LP Transfers, the Debtors either were insolvent or became insolvent as a result of the LP Transfers.

Pre-Sale Transfers

42. On August 31, 2007, the A&O Principals purportedly sold the A&O Entities, as discussed below. In the two months prior to this purported sale, however, the A&O Principals transferred at least \$1.5 million to themselves from the LP Account as follows (the "LP-Principal Transfers"):

- (a) on July 2, 2007, Oncale and Allmendinger each deposited, in their personal accounts, \$250,000 in checks drawn from the LP Account;
- (b) on July 5, 2007, Wahab deposited a \$250,000 check drawn from the LP Account;
- (c) on August 1, 2007, the A&O Principals each received \$150,000 via a \$450,000 cashiers checks drawn from the LP Account; and
- (d) on August 14, 2007, the A&O Principals each received \$100,000 via a \$300,000 check withdrawn from the LP Account.

43. Upon information and belief, the LP-Principal Transfers were conducted for the benefit of the A&O Principals with the actual intent to defraud the Debtors.

44. The LP-Principal Transfers were made for less than reasonably equivalent value.

45. Upon information and belief, the Debtors either were insolvent or became insolvent as a result of the LP-Principal Transfers.

46. In addition to the foregoing transfers, the Trustee is informed and believes that prior to the time of these bankruptcy filings, the A&O Principals transferred millions of dollars of investor funds to their own personal accounts or accounts over which they had direct or individual control, including from accounts in the name of the Debtors, including, but not limited

to, accounts held in the name of A&O Resource Management and Houston Tanglewood Partners (the “Direct Transfers”).

47. Upon information and belief, the Direct Transfers were made for the benefit of the A&O Principals with the actual intent to defraud the entities and investors to which the Debtors are indebted.

48. The Direct Transfers were made for less than reasonably equivalent value.

49. Upon information and belief, the Debtors either were insolvent or became insolvent as a result of the Direct Transfers.

The Purported Sale of the A&O Entities

50. On August 31, 2007, the Debtors were purportedly purchased for \$3 million by Nevis-based entities named “Physicians Trust, LLC” and “Blue Dymond Capital Group, LLC” (together, the “Nevis Entities”), in an allegedly arms-length transaction.

51. To facilitate the sale of the A&O Entities, Mackert used his attorney trust fund IOLTA Account, #6404 (the “IOLTA Account”), which he had just opened on or about July 20, 2007, with \$100. As of August 29, 2007, the balance in the IOLTA Account was approximately \$3,000.

52. On information and belief, the A&O Principals also used the LP Account to transact the purported sale of the Debtors.

53. On August 30, 2007, the A&O Principals withdrew \$1,140,000 of A&O investor funds from the LP Account. Upon information and belief, this withdrawal was evenly split between the A&O Principals.

54. Upon information and belief, Allmendinger deposited his \$380,000 into his own personal account. Oncale and Wahab, however, turned around and each provided Mackert their

respective \$380,000 share of the August 30, 2007 withdrawal. That same day, Mackert deposited Oncale's and Wahab's funds, totaling \$760,000, into his IOLTA Account raising the balance of that account to approximately \$763,000.

55. The following day, August 31, 2007, upon information and belief, Oncale, Wahab and Mackert caused checks drawn from the IOLTA Account to be delivered to the A&O Principals in the following amounts: (a) \$750,000 to Allmendinger; (b) \$750 to Oncale; and (c) \$750 to Wahab. The transfers described in paragraphs 53 through this paragraph are referred to hereinafter as the "Sale Transfers."

56. Upon information and belief, Allmendinger was paid a material amount from the "sale" to relinquish control over the A&O Entities, whereas Oncale and Wahab received a nominal amount because they retained an interest in or control over the A&O Entities after the "sale."

57. The money used for the purported "sale" came from the Debtors through the LP Transfers described above, via the LP Account, and then the IOLTA Account.

58. On information and belief, the Sale Transfers were conducted for the benefit of the A&O Principals with the actual intent to defraud the Debtors.

59. The Debtors were sold, and the Sale Transfers were made, for less than reasonably equivalent value.

60. Upon information and believe, the Debtors either were insolvent or became insolvent as a result of the Sale Transfers.

61. Upon information and belief, the "sale" was executed with the actual intent to defraud the Debtors.

The Post-“Sale” Looting of Investor Funds By Oncale, Wahab and Mackert (and Others)

62. After the sale had been “completed”—and the ownership interest of the A&O Principals was allegedly extinguished—Wahab and Oncale continued to control the A&O Entities. Thereafter, in collaboration with Mackert, they drained the LP Account for their personal use (the “Post-Sale Transfers”).

63. For example, immediately after the purported “sale,” and despite allegedly having sold their interests in the A&O Entities, Oncale, Wahab and Allmendinger each deposited \$87,000 checks drawn from the LP Account on September 4, 2007 (with respect to Wahab) and September 5, 2007 (with respect to Oncale and Allmendinger).

64. Upon information and belief, Oncale, Wahab and Mackert further fraudulently transferred over \$12 million in Debtors funds from the LP Account into the IOLTA Account for their own personal benefit and use. Such transfers included the following transactions:

- (a) on September 14, 2007, \$2 million of Debtor funds was transferred from the LP Account to the IOLTA Account, causing the balance in the IOLTA Account to increase from approximately \$9,000 to \$2,009,000. Upon information and belief, Mackert then used these funds to draw cashiers checks for \$1 million to each Oncale and Wahab on September 17, 2007;
- (b) on November 1, 2007, \$8 million was transferred from the LP Account to the IOLTA Account via wire transfer; and
- (c) on November 21, 2007, \$2.6 million was transferred from the LP Account to the IOLTA Account.

65. Oncale, Wahab and Mackert used the vast majority of these Post-Sale Transfers for their own personal benefit, including, upon information and belief, for the following:

- (a) the purchase of Ferraris for Oncale and Wahab on or about January 9, 2008 (using funds in excess of \$900,000);
- (b) construction, renovation, and home costs for homes built for Wahab and, upon information and belief, another individual;

- (c) a transfer via check to Oncale (and his wife) in the amount of approximately \$4.3 million on or about March 17, 2008; and
- (d) additional transfers to the personal accounts of Mackert and Wahab, including, but not limited to, an approximately \$2.0 million transfer to an offshore account for the benefit of Wahab and his wife.

66. The Post-Sale Transfers were made for the benefit of the A&O Principals (and in particular Oncale, Wahab and Mackert) with the actual intent to defraud the Debtors.

67. The Post-Sale Transfers were made for less than reasonably equivalent value.

68. Upon information and belief, the Debtors either were insolvent or became insolvent as a result of the Post-Sale Transfers.

Mackert's Role as Attorney and "Manager" of the A&O Entities

69. At relevant times, and upon information and belief, Mackert served as an attorney for the A&O Entities.

70. In or about early 2008, Mackert formed Shepherd Capital Management ("Shepherd Capital"), purportedly as a vehicle for managing the A&O Entities.

71. On January 30, 2008, Shepherd Capital entered into a management agreement under which it assumed responsibility for the operation of the A&O Entities. Among other duties and responsibilities, Mackert/Shepherd Capital, agreed to do the following:

- a. manage all correspondence and dialog with each company's investors and representatives;
- b. prepare and distribute annual reports to each company's investors;
- c. monitor distribution of funds on maturity date for each company;
- d. monitor premium payments for each company;
- e. monitor bank account management for each company;
- f. manage funds for each company.

72. Mackert owed fiduciary obligations to the A&O Entities, by virtue of his role as their attorney and, later, his role as the “Manager” of the investor funds placed in investments with the A&O Entities.

73. Upon information and belief, Mackert breached his contractual and fiduciary obligations to the Debtors by, among other things:

- (a) participating in the fraudulent transfers, as discussed above;
- (b) negligently making misrepresentations to investors about the status and nature of the Debtors and investments with the intent that the investors would rely on such representations when Mackert knew, or should have known upon reasonably inquiry, that such representations were false or misleading;
- (c) appropriating Debtors’ investor funds for his own personal benefit;
- (d) failing to monitor the premium payments for the Debtors’ investments;
- (e) failing to monitor the Debtors’ bank accounts;
- (f) failing to manage the funds of the Debtors; and
- (g) failing to properly advise investors as to the status of their investments.

COUNT I

**AVOIDANCE OF FRAUDULENT TRANSFERS - 11 U.S.C. §§ 548(a)(1)
AND 550(a)**

(AGAINST A&O LIFE FUNDS, LP)

74. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

75. The LP Transfers which occurred from September 2, 2007 through September 2, 2009 were made on or within two years before the Filing Date.

76. The LP Transfers were made with the actual intent to hinder, delay or defraud some or all of the Debtors.

77. The Debtors received less than reasonably equivalent value in exchange for each of the LP Transfers.

78. At the time of the LP Transfers, the Debtors were insolvent or became insolvent as a result of the LP Transfer in question.

79. At the time of each of the LP Transfers, the Debtors were engaged in a business or a transaction for which any property remaining with the Debtors was an unreasonably small capital.

80. At the time of these LP Transfers, the Debtors intended to incur, or believed that they would incur, debts that would be beyond their ability to pay as such debts matured.

81. The LP Transfers constitute a fraudulent transfer avoidable by the Trustee pursuant to section 548(a)(1) of the Bankruptcy Code and recoverable from A&O Life Funds, LP pursuant to section 550(a).

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 548(a)(1) and 550(a) of the Bankruptcy Code: (a) avoiding and preserving the LP Transfers which occurred from September 2, 2007 through September 2, 2009, (b) directing these LP Transfers to be set aside, (c) recovering these LP Transfers, or the value thereof, from A&O Life Funds, LP for the benefit of the Debtors' estates, and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT II

ILLINOIS AND TEXAS UNIFORM FRAUDULENT TRANSFER ACTS

(AGAINST A&O LIFE FUNDS, LP)

82. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

83. Pursuant to section 544 of the Bankruptcy Code, the Trustee brings this claim under the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.*, and/or the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.*

84. For the purposes of the Illinois Uniform Fraudulent Transfer Act and the Texas Uniform Fraudulent Transfer Act, the LP Transfers are all transfers made by the Debtors.

85. The Debtors made each of the LP Transfers without receiving reasonably equivalent value in exchange.

86. At the times the Debtors made the LP Transfers, the Debtors either were insolvent or became insolvent as a result of making the LP Transfers.

87. At the times the Debtors made the Transfers, the Debtors were engaged in business for which their remaining assets were unreasonably small in relation to their business.

88. At the times the Debtors made the LP Transfers, the Debtors intended to incur or believed, or reasonably should have believed, that they would incur debts beyond their ability to pay as they became due.

89. Creditors and investors in the Debtors had allowable claims against the Debtors at the time the Debtors made the LP Transfers.

90. Pursuant to section 550 of the Bankruptcy Code, the Debtors may recover the LP Transfers from A&O Life Funds, LP

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 544 and 550(a) of the Bankruptcy Code: (a) avoiding and preserving the LP Transfers; (b) directing that the LP Transfers be set aside; (c) recovering the LP Transfers, or the value thereof, from A&O Life Funds, LP for the benefit of the Debtors; and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT III

**ILLINOIS AND TEXAS UNIFORM FRAUDULENT
TRANSFER ACTS (ACTUAL INTENT)**

(AGAINST A&O LIFE FUNDS, LP)

91. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

92. Pursuant to section 544 of the Bankruptcy Code, the Trustee brings this claim under the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.* and the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.*

93. The Debtors, voluntarily or involuntarily and under the direction and pursuant to the control of the Defendants as described herein, made the LP Transfers with actual intent to hinder, delay, or defraud the Debtors.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 544 and 550(a) of the Bankruptcy Code: (a) avoiding and preserving these LP Transfers; (b) directing that the LP Transfers be set aside; (c) recovering the LP Transfers, or the value thereof, from A&O Life Funds, LP for the benefit of the Debtors; and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT IV

ALTER EGO

(AGAINST A&O LIFE FUNDS, LP)

94. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

95. The A&O Entities operated under a unity of interest and ownership such that the separate personalities of the corporations did not exist. Specifically:

- (a) the Debtors were undercapitalized and are now insolvent;
- (b) the same A&O Principals acted as shareholders, officers, directors, managers and employees of the A&O Entities;
- (c) the A&O Entities all operated out of the same offices but paid no rent to the A&O Entity that owned the offices;
- (d) the same A&O Principals determined the corporate policies of the A&O Entities;
- (e) the A&O Entities were purportedly sold in an attempt to avoid liabilities and prevent discovery of fraudulent asset transfers and other activities;
- (f) there was a failure to observe corporate formalities between and amongst the A&O Entities;
- (g) the A&O Entities commingled funds and other assets; and
- (h) the A&O Entities apparently were organized and operated, in large part, as mere tools and business conduits for the personal use of the A&O Principals.

96. Adherence to the fiction of separate corporate personalities would promote injustice or inequitable consequences because millions of dollars of the Debtors' assets have been fraudulently transferred to A&O Life Funds, LP.

97. Thus, the Debtors and A&O Life Funds, LP are alter egos of each other.

98. In addition, the largest single asset of the Debtors' estates is the portfolio of life insurance policies in which the A&O Entities have interests.

99. There are discrepancies in which entity "owns" the various policies. For example, in many cases there are differences among the following: (a) the records of underlying investors in the Debtors; (b) the Schedules of Assets and Liabilities (the "Schedules") filed by the Debtors; (c) the internal records of the Debtors that have been received by the Trustee; and (d) the records of the insurance carriers that issued the policies.

100. To the extent that records reflect that any life insurance policies are “owned” by A&O Life Funds, LP, such policies are assets of the Debtors.

101. By way of example, in the records of the insurance carrier Transamerica Corporation, A&O Life Funds, LP is listed as the owner of two insurance policies: policy numbers 60134441 and 60134442. Both policies were purportedly transferred from Life Fund 5.2, LLC (previously named AB Revocable Living Fund, LLC) to A&O Life Funds, LP in or about December 2007, after the sale discussed above and, upon information and belief, as part of attempts to improperly transfer assets out of the Debtors. The Schedules, however, identify these two policies as assets of certain Debtors.

102. The Trustee is also informed and believes that A&O Life Funds, LP is deemed by Principal Financial Group to be the “owner” of a separate policy, the issuance of which is, upon information and belief, under investigation by the carrier. Upon information and belief, however, the policy was not issued or obtained with funds separate and distinct from funds of the Debtors.

103. Instead, all, or virtually all of the policies in which any A&O Entity has an interest were obtained using funds from the Debtors’ investors and, as noted above, all or virtually all of the activities and funds of A&O Life Funds, LP arose out of or were facilitated by transfers of funds from the Debtors and the Debtors’ investors.

104. Accordingly, any and all policies in which A&O Life Funds, LP allegedly has an interest are owned by one or more Debtors and should be assigned by A&O Life Funds, LP to the appropriate Debtors, as necessary.

WHEREFORE, the Trustee requests that this Court enter a judgment order declaring:
(a) A&O Life Funds, LP is the alter ego of the Debtors; (b) assets held by A&O Life Funds, LP

are property of the Debtors' bankruptcy estates; and (c) granting such additional relief as the Court may deem equitable, just and proper.

COUNT V

TURNOVER OF PROPERTY OF THE DEBTORS, PURSUANT TO 11 U.S.C. § 542

(AGAINST A&O LIFE FUNDS, LP)

105. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

106. The Debtors have a legal or equitable interest in certain investor funds and various life insurance policies nominally held by A&O Life Funds, LP, which properly constitutes property of Debtors' bankruptcy estates pursuant to section 541(a) of the Bankruptcy Code.

107. A&O Life Funds, LP has not delivered such property to the Trustee as required by section 542 of the Bankruptcy Code.

WHEREFORE, the Trustee requests that the Court enter a judgment order: (a) ordering that A&O Life Funds, LP turnover and/or assign all investor funds and interests in any life insurance policies to the Trustee for the benefit of the Debtors; (b) awarding compensatory damages and disgorgement of all sums received by A&O Life Funds, LP from the Debtors in an amount to be determined at trial; and (c) granting such additional relief as the Court may deem equitable, just and proper.

COUNT VI

**AVOIDANCE OF FRAUDULENT TRANSFERS - 11 U.S.C. §§ 548(a)(1)
AND 550(a)**

(AGAINST THE A&O PRINCIPALS)

108. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

109. The LP Transfers, Sale Transfers and Post-Sale Transfers which occurred from September 2, 2007 through September 2, 2009, were made on or within two years before the Filing Date.

110. These transfers were made with the actual intent to hinder, delay or defraud some or all of the Debtors.

111. The Debtors received less than reasonably equivalent value in exchange for each of these transfers.

112. At the time of each of these transfers, the Debtors were insolvent or became insolvent as a result of these transfers.

113. At the time of each of these transfers, the Debtors were engaged in a business or a transaction, for which any property remaining with the Debtors was an unreasonably small capital.

114. At the time of these transfers, the Debtors intended to incur, or believed that they would incur, debts that would be beyond their ability to pay as such debts matured.

115. These transfers constitute a fraudulent transfer avoidable by the Trustee pursuant to section 548(a)(1) of the Bankruptcy Code and recoverable from the A&O Principals pursuant to section 550(a) of the Bankruptcy Code.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 548(a)(1) and 550(a) of the Bankruptcy Code: (a) avoiding and preserving the LP Transfers, Sale Transfers, and Post-Sale Transfers which occurred from September 2, 2007 through September 2, 2009, (b) directing these transfers to be set aside, (c) recovering these transfers, or the value thereof, from the A&O Principals for the benefit of the Debtors' estates, and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT VII

ILLINOIS AND TEXAS UNIFORM FRAUDULENT TRANSFER ACTS

(AGAINST THE A&O PRINCIPALS)

116. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

117. Pursuant to section 544 of the Bankruptcy Code, the Trustee brings this claim under the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.* and the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.*

118. For the purposes of the Illinois and Texas Uniform Fraudulent Transfer Acts, the LP Transfers, LP-Principal Transfers, Sale Transfers, and Post-Sale Transfers are all transfers made by the Debtors.

119. The Debtors made each of the above-referenced transfers without receiving reasonably equivalent value in exchange.

120. At the times the Debtors made these transfers, the Debtors either were insolvent or became insolvent as a result of making these transfers.

121. At the times the Debtors made these transfers, the Debtors were engaged in business for which their remaining assets were unreasonably small in relation to their business.

122. At the times the Debtors made these transfers, the Debtors intended to incur or believed, or reasonably should have believed, that they would incur debts beyond their ability to pay as they became due.

123. Creditors and investors of the Debtors had allowable claims against the Debtors at the times the Debtors made these transfers.

124. These transfers were made for the benefit of the A&O Principals.

125. Pursuant to section 550 of the Bankruptcy Code, the Debtors may recover the LP Transfers, LP-Principal Transfers, Sale Transfers, and Post-Sale Transfers from the entities and individuals for whose benefit the transfers were made.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 544 and 550(a) of the Bankruptcy Code: (a) avoiding and preserving these transfers; (b) directing that these transfers be set aside; (c) recovering these transfers, or the value thereof, from the A&O Principals for the benefit of the Debtors' estates; and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT VIII

**ILLINOIS AND TEXAS UNIFORM FRAUDULENT
TRANSFER ACTS (ACTUAL INTENT)**

(AGAINST THE A&O PRINCIPALS)

126. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

127. Pursuant to section 544 of the Bankruptcy Code, the Trustee brings this claim under the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.* and the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.*

128. The Debtors, voluntarily or involuntarily and under the direction and pursuant to the control of the Defendants, made the LP Transfers, LP-Principal Transfers, Sale Transfers, and Post-Sale Transfers with the actual intent to hinder, delay, or defraud the creditors of the Debtors.

129. The LP Transfer, LP-Principal Transfers, Sale Transfers, and Post-Sale Transfers were made for the benefit of the A&O Principals.

130. Pursuant to section 544 and 550 of the Bankruptcy Code, and the Illinois and Texas Uniform Fraudulent Transfer Acts, the Debtors may recover the LP Transfers, LP-Principal Transfers, Sale Transfers and Post Sale Transfers from the entities and individuals for whose benefit the transfers were made.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 544 and 550(a) of the Bankruptcy Code: (a) avoiding and preserving these transfers; (b) directing that these transfers be set aside; (c) recovering these transfers, or the value thereof, from the A&O Principals for the benefit of the Debtors' estates; and granting such additional relief as the Court may deem equitable, just and proper.

COUNT IX

BREACH OF FIDUCIARY DUTY

(AGAINST THE A&O PRINCIPALS)

131. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

132. Each of the A&O Principals had relationships of trust and confidence with the Debtors, held senior managerial, compliance and/or supervisory responsibilities at the Debtors during the relevant time period, and consequently had fiduciary duties to act in the best interest of, and for the benefit of, the Debtors.

133. The fiduciary duties owed by each of the A&O Principals included duties of due care and loyalty to the Debtors, and duties to act in good faith. The A&O Principals also had duties not to waste or divert the assets of the Debtors and duties not to act in furtherance of their own personal interests at the expense of the Debtors.

134. Each of the A&O Principals acted in breach of the fiduciary duties owed to the Debtors by, among other behavior, misusing corporate assets, self-dealing, mismanagement, corporate waste, failing to prepare, implement and carry out compliance and supervisory responsibilities, and breaching the A&O Principals' duties to act with due care, loyalty, and good faith and fair dealing as described above.

135. As a direct and proximate result of the conduct by the A&O Principals, the Debtors were damaged.

136. By reason of the above, the Trustee is entitled to an award of compensatory damages and disgorgement of all sums received by each of the A&O Principals, directly or indirectly, from the Debtors in an amount to be determined at trial.

WHEREFORE, the Trustee requests that the Court enter a judgment order: (a) awarding compensatory damages and disgorgement of all sums received by each of the A&O Principals, directly or indirectly, from the Debtors in an amount to be determined at trial; and (b) granting such additional relief as the Court may deem equitable, just and proper.

COUNT X

**AVOIDANCE OF FRAUDULENT TRANSFERS - 11 U.S.C. §§ 548(a)(1)
AND 550(a)**

(AGAINST MACKERT)

137. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

138. The LP Transfers and Post-Sale Transfers to the IOLTA Account which occurred from September 2, 2007 through September 2, 2009 were made on or within two years before the Filing Date.

139. These transfers were made with the actual intent to hinder, delay or defraud some or all of the Debtors.

140. The Debtors received less than a reasonably equivalent value in exchange for each of these transfers.

141. At the time of these transfers, the Debtors were insolvent, or became insolvent as a result of the transfers.

142. At the time of each of these transfers, the Debtors were engaged in a business or a transaction, for which any property remaining with the Debtors was an unreasonably small capital.

143. At the time of these transfers, the Debtors intended to incur, or believed that they would incur, debts that would be beyond their ability to pay as such debts matured.

144. These transfers constitute a fraudulent transfer avoidable by the Trustee pursuant to section 548(a)(1) of the Bankruptcy Code and recoverable from Mackert pursuant to section 550(a) of the Bankruptcy Code.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 548(a)(1) and 550(a) of the Bankruptcy Code: (a) avoiding and preserving the LP Transfers and Post-Sale Transfers which occurred from September 2, 2007 through September 2, 2009, (b) directing these transfers to be set aside, (c) recovering these transfers, or the value thereof, from Mackert for the benefit of the Debtors' estates, and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT XI

ILLINOIS AND TEXAS UNIFORM FRAUDULENT TRANSFER ACTS

(AGAINST MACKERT)

145. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

146. Pursuant to section 544 of the Bankruptcy Code, the Trustee brings this claim under the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.* and the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.*

147. For the purposes of the Illinois and Texas Uniform Fraudulent Transfer Acts, the LP Transfers and Post-Sale Transfers to the IOLTA Account are all transfers, made by the Debtors.

148. The Debtors made each of the above-referenced transfers without receiving reasonably equivalent value in exchange.

149. At the times the Debtors made these transfers, the Debtors either were insolvent or became insolvent as a result of making the transfers.

150. At the times the Debtors made these transfers, the Debtors were engaged in a business for which its remaining assets were unreasonably small in relation to the business.

151. At the times the Debtors made these transfers, the Debtors intended to incur or believed, or reasonably should have believed, that they would incur debts beyond their ability to pay as they became due.

152. Creditors of the Debtors had allowable claims against the Debtors each time the Debtors made the transfers.

153. Pursuant to section 550 of the Bankruptcy Code, the Debtors may recover the Post-Sale Transfers from Mackert.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 544 and 550(a) of the Bankruptcy Code: (a) avoiding and preserving these transfers; (b) directing that these transfers be set aside; (c) recovering these transfers, or the value thereof, from Mackert for the benefit of the Debtors' estates; and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT XII

**ILLINOIS AND TEXAS UNIFORM FRAUDULENT
TRANSFER ACT (ACTUAL INTENT)**

(AGAINST MACKERT)

154. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

155. Pursuant to section 544 of the Bankruptcy Code, the Trustee brings this claim under the Illinois Uniform Fraudulent Transfer Act, 740 ILCS 160/1 *et seq.* and the Texas Uniform Fraudulent Transfer Act, Tex. Bus. & Com. Code §§ 24.001 *et seq.*

156. The Debtors, voluntarily or involuntarily, made the Post-Sale Transfers with actual intent to hinder, delay, or defraud the Debtors.

WHEREFORE, the Trustee requests that the Court enter a judgment order pursuant to sections 544 and 550(a) of the Bankruptcy Code: (a) avoiding and preserving the Post-Sale Transfers; (b) directing that the Post-Sale Transfers be set aside; (c) recovering the Post-Sale Transfers, or the value thereof, from Mackert for the benefit of the Debtors' estates; and (d) granting such additional relief as the Court may deem equitable, just and proper.

COUNT XIII

PROFESSIONAL NEGLIGENCE

(AGAINST MACKERT)

157. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

158. In or about 2007, Mackert served as an attorney for the Debtors and their umbrella entity, A&O Life Funds, LP, in connection with certain transactions, representations, and legal needs of the Debtors, including but not limited to drafting documents that were used in the internal and external business affairs of the Debtors.

159. By virtue of the above, an attorney-client relationship existed between the Debtors, on the one hand, and Mackert, on the other, as a result of which Mackert owed the Debtors a duty of care at all relevant times.

160. As alleged with greater particularity above, Mackert was negligent in the performance of the legal services rendered to the Debtors and breached his duties of care to them in one or more of the following respects:

- (a) misusing assets of the Debtors;
- (b) self-dealing;
- (c) failing to investigate when he knew, or should have known upon reasonable inquiry, that his actions would harm the Debtors and/or their underlying investors;
- (d) making representations regarding the Debtors, the nature of their business, and the status of the underlying investments of investors when he knew, or should have known, that such representations were false;
- (e) undertaking representation of individuals and entities that had actual or potential conflicts with the Debtors, and failing to disclose such conflicts and obtain appropriate consents;

- (f) facilitating a sale of the Debtors and using his IOLTA Account in an attempt to conceal the nature and source of the funds for such transaction; and
- (g) otherwise failing to take actions that comport with the standards of loyalty, due care, good faith and fair dealing that are required of legal counsel.

161. As a direct and proximate result of Mackert's professional negligence, the Debtors incurred monetary damages relating to the loss of interests in life insurance policies which have lapsed as well as damages in the form of expenses that will be incurred in pursuing collection of the funds and avoidance of the transfers that Mackert helped facilitate.

162. In addition to the above, as a direct and proximate result of Mackert's professional negligence, the Debtors incurred monetary damages in the form of loss of cash that would have assisted the Debtors in making premium payments that are or will become due.

WHEREFORE, the Trustee requests that the Court enter a judgment order: (a) awarding compensatory damages and disgorgement of all sums received by Mackert in an amount to be proven at trial; and (b) granting such additional relief as the Court may deem equitable, just and proper.

COUNT XIV

BREACH OF FIDUCIARY DUTY

(AGAINST MACKERT AND SHEPHERD CAPITAL)

163. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

164. Upon information and belief, Mackert had an attorney-client relationship with the Debtors, and by virtue of his role as their attorney and his subsequent control of Shepherd Capital, held senior managerial, compliance and/or supervisory responsibilities at the Debtors

during the relevant time period, and consequently had fiduciary duties to act in the best interest of, and for the benefit of, the Debtors.

165. The fiduciary duties owed by Mackert and Shepherd Capital included duties of care and loyalty to the Debtors and duties to act in good faith. Mackert and Shepherd Capital also had duties not to waste or divert the assets of the Debtors and duties not to act in furtherance of their own personal interests at the expense of the Debtors.

166. Mackert and Shepherd Capital acted in breach of the fiduciary duties owed to the Debtors by, among other behavior, misusing corporate assets, self-dealing, mismanagement, corporate waste, failing to prepare, implement, and carry out compliance and supervisory responsibilities, and breaching their duties to act with due care, loyalty, and good faith and fair dealing as described above.

167. As a direct and proximate result of the conduct by Mackert and Shepherd Capital, the Debtors were damaged.

168. By reason of the above, the Trustee is entitled to an award of compensatory damages and disgorgement of all sums received by Mackert and Shepherd Capital from the Debtors in an amount to be determined at trial.

WHEREFORE, the Trustee requests that the Court enter a judgment order: (a) awarding compensatory damages and disgorgement of all sums received by Mackert and Shepherd Capital from the Debtors in an amount to be determined at trial; and (b) granting such additional relief as the Court may deem equitable, just and proper.

COUNT XV

BREACH OF CONTRACT

(AGAINST SHEPHERD CAPITAL)

169. The Trustee incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

170. Pursuant to the January 30, 2008 management agreement, Shepherd Capital and Mackert owed managerial duties for each of the Debtors, including managing funds and retaining services of appropriate auditing, tax services and accounting firms.

171. Shepherd Capital and Mackert acted in breach of the contractual duties owed to the Debtors by, among other behavior, assisting in the misuse of corporate assets, self-dealing, mismanagement, corporate waste, and failing to carry out the financial responsibilities detailed in the management agreement.

172. As a direct and proximate result of the conduct by Mackert and Shepherd Capital, the Debtors were damaged.

173. By reason of the above, the Trustee is entitled to an award of compensatory damages and disgorgement of all sums received by Mackert and Shepherd Capital pursuant to the management agreement in an amount to be determined at trial.

WHEREFORE, the Trustee requests that the Court enter a judgment order: (a) awarding compensatory damages and disgorgement of all sums received by Mackert and Shepherd Capital from the Debtors in an amount to be determined at trial; and (b) granting such additional relief as the Court may deem equitable, just and proper.

Dated: January 7, 2010

Respectfully submitted,

PATRICK M. COLLINS, not individually, but solely in his capacity as chapter 11 Trustee of the Debtors' estates

By: /s/ David M. Neff

PERKINS COIE LLP

David M. Neff (ARDC # 06190202)
Brian A. Audette (ARDC # 06277056)
Jonathan R. Buck (ARDC #0681672)
131 S. Dearborn Street, Suite 1700
Chicago, IL 60603
Tel: (312) 324-8400
Fax: (312) 324-9400
dneff@perkinscoie.com
baudette@perkinscoie.com

Counsel to the Trustee