

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

In re:) Chapter 11
) Case No. 09-32672
LIFE FUND, 5.1, LLC, et. al.,) (Jointly Administered)
) Hon. A. Benjamin Goldgar
) Hearing Date: January 13, 2010
Debtors.) Hearing Time: 1:30 p.m.

**OBJECTIONS OF TRUSTEE PATRICK M. COLLINS TO GROUP OF INVESTORS'
EXHIBIT LIST AND WITNESS LIST**

**(evidentiary hearing on Trustee's Objection to
November 13, 2009 Election of Trustee)**

The Chapter 11 Trustee, Patrick Collins, in his capacity as Trustee and by and through his undersigned counsel, offers the following as his Objections to the Exhibit List and Witness List filed by the Group of Investors, in accordance with this Court's Final Pretrial Order (the "Order") dated December 16, 2009 (Dkt #250):

1. **Objections to Exhibits:** The Trustee objects to Exhibits 1-134 and 137-140 as constituting inadmissible hearsay under Rule 802 of the Federal Rules of Evidence. The Trustee further objects to Exhibits 1-134 and 140 as irrelevant under Federal Rule of Evidence 402, including because the improper solicitation of proxies could not be cured. Exhibits 1 through 18, 20 through 30, and 32 through 134 consist of affidavits of investors not listed as possible witnesses; Exhibits 137 and 138 are emails; and Exhibits 139 and 140 are affidavits of Michael Wilson, counsel for the Spaldings, and Raphael Taylor, managing partner of the Group of Investors' counsels' law firm, respectfully.¹ Neither Mr. Wilson nor Mr. Taylor are listed as

¹ The Trustee is willing to consider an agreement with the Group of Investors whereby the parties, in order to make the hearing more efficient and reduce the number of contested issues before the Court, would forego objections to the other parties' exhibits on grounds other than relevancy, with the parties free to make opening or closing arguments to the Court regarding the weight (or lack thereof) any such exhibits should be accorded.

witnesses. In addition, the Trustee objects to Exhibit 136 as an incomplete Transcript of the Rule 341 Meeting held on October 14, 2009.

2. **Objections to Witnesses:** The Trustee objects to the witnesses and Witness List proposed by the Group of Investors based on the Group of Investor's failure to comply with this Court's Order. Paragraph 4 of the Order states: "all parties must exchange and file with the court a list of all witnesses they intend to call at the hearing, *together with a brief description of the subject matter of the witness's testimony.*" (Emphasis added). The Group of Investors failed to provide a description of the subject matter of any witness's testimony. Consequently, the Court should bar their testimony. *See* Order ¶ 7(b) ("A party who fails to exchange and file with the court the list of witnesses that this Order requires will be barred from presenting any witnesses."). In particular, the Court objects to the Group of Investors' identification of Trustee's trial counsel David Neff as a possible witness in this proceeding, as being completely inappropriate as Mr. Neff has no relevant testimony related to this proceeding.

3. **Reservation of Objections:** Due to the Group of Investors' failure to describe the subject matter of any witness's testimony, the Trustee is unable to offer greater specificity as to objections to specific witness testimony at this time. In addition, the Group of Investors failed to submit a copy of Exhibit 135 (Official Transcript of Election of Jeff Marwill [sic], Nov. 13, 2009), and thus the Trustee is unable to verify whether the proposed transcript is true and accurate. The Trustee therefore reserves the right to make additional objections with respect to these issues.

4. The Trustee further incorporates by reference any and all other objections raised with respect to the Exhibit List or Witness List submitted by the Group of Investors, including

but not limited to the Objection of United States Trustee to Group of Investors' Witness List and Exhibit List.

Trustee reserves the right to modify, amend, or supplement these objections (including but not limited to the right to withdraw certain objections) at the evidentiary hearing in this matter.

Dated: January 11, 2010

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

By: /s/ David M. Neff

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Counsel to the Trustee

CERTIFICATE OF SERVICE

David Neff, an attorney, certifies that on January 11, 2010 he caused a copy of the *Objections of Trustee Patrick M. Collins to Group of Investors' Exhibit List and Witness List* to be served on the parties listed on the attached Service List as so indicated.

/s/ David M. Neff _____

SERVICE LIST

	Delivery Method		Delivery Method
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