

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	§	
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PATRICK COLLINS, solely as TRUSTEE of	§	Case No. 09-32672
LIFE FUND 5.1, LLC, et. al.,	§	(Jointly Administered)
Plaintiff,	§	
v.	§	Hon. A. Benjamin Goldgar
	§	
BRENT ONCALE; RUSSELL MACKERT;	§	Adversary No. 10-00042
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.	§	

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **Monday, August 30, 2010, at 10:00 a.m.**, or as soon thereafter as counsel may be heard, we will appear before the Honorable A. Benjamin Goldgar, or any judge sitting in his stead, in Room 613 of the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, and present **Defendant Christian Allmendinger's Motion to Dismiss Plaintiff's First Amended Complaint or, In The Alternative, Motion for a More Definite Statement**, a copy of which is hereby served upon you.

Dated: August 18, 2010

CHRISTIAN ALLMENDINGER

By: /s/ Deborah M. Gutfeld

One of His Attorneys

Terry D. Weissman (ARDC #6211582)
Kyle D. Rettberg (ARDC #6256572)
Deborah M. Gutfeld (ARDC #6272331)
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street, Suite 1700
Chicago, Illinois 60602-3801
Telephone: (312) 269-8000

Jason M. Ross
CURRAN TOMKO TARSKI, LLP
2001 Bryan Street, Suite 2050
Dallas, Texas 75201
(214) 270-1400

CERTIFICATE OF SERVICE

I, Deborah M. Gutfeld, hereby certify that on the 18th day of August, 2010, I caused true and correct copies of the foregoing *Defendant Christian Allmendinger's Motion to Dismiss Plaintiff's First Amended Complaint or, In The Alternative, Motion for A More Definite Statement* to be served: (a) by Electronic Case Filing upon counsel of record who are filing users of the Court's Electronic Case Filing System, and (b) upon the following individuals via First Class United States Mail:

Brent Oncale
1 Riverway, Suite 470
Houston, TX 77056

Brent Oncale
9125 Chatsworth Drive
Houston, TX 77024-3713

Russell E. Mackert
5555 West Loop South, Suite 605
Houston, TX 77401

Russell E. Mackert
28303 Bolinas Ct.
Spring, TX 77386-1813

Adley Abdulwahab a/k/a Adley Wahab
3007 E. Lake Falls, C1
Spring, TX 77386-2905

Adley Abdulwahab a/k/a Adley Wahab
221 N. LaSalle Street, Suite 1137
Chicago, IL 60601

Adley Abdulwahab a/k/a Adley Wahab
3426 Schumann Oaks
Spring, TX 77386

A&O Life Funds, LP
Attn: Russell E. Mackert
5555 West Loop South, Suite 605
Houston, TX 77401

A&O Life Funds Management, LLC
Attn: Russell E. Mackert, Member
5555 West Loop South, Suite 605
Houston, TX 77401

A&O Life Funds Management, LLC
Attn: Russell E. Mackert, Member
221 N. LaSalle Street, Suite 1137
Chicago, IL 60601

Shepherd Capital Management, LLC
Attn: Russell E. Mackert, Member
5555 West Loop South, Suite 605
Houston, TX 77401

/s/ Deborah M. Gutfeld
Deborah M. Gutfeld
NEAL GERBER & EISENBERG
Two North LaSalle Street, Suite 1700
Chicago, Illinois 60602
(312) 269-8000

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

In re:
LIFE FUND 5.1, LLC, et. al.,

Debtors

JEFF MARWIL, solely as TRUSTEE of LIFE
FUND 5.1, LLC, et. al.,

Plaintiff,

v.

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.

§ Chapter 11
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§ Case No. 09-32672
§ (Jointly Administered)
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§ Hon. A. Benjamin Goldgar
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§
§ Adversary No.: 10 A 00042
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**DEFENDANT CHRISTIAN ALLMENDINGER'S MOTION TO DISMISS PLAINTIFF'S
FIRST AMENDED COMPLAINT OR, IN THE ALTERNATIVE, MOTION FOR A
MORE DEFINITE STATEMENT**

Defendant Christian Allmendinger, by and through his undersigned counsel and pursuant to Rules 8(a), 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves this Court for an Order dismissing all claims and causes of action asserted against him in Plaintiff's First Amended Complaint, with prejudice, and, in support thereof states:

1. Plaintiff's First Amended Complaint has failed to establish the required specificity needed to comply with Rule 9(b). Although Plaintiff has attempted cure his prior deficiencies, Plaintiff's First Amended Complaint still makes insufficient sweeping

generalizations about the “A&O Principals.” Because the Plaintiff has failed to plead facts sufficient under Rule 9(b), the Complaint’s fraud-based claims should be dismissed.

2. Plaintiff has still failed to plead facts adequately alleging the insolvency of the Debtors; instead, the Complaint is comprised of conclusory allegations and contingent liabilities which have not been properly discounted.

3. With respect to Count VI, Plaintiff has failed to plead sufficient facts demonstrating that Allmendinger is an initial transferee or that he received a benefit from the initial transfer. As such Plaintiff’s claim under 11 U.S.C. § 550(a)(1) fails. In the alternative, if this Court rules against Allmendinger’s request for the Court to dismiss Plaintiff’s claim under 11 U.S.C. § 550(a)(1), Allmendinger respectfully urges this Court to order a more definite statement so that Allmendinger can be informed of whether Plaintiff is attempting to pursue a claim under 11 U.S.C. § 550(a)(1) or 11 U.S.C. § 550(a)(2).

4. Count XVI of Plaintiff’s First Amended Complaint is now moot, as the relief requested in the claim has already been satisfied by Allmendinger. Therefore, Allmendinger respectfully requests this Court to dismiss with prejudice as moot Count XVI of Plaintiff’s First Amended Complaint.

* * *

WHEREFORE, Defendant Christian Allmendinger respectfully requests that this Court enter an Order dismissing all claims and causes of action asserted against him in Plaintiff's Amended Complaint, with prejudice.

Dated: August 18, 2010

CHRISTIAN ALLMENDINGER

By: /s/ Deborah M. Gutfeld

One of His Attorneys

Terry D. Weissman (ARDC #6211582)
Kyle D. Rettberg (ARDC #6256572)
Deborah M. Gutfeld (ARDC #6272331)
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street, Suite 1700
Chicago, Illinois 60602-3801
Telephone: (312) 269-8000

Jason M. Ross
CURRAN TOMKO TARSKI, LLP
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	§	Chapter 11
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Debtors	§	
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JEFF MARWIL, solely as TRUSTEE of LIFE	§	Case No. 09-32672
FUND 5.1, LLC, et. al.,	§	(Jointly Administered)
	§	
Plaintiff,	§	
	§	
v.	§	Hon. A. Benjamin Goldgar
	§	
BRENT ONCALE; RUSSELL MACKERT;	§	Adversary No.: 10 A 00042
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.	§	

**ORDER GRANTING DEFENDANT CHRISTIAN ALLMENDINGER’S
MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT
OR, IN THE ALTERNATIVE, MOTION FOR A MORE DEFINITE STATEMENT**

This matter coming before the Court on Defendant Christian Allmendinger’s Motion to Dismiss Plaintiff’s First Amended Complaint or, in the Alternative, Motion for a More Definite Statement (the “Motion to Dismiss”); the Motion to Dismiss having been served on the proper parties and no further notice being necessary; the Court having reviewed the Motion to Dismiss and being fully-advised in the premises; **IT IS HEREBY ORDERED THAT:**

- (1) The Motion to Dismiss is GRANTED; and

(2) All claims and causes of action asserted by Plaintiff against Christian Allmendinger in Plaintiff's First Amended Complaint are hereby dismissed with prejudice.

Dated: Chicago, Illinois
August __, 2010

ENTERED

HONORABLE BENJAMIN A. GOLDGAR
UNITED STATES BANKRUPTCY JUDGE

ORDER PREPARED BY:

Deborah M. Gutfeld (ARDC No. 6272331)
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street, Suite 1700
Chicago, IL 60602- 3801
Telephone: (312) 269-8000
Facsimile: (312) 269-1747