

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

<b>In re:</b>	§	<b>Chapter 11</b>
<b>LIFE FUND 5.1, LLC, et. al.,</b>	§	
<b>Debtors</b>	§	
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<b>PATRICK COLLINS, solely as TRUSTEE of</b>	§	<b>Case No. 09-32672</b>
<b>LIFE FUND 5.1, LLC, et. al.,</b>	§	<b>(Jointly Administered)</b>
<b>Plaintiff,</b>	§	
<b>v.</b>	§	<b>Hon. A. Benjamin Goldgar</b>
	§	
<b>BRENT ONCALE; RUSSELL MACKERT;</b>	§	<b>Adversary No. 10-00042</b>
<b>ADLEY ABDULWAHAB, a/k/a ADLEY</b>	§	
<b>WAHAB; CHRISTIAN ALLMENDINGER;</b>	§	
<b>A&amp;O LIFE FUNDS, LP; A&amp;O LIFE FUNDS</b>	§	
<b>MANAGEMENT, LLC; and SHEPHERD</b>	§	
<b>CAPITAL MANAGEMENT LLC,</b>	§	
<b>Defendants.</b>	§	

**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)  
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**CERTIFICATE OF SERVICE**

I, Deborah M. Gutfeld, hereby certify that on the 19<sup>th</sup> 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:

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Brent Oncale  
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Russell E. Mackert  
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Russell E. Mackert  
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/s/ Deborah M. Gutfeld  
Deborah M. Gutfeld  
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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

§ Chapter 11  
§  
§  
§  
§ Case No. 09-32672  
§ (Jointly Administered)

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

§  
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§  
§

v.

§ Hon. A. Benjamin Goldgar  
§  
§  
§ Adversary No.: 10 A 00042

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,

§  
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§

Defendants.

**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)  
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FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	§	Chapter 11
LIFE FUND 5.1, LLC, et. al.,	§	
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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**

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HONORABLE BENJAMIN A. GOLDGAR  
UNITED STATES BANKRUPTCY JUDGE

**ORDER PREPARED BY:**

Deborah M. Gutfeld (ARDC No. 6272331)  
**NEAL, GERBER & EISENBERG LLP**  
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