

FILED
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS

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

OCT 03 2011

KENNETH S. GARDNER, CLERK
PS REP. - LR

IN RE:	§	CHAPTER 11
	§	
LIFE FUND 5.1, LLC, ET AL.	§	CASE NO. 09 B 32672
	§	
	§	JOINTLY ADMINISTERED
	§	
DEBTORS	§	JUDGE A. BENJAMIN GOLDFAR

**TEXAS COMPTROLLER OF PUBLIC ACCOUNTS' RESPONSE TO
CHAPTER 11 TRUSTEE'S FOURTH OMNIBUS OBJECTION TO CERTAIN
PROOFS OF CLAIM (PRIORITY CLAIMS)**

The Texas Comptroller of Public Accounts ("Texas Comptroller"), appearing through the Texas Attorney General's Office, responds to Trustee's Fourth Omnibus Objection to Certain proofs of Claim (Priority Claims), and respectfully states:

1. On or about May 18, 2010, the Texas Comptroller filed a priority claim for franchise taxes in the amount of \$2,365.35. The Comptroller's claim is based on estimates due to the Debtor's failure to file and pay the required returns for the tax years of 2008 and 2009.

2. The Trustee has objected to the Texas Comptroller's claim on the false ground that the claim does not fall under any category enumerated as a priority claim under § 507 of the Bankruptcy Code. Additionally, the Texas Comptroller's priority tax claim appears to have been lumped with non-tax priority claims made by Claimants for Loan Contracts.

3. The Texas Comptroller's claim is clearly identified as a priority claim under Bankruptcy Code § 507(a)(8) for Texas franchise tax. As confirmed by case law from this District, Texas franchise taxes are entitled to priority status as excise taxes under § 507(a)(8)(E). In re National Steel Corp., 321 B.R. 901 (Bankr. N.D. Ill. 2005). *See also Quiroz v. Michigan*, 450 B.R. 699 (Bankr. E.D. Mich. 2011)(state franchise tax is an excise tax entitled to priority status under §

507(a)(8)(E); In re Pemberton Pub, Inc., 29 B.R. 519, 520-21 (Bankr. D. Mass. 1983). The Trustee's stated ground for objecting to the Texas Comptroller's claim is legally meritless.

Accordingly, the Texas Comptroller requests that the Trustee's objection be in all things denied and that its claims be allowed in full as filed.

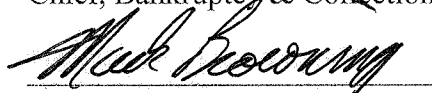
Respectfully submitted,

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**ATTORNEYS FOR TEXAS
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CERTIFICATE OF SERVICE

I certify that on the 26th day of September, 2011, a true copy of the foregoing was served by the method and to the following parties as indicated:

By Regular First Class Mail:

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Sherri K. Simpson

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