

1 HELANE L. MORRISON (Cal. Bar No. 127752)  
2 JOHN S. YUN (Cal. Bar No. 112260)  
3 PATRICK T. MURPHY (Admitted in New York)  
4 THOMAS J. EME (Admitted in Illinois)  
5 LLOYD A. FARNHAM (Cal. Bar No. 202231)

6 Attorneys for Plaintiff  
7 SECURITIES AND EXCHANGE COMMISSION  
8 44 Montgomery Street, 26th Floor  
9 San Francisco, California 94104  
10 Telephone: (415) 705-2500  
11 Facsimile: (415) 705-2501

12 UNITED STATES DISTRICT COURT  
13 EASTERN DISTRICT OF CALIFORNIA  
14 SACRAMENTO DIVISION

15 SECURITIES AND EXCHANGE COMMISSION,

16 Plaintiff,

17 v.

18 SECURE INVESTMENT SERVICES, INC.,  
19 AMERICAN FINANCIAL SERVICES, INC.,  
20 LYNDON GROUP, INC., DONALD F. NEUHAUS,  
21 and KIMBERLY A. SNOWDEN,

22 Defendants.

Case No. 2:07-cv-01724-LEW-CMK

PLAINTIFF'S MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER AND ORDER TO SHOW  
CAUSE REGARDING  
PRELIMINARY INJUNCTION

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1 **I. Introduction**

2 Hundreds of investors – many of them elderly people with retirement savings at risk – are  
3 being defrauded by Donald F. Neuhaus, Kimberly A. Snowden, and three corporations they  
4 control (collectively, “Defendants”), through a “ponzi scheme” that projects profits exceeding  
5 100%. In actuality, Defendants are using the scheme to misappropriate the investors’ money by  
6 diverting funds to themselves and to similar, but unrelated, investments.

7 Defendants have raised at least \$25 million by offering investors the opportunity to  
8 become fractional owners and beneficiaries of a large life insurance policy – a so-called “bonded  
9 life settlement.” Defendants tell investors that they will receive the policy benefits when the  
10 insured on the policy dies, and provide investors with a written estimate showing that the insured  
11 is expected to live just a few more years. Defendants also pledge that if the insured should  
12 outlive the estimated life expectancy, then a bond purchased by Defendants will pay investors  
13 the policy benefit.

14 With such promises, Defendants may raise up to \$2 million from investors for a  
15 particular policy. Defendants tell the investors that enough of their money will be set aside to  
16 cover premiums on that policy until the end of the life expectancy plus an extra 12 months for  
17 the bond to pay out, if necessary. Defendants therefore promise safe investments in which future  
18 premiums are covered and investors can count on a return either through the insured’s death  
19 within the life expectancy, or at the latest, through the bonding company pay-out within 12  
20 months of end of the life expectancy.

21 But instead of reserving funds from each investor to pay premiums on that investor’s  
22 policy, Defendants use the investor’s funds to pay the premiums coming due on *other* policies  
23 owned by *other* investors to prevent those *other* policies from lapsing and becoming worthless.  
24 (See Segner Decl. Par. 6, 8; Goldsholle Decl. Par. 14.) Defendants have also diverted \$740,000  
25 in investor funds to Mr. Neuhaus and Ms. Snowden. As a result, each new investor faces the  
26 immediate and undisclosed risk that the future premiums on *his or her* policy will go unpaid –  
27 and the investor’s policy will therefore lapse – because Defendants have failed to set aside  
28 sufficient funds as promised. Having spent the investor money as they received it, Defendants

1 were \$3 million short on June 30, 2007 of what they needed to reserve to cover future premiums.  
2 (Segner Decl. Par. 24.)

3 Besides false promises about premium reserves, Defendants misrepresent the investment  
4 in other ways. The life expectancy estimates supposedly reflect a physician's projection of how  
5 long the insured will continue to live, and by extension, project how long investors may have to  
6 wait for a return. As Defendants knew or were reckless in not knowing, the main providers of  
7 the estimates are an individual who falsely represented himself to be an M.D. and two companies  
8 he controls. Also, the estimates have been consistently understated, with many insureds alive  
9 today beyond the projected period. The bonding companies chosen by Defendants are  
10 unlicensed in the United States and have been charged in multiple proceedings brought by state  
11 regulators. Indeed, one bonding company has refused to honor bonds on over 20 policies.

12 Having depleted the prior investors' funds, Defendants are presiding over a scheme that  
13 must find new victims to keep operating. In fact, within the past few weeks, Defendants used  
14 \$250,000 set aside to purchase a large policy for one group of investors in order to pay off  
15 partially another group of investors. (Baer Decl. Par. 11.) To protect existing investors and  
16 prevent new ones from being victimized, the Court should grant immediate preliminary relief.  
17 Plaintiff Securities and Exchange Commission ("Commission") therefore applies to the Court for  
18 a temporary restraining order to prohibit Defendants' continued fraudulent sales and misuse of  
19 investor proceeds. The Commission also requests a freeze on all of Defendants' assets, along  
20 with an order directing Defendants to provide an accounting, to preserve documents, and to  
21 comply with expedited discovery. Finally, the Commission requests the appointment of a  
22 receiver over the corporate entity Defendants so that all remaining assets can be marshaled for  
23 the benefit of investors.

## 24 **II. Statement of Facts**

### 25 **A. Defendants' Scheme For Selling Fractional Interests In Insurance Policies**

26 Donald F. Neuhaus ("Neuhaus") and his daughter, Kimberly A. Snowden ("Snowden"),  
27 have used three corporations, Secure Investment Services, Inc. ("SIS"), American Financial  
28 Services, Inc. ("AFS"), and Lyndon Group, Inc. ("Lyndon Group") (the "corporate defendants"),

1 to operate their fraudulent scheme at various times. All three corporations have their principal  
2 places of business in Redding, California. (Eme Declaration Exh. 1 at 7-8, 22-25, 87, Exh. 2 at  
3 8-10, 16, 20, Exh. 34.) Together with his wife, Neuhaus owns the corporate defendants. (Eme  
4 Decl. Exh. 1 at 21, 24-25, Exh. 2 at 15, 20-21.)<sup>1</sup>

5 Neuhaus has served as an officer and/or director for each of the corporate defendants and  
6 controls them along with Snowden. (Eme Decl. Exh. 1 at 21-26, Exh. 2 at 10-11, 17-19, 64,  
7 Exh. 34.) Snowden has served as an officer and/or director for each of the corporate defendants  
8 and also as their Director of Operations and Controller. (Eme Decl. Exh. 2 at 10-11, 17-19, 64,  
9 Exh. 34.)

10 Since at least 2001, Defendants have engaged in the business of offering and selling  
11 fractionalized interests in life insurance policies, an investment product they call "bonded life  
12 settlements" or "bonded senior settlements." (Eme Decl. Exh. 1 at 6-8, Exh. 2 at 8-9, 16-20, 64;  
13 Exh. 25, Exh. 36.) Defendants represent to investors that they will receive returns on these  
14 investments as high as 125%, and have sold fractional interests in over 40 policies to over 500  
15 hundred investors in at least 20 states including California, Florida, and Texas. (Eme Decl. Par.  
16 26; Eme Decl. Exh. 41.)

17 The investors have paid a combined total of at least \$25 million for their investments and  
18 ostensibly should receive a combined return of at least \$55 million. (Eme Decl. Par. 26.) Some  
19 investors have invested hundreds of thousands of dollars, and some have invested in multiple  
20 policies offered over a period of months or years. (Eme Decl. Exh. 7 at 7-8, Exh. 29.) Investors  
21 have been encouraged to place their retirement savings in Defendants' program, and many have  
22 done so. (Eme Decl. Exh. 6 at 53, Exh. 7 at 59-60, Exh. 18 at 48-49, Exh. 19, 27-28; Eme Decl.  
23 Par. 42.) Many investors are senior citizens. (Eme Decl. Par. 42)

24 Investors are typically solicited by a network of sales agents used by Defendants. (Eme  
25 Decl. Exh. 1 at 8-9, 17-18, Exh. 30.) Defendants and their sales agents communicate with  
26 investors and potential investors via mail, telephone, and the Internet. (Eme Decl. Exh. 6 at 17-  
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28 <sup>1</sup> Although this testimony does not directly state that Neuhaus and his wife own Lyndon Group, it appears  
from the testimony that as with SIS and AFS, they are the owners.

1 19, 42-44, Exh. 7 at 24-31, Exh. 19, 32, 37, 41.) Investors sign standard purchase agreement  
2 documents created and provided by Defendants. (Eme Decl. Exh. 1 at 15, Exh. 3-4.) SIS or one  
3 of the other corporate defendants is a party to the purchase agreement. (Eme Decl. Exh. 3-4.)

4 Defendants obtain the life insurance policies from various policy brokers, paying the  
5 brokers a fraction of the policy's face amount. (Eme Decl. Exh. 1 at 7-8, 15.) Upon selling a  
6 policy to investors, Defendants record the investors as beneficiaries and owners of the policy on  
7 the insurance company's records. (Eme Decl. Exh. 2 at 25-26, Exh. 32, 36, 44.) When the  
8 insured on the policy dies, the insurance company should pay each investor a pro rata share of  
9 the policy face amount that equals his or her original investment plus the return. (Eme Decl.  
10 Exh. 2 at 8-9, 24-27, Exh. 32.)

11 A life expectancy estimate and a bond purportedly provide investors with a set time by  
12 which they will receive their return. For the insured on each policy, Defendants obtain a written  
13 life expectancy estimate, which includes information on the insured's age and health status.  
14 (Eme Decl. Exh. 1 at 66; Exh. 10, 36.) These estimates typically project that the insured will die  
15 in three to six years and, by extension, forecast when investors will receive a return. (Eme Decl.  
16 Exh. 10, 36.) Defendants provide copies of the life expectancy estimates to investors, either  
17 directly or through sales agents. (Eme Decl. Exh. 1 at 88, Exh. 32, 37.)

18 Many of the investments have been "bonded." (See Eme Decl. Exh. 2 at 26-27; Segner  
19 Declaration Par. 24.) The bond is purportedly structured so that if the insured lives beyond the  
20 life expectancy, then, after a waiting period, the investors assign their ownership in the policy to  
21 the bonding company, which then pays the investors the amount they would otherwise receive  
22 from the insurance company upon the death of the insured. (Eme Decl. Exh. 2 at 25-26, Exh. 3-  
23 4, Exh. 36.) Defendants provide copies of the bonds to investors either directly or through sales  
24 agents. (Eme Decl. Exh. 32, 37.)

25 Once a policy is sold to investors, premiums on the policy must be paid to prevent it from  
26 lapsing, (Eme Decl. Exh. 2 at 26-27), after which the insurance company will not pay policy  
27 benefits, (Goldsholle Declaration Par. 14.) The purchase agreements typically state that included  
28 in what investors pay for the investment is an amount sufficient to pay policy premiums for the

1 life expectancy of the insured plus the typical bond waiting period (12 months), and that  
2 Defendants will use this amount to pay the premiums. (Eme Decl. Exh. 3-4.)

3 Defendants manage the pools of fractional policy interests. As they are raising funds  
4 from investors, Defendants locate, negotiate for, and acquire a life insurance policy from a policy  
5 broker. (Eme Decl. Exh. 1 at 7-10, 81, Exh. 2 at 11, 94, 110, Exh. 3-4, 41, 43.) They are  
6 responsible for ensuring that the policy is not oversold or undersold to investors. (Eme Decl.  
7 Exh. 2 at 11.) They unilaterally choose the bonding company for the policy and pay for the  
8 bond. (Eme Decl. Exh. 1 at 11-12, 32, 48, 54-55, 81, Exh. 2 at 27-29, 30, 34, 36-40, 61, 110.)

9 After a particular policy is completely sold to investors, Defendants contact the insurance  
10 company to have the investors recorded as owners and beneficiaries on the policy. (Eme Decl.  
11 Exh. 1 at 81, Exh. 2 at 110, Exh. 3-4, 32, 44.) Defendants also control whether to make any  
12 policy premium payment, or instead pay other business expenses, and whether to cover  
13 premiums with cash or with cash value that has accumulated in the policy.<sup>2</sup> (Eme Decl. Exh. 1  
14 at 8, 13-16, 81, Exh. 2 at 11-12, 60-62, 75-77, 110, Exh. 16.) Defendants monitor the health and  
15 status of the insured and file any claim for policy benefits (with assistance from a firm  
16 Defendants retain). (Eme Decl. Exh. 2 at 12-13, Exh. 42.) Finally, Defendants submit and  
17 pursue any claim against the bonding company. (Eme Decl. 2 at 27, Exh. 25.) The investors are  
18 therefore passive participants in Defendants' scheme, with their role limited to signing purchase  
19 documents and paying for the investment. (Eme Decl. Exh. 1 at 80-81, Exh. 2 at 109-110; Exh.  
20 6 at 13-15.)

21 During the period of approximately 2001 through April 2005, Neuhaus and Snowden  
22 operated the scheme primarily through AFS. (Eme Decl. Exh. 2 at 16, Exh. 25, Exh. 40.)  
23 During this period, they sold fractional interests in at least 27 policies to investors for  
24 approximately \$12 million in investor proceeds. (Eme Decl. Par. 34.) In April 2005, the Internal  
25 Revenue Service executed search warrants at AFS's office and Neuhaus's home. (Eme Decl.  
26

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27  
28 <sup>2</sup> "Cash value" refers to funds that can accumulate within a policy and are held by the insurance company. Cash value is an asset that belongs to the owners of the policy, and generally can be loaned to the owner or used to pay premiums in lieu of cash payments. (Goldsholle Decl. Par. 16-19.)

1 Exh. 1 at 40, 77, Exh. 2 at 107; see Eme Decl. Par. 8.) Soon after the search, Neuhaus and  
2 Snowden stopped using AFS as the primary vehicle for the scheme and closed its bank accounts.  
3 (Eme Decl. Exh. 1 at 84, Exh. 34.) They continued the scheme through the newly created SIS,  
4 which opened new accounts at a different bank. (Eme Decl. Exh. 1 at 84, Exh. 34.)

5 Since approximately May 2005, Neuhaus and Snowden have sold fractional policy  
6 interests primarily through SIS. (Eme Decl. Exh. 2 at 11, 16, 20, Exh. 40.) Lyndon Group was  
7 also involved in the scheme during approximately 2005-2006. (Eme Decl. Exh. 1 at 24-25, Exh.  
8 2 at 20, Exh. 34.) Since approximately May 2005, SIS and Lyndon Group have sold fractional  
9 interests in approximately 15 policies and raised approximately \$13 million from investors.

10 (Eme Decl. Par. 34.) Defendants have never filed a registration statement with the Commission  
11 covering the offers and sales of their investments. (Eme Decl. Exh. 1 at 80; Eme Decl. Par. 46.)

#### 12 **B. Defendants' Ponzi Scheme Is On The Verge Of Collapse**

13 Contrary to their representations to investors, Defendants do not reserve investor funds to  
14 pay future policy premiums, and instead rely on raising money from new investors to pay  
15 premiums on previously sold policies. Consequently, the scheme is in danger of collapsing.

16 Neuhaus and Snowden acknowledge that when a policy is sold to investors, the corporate  
17 defendants should set aside a portion of investor funds sufficient to pay future premiums on the  
18 policy for the period of the life expectancy plus the bond waiting period. (Eme Decl. Exh. 1 at 8,  
19 12-13, Exh. 2 at 89-91.) In this vein, Defendants' purchase agreements typically contain the  
20 following representations:

- 21 • "All of the following costs associated with the purchase of an interest of [sic] a policy  
22 are included in the investment amount . . . A premium payment for a minimum of one  
23 year beyond the projected life expectancy of the insured, or until the policy is purchased  
24 by the bonding company, whichever comes first.";
- 25 • "SIS may escrow funds for future premium payments for a minimum of twelve (12)  
26 months beyond the projected life expectancy of the insured, or longer at SIS's discretion .  
27 . . ."; and

