

1 **BOUTIN GIBSON DI GIUSTO HODELL INC.**

Chris Gibson, SBN 073353
2 Maralee MacDonald, SBN 208699
555 Capitol Mall, Suite 1500
3 Sacramento, CA 95814-4603
Tel. (916) 321-4444
4

5 **QUILLING, SELANDER, CUMMISKEY
& LOWNDS, P.C.**

Michael J. Quilling (Tex. Bar No. 16432300) – Admitted Pro Hac Vice
6 D. Dee Raibourn, III (Tex. Bar No. 24009495) – Admitted Pro Hac Vice
Brent J. Rodine (Tex. Bar No. 24048770) – Admitted Pro Hac Vice
7 2001 Bryan Street, Suite 1800
Dallas, TX 75201
8 Telephone: (214) 871-2100
Facsimile: (214) 871-2111
9

Attorneys for Michael J. Quilling
10 Receiver of Defendants Secure Investment Services, Inc.,
American Financial Services, Inc., and Lyndon Group, Inc.
11

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.,
AMERICAN FINANCIAL SERVICES, INC.,
19 LYNDON GROUP, INC., DONALD F. NEUHAUS,
and KIMBERLY A. SNOWDEN,

20 Defendants.

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

NOTICE OF MOTION FOR ORDER
DIRECTING DISCLOSURE OF
POLICY INFORMATION TO THE
RECEIVER

Date: December 15, 2008
Time: 9:00
Department 10

21 TO: THE PARTIES AND ALL COUNSEL OF RECORD:

22 On December 15, 2008 at 9:00 a.m., or as soon thereafter as the matter may be heard
23 before the Honorable Garland E. Burrell, Jr., at the U.S. District Court for the Eastern District of
24 California, 501 I Street, Sacramento, California, Michael J. Quilling, the Receiver appointed in
25 these proceedings, (“Receiver”), will move this the Court to issue an order directing disclosure of
26 policy information to the Receiver by Sun Life Financial, Sun Life Assurance Company of
27 Canada, and other insurance providers.
28

1 The motion will be based upon Receiver's Motion and Brief in Support, the papers on file
2 in this matter and any testimony or argument received by the Court during the hearing on the
3 motion. A proposed order is submitted contemporaneously with this motion.

4
5 Respectfully submitted,

6 BOUTIN GIBSON DI GIUSTO HODELL INC.
7

8 Dated: October 21, 2008

9 By /s/ Maralee MacDonald
10 Maralee MacDonald
11 Attorneys for Receiver of Defendants
12 Secure Investment Services, Inc.,
13 American Financial Services, Inc., and
14 Lyndon Group, Inc.
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2001 Bryan Street, Suite 1800
Dallas, TX 75201
Telephone: (214) 871-2100
Facsimile: (214) 871-2111

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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

Defendants.

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

MOTION FOR ORDER DIRECTING
DISCLOSURE OF POLICY
INFORMATION TO THE RECEIVER

Date: December 15, 2008
Time: 9:00
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TO THE HONORABLE GARLAND E. BURRELL, JR., UNITED STATES DISTRICT JUDGE:

Michael J. Quilling, the Receiver appointed in these proceedings (“Receiver”), files this motion for an order directing Sun Life Financial and Sun Life Assurance Company of Canada (collectively, “Sun Life”) and other insurance providers to disclose policy information to the Receiver and, in support, would show the following:

1 1. By Orders dated August 24, 2007 [Dkt. No. 27] and October 30, 2007 [Dkt. No.
2 80], this Court appointed the Receiver and charged him with having “complete and exclusive
3 control, possession and custody of all receivership assets.”

4 2. One of the assets at issue in this case is an ownership interest in Sun Life policy
5 no. 020070476, which is referred to as the SHU-A&H(1) policy.¹

6 3. The Receiver currently owns a 3.2479280% interest in the SHU-A&H(1) policy.
7 In addition, the Receiver has been paying \$55,224.00 in annual premiums on that policy and Sun
8 Life lists him as the policy’s primary contact.

9 4. This Court authorized the Receiver to employ National Viatical, Inc. (“NVI”) to
10 assist in managing the SHU-A&H(1) policy as well as all others in this case. [Dkt. No. 53.] To
11 do so effectively, NVI requests the following information from all insurance providers on a
12 monthly basis: (a) the current death benefit amount; (b) any loans against the policy or its death
13 benefit; (c) the dates and amounts for current and anticipated premium payments; (d) any
14 assignments of ownership or beneficiary interests; (e) verification of coverage; (f) the current
15 cash value or cash surrender value; and (g) the current and anticipated cost of insurance.

16 5. All other insurance companies provide exactly this kind of information over the
17 phone to NVI on a monthly basis. Sun Life, however, refuses to do so without written consent
18 from the ten other joint owners on the SHU-A&H(1) policy.

19 6. In an effort to resolve this matter without court intervention, the Receiver sent a
20 letter to Sun Life’s counsel on August 28, 2008. The Receiver pointed out that NVI requires this
21 information to properly manage the SHU-A&H(1) policy. A true and correct copy of that letter
22 is attached as Exhibit 1.

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27 ¹ This is a second-to-die policy insuring the life of two people. To protect the insureds’ identities, this identifier
28 uses the first three letters of their last name and the first letter of each insured’s first name. The “(1)” indicates that
this is the first of multiple policies on these insureds.

1 7. On September 8, 2008, Sun Life’s counsel sent a response by e-mail. Sun Life
2 again stated its position that it “will require written consent and authorization from all joint
3 owners of the policy to make information available to National Viatical.” A true and correct
4 copy of that e-mail is attached as Exhibit 2.

5 8. The Receiver now seeks an order directing Sun Life to disclose that information
6 to the Receiver or his agents—including NVI—upon request and without written consent from
7 the other joint owners of record. To avoid future disputes and litigation expenses, the Receiver
8 would also ask that the order prospectively apply to other providers with insurance policies
9 where the Receiver has an ownership interest or pays premiums.
10

11 9. The Receiver has prepared a proposed order, which is attached as Exhibit 3. An
12 authorized representative from Sun Life has reviewed that order and submitted a statement of
13 non-opposition, which is attached as Exhibit 4. The Receiver anticipates that the SEC, the
14 Examiner, and Defendant Kimberly Snowden will also file statements of non-opposition
15 according to the local rules.
16

17 WHEREFORE, PREMISES CONSIDERED, the Receiver respectfully asks that the
18 Court enter the order attached as Exhibit 3 directing Sun Life Financial and Sun Life Assurance
19 Company of Canada to disclose to the Receiver or his agents—including National Viatical,
20 Inc.—the following information about policy no. 020070476 upon request and without written
21 consent from the other joint owners of record: (a) the current death benefit amount; (b) any loans
22 against the policy or its death benefit; (c) the dates and amounts for current and anticipated
23 premium payments; (d) any assignments of ownership or beneficiary interests; (e) verification of
24 coverage; (f) the current cash value or cash surrender value; and (g) the current and anticipated
25 cost of insurance as calculated on an annual basis. That order should prospectively apply to all
26 other providers with insurance policies where the Receiver has an ownership interest or pays
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28

1 premiums. The Receiver also seeks such other and further relief, general or special, at law or in
2 equity, to which he may show himself justly entitled.

3
4 Respectfully submitted,

5 Dated: October 21, 2008

/s/ Maralee MacDonald

6 Maralee MacDonald
7 Attorneys for Receiver of Defendants
8 Secure Investment Services, Inc.
9 American Financial Services, Inc., and
10 Lyndon Group, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2008, a copy of this motion was served on all interested parties through the Court's electronic filing system. In addition, a copy of this motion was served on the following other persons by First Class US Mail:

Linda Neuhaus
2701 Park Marina Drive
Redding, CA 96001

Bazzle John Wilson
1291 Nunneley Road
Paradise, CA 95969

J.D. Zink
Zink & Lenzi
250 Vallombrosa Ave., Suite 175
Chico, CA 95926

/s/ Maralee MacDonald

Maralee Macdonald

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EXHIBIT 1

004925



Michael J. Quilling
BOARD CERTIFIED
BUSINESS BANKRUPTCY LAW
AND CIVIL TRIAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

Telephone: 214.871.2100
Facsimile: 214.871.2111

August 28, 2008

By e-mail to
RGuite@ssd.com

Robert J. Guite
SQUIRE, SANDERS & DEMPSEY L.L.P.
One Maritime Plaza, Suite 600
San Francisco, California 94111

RE: *Securities and Exchange Commission v. Secure Investments Services, Inc., American Financial Services, Inc., Lyndon Group, Inc., Donald F. Neuhaus, and Kimberly A. Snowden*, Case No. 2:07-CV-01724-GEB-CMK (E.D. Cal.)

Dear Robert:

This letter is directed to you as counsel for Sun Life. As you know, the United States District Court for the Eastern District of California has appointed me as Receiver for American Financial Services, Inc. and other related entities. This case involves a portfolio of life insurance policies that includes Sun Life policy no. 020070476 for Abraham and Helen Shulman (the "Shulman Policy"). As Receiver, I have been paying the premiums for this policy and Sun Life currently lists me as its primary contact.

The District Court authorized me to employ National Viatical, Inc. ("NVI") to assist in managing the Shulman Policy and others at issue in this case. Therefore, in my capacity, I authorize Sun Life to disclose information about the Shulman Policy to:

National Viatical, Inc.
9940 Highway 92
Woodstock, GA 30188
Telephone: (770) 516-1999
Toll Free: (800) 542-9513
Fax Number: (770) 516-1983

I further authorize Sun Life to disclose the following information to NVI as it relates to the Shulman Policy:

- (1) any periodic statements for this policy;
- (2) the current and anticipated death benefit amount;
- (3) any current and anticipated loans against the policy or its death benefit;
- (4) the dates and amounts for current and anticipated premium payments;
- (5) any assignments of ownership or beneficiary interests;

004926

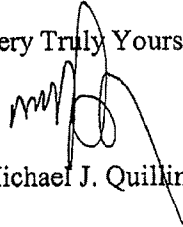
Letter to Robert Guite
August 28, 2008

- (6) any verification of coverage requested by NVI;
- (7) the current and anticipated cash value or cash surrender value; and
- (8) the current and anticipated costs of insurance.

This information is necessary for NVI to perform its job according to the court order employing them in this case. All other insurance companies provide exactly this kind of information over the phone to NVI on a monthly basis. Therefore, in my capacity, I direct Sun Life to do the same on a monthly basis by phone, e-mail, or in writing.

Should you have any questions, feel free to contact Brent Rodine in my office to discuss this further.

Very Truly Yours,



Michael J. Quilling

EXHIBIT 2

Brent Rodine

From: Guite, Robert J. [RGuite@ssd.com]
Sent: Monday, September 08, 2008 3:46 PM
To: Brent Rodine
Cc: Catrina Tipton; Tina Robb
Subject: RE: Sun Life policy no. 020070476

Brent--

Sun Life has reviewed the August 28 correspondence and will require written consent and authorization from all joint owners of the policy to make information available to National Viatical. Once you have provided written authorization from each joint owner, Sun Life will be in a position to provide information to National Viatical as Mr. Quilling requested in the August 28 correspondence.

Regards,

Robert J. Guite | Of Counsel
SQUIRE, SANDERS & DEMPSEY L.L.P.
One Maritime Plaza, Suite 300 | San Francisco, CA 94111
+1.415.954.0235 | +1.415.393.9887 (fax)
rguite@ssd.com | www.ssd.com

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Associated Offices: Bucharest Buenos Aires Dublin Kyiv Milan Santiago

This e-mail is confidential and is intended only for the named recipient(s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message from your computer. Thank you.

From: Brent Rodine [mailto:brodine@qscipc.com]
Sent: Thursday, August 28, 2008 11:29 AM
To: Guite, Robert J.
Cc: Catrina Tipton; Tina Robb
Subject: RE: Sun Life policy no. 020070476

Rob:

Attached is the letter you requested authorizing Sun Life to disclose information to NVI.

Thanks for your help.

- Brent

From: Guite, Robert J. [mailto:RGuite@ssd.com]
Sent: Wednesday, August 27, 2008 5:05 PM

10/2/2008

To: Guite, Robert J.; Brent Rodine
Subject: RE: Sun Life policy no. 020070476

Brent--

I have conferred with Sun Life and we may be able to accommodate your request.

Please prepare a letter to me as counsel for Sun Life indicating that Mr. Quilling, in his capacity as receiver and as the primary contact on the subject policy, authorizes Sun Life to disclose [describe what information may be disclosed] to [please identify NVI with particularity, including contact information for NVI] until such time that Mr. Quilling advises Sun Life that information should no longer be provided to NVI.

Once we have that request in a formal letter, Sun Life will be able to make a final determination. Also, I will be out of the office next week and will be available to further discuss when I return on September 8.

Regards,

Rob

-----Original Message-----
From: Brent Rodine [mailto:brodine@qsclpc.com]
Sent: Thursday, August 28, 2008 1:22 PM
To: Brent Rodine
Subject: IKON DocSend files for you

This document was generated by IKON DocSend on the device #C00008635.

EXHIBIT 3

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA
3 SACRAMENTO DIVISION
4

5 SECURITIES AND EXCHANGE
6 COMMISSION,

7 Plaintiff,

8 v.

9 SECURE INVESTMENT SERVICES, INC.,
10 AMERICAN FINANCIAL SERVICES, INC.,
11 LYNDON GROUP, INC., DONALD F.
12 NEUHAUS, and KIMBERLY A. SNOWDEN,

13 Defendants.

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

[PROPOSED] ORDER DIRECTING
DISCLOSURE OF POLICY
INFORMATION TO THE RECEIVER

Date: December 15, 2008
Time: 9:00
Department 10

14 This matter comes before the Court on Receiver Michael J. Quilling's motion for an
15 order directing disclosure of policy information to the Receiver. The Court, having considered
16 the motion, the attached exhibits, the pleadings on file, and finding good cause therefore,

17 IT IS ORDERED, ADJUDGED, AND DECREED that Sun Life Financial and Sun Life
18 Assurance Company of Canada shall disclose to the Receiver or his agents—including National
19 Viatical, Inc.—the following information about policy no. 020070476 upon request and without
20 written consent from the other joint owners of record: (a) the current death benefit amount; (b)
21 any loans against the policy or its death benefit; (c) the dates and amounts for current and
22 anticipated premium payments; (d) any assignments of ownership or beneficiary interests; (e)
23 verification of coverage; (f) the current cash value or cash surrender value; and (g) the current
24 and anticipated cost of insurance as calculated on an annual basis.

25 IT IS ORDERED, ADJUDGED, AND DECREED that this order prospectively applies to
26 all other providers with insurance policies where the Receiver has an ownership interest or pays
27 premiums. Those providers shall also disclose the information described above to the Receiver
28 or his agents—including National Viatical, Inc.—upon request and without written consent from
other joint owners of record.



SQUIRE, SANDERS & DEMPSEY L.L.P.

One Maritime Plaza, Suite 300
San Francisco, CA 94111-3492

Office: +1.415.954.0200
Fax: +1.415.393.9887

Direct: +1.415.954.0235
rguite@ssd.com

October 15, 2008

VIA EMAIL & U.S. MAIL

Brent Rodine
Quilling, Selander, Cumiskey & Lownds
2001 Bryan Street, Suite 1800
Dallas, TX 75201

Re: **Sun Life Policy No. 020070476**

Dear Mr. Rodine:

We write on behalf of Sun Life with respect to the above-referenced policy and following our review of your proposed Motion for Order Directing Disclosure of Policy Information to the Receiver, attachments and proposed order. Sun Life will not appear and oppose the Motion for Order Directing Disclosure of Policy Information to the Receiver given the receiver's confirmation that the receiver will provide notice of the instant motion to all joint owners of the subject policy and the receiver's agreement to execute a Sun Life form authorizing release of policy information to the receiver's designee following entry of the subject order.

Please let me know if you have further questions or require additional information from Sun Life.

Sincerely,

SQUIRE, SANDERS & DEMPSEY L.L.P.

A handwritten signature in black ink that reads "Robert J. Guite".

Robert J. Guite

RJG:tmd

SANFRANCISCO/280278.1
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