

1 **BOUTIN JONES INC.**

2 Chris Gibson, SBN 073353
3 Maralee MacDonald, SBN 208699
4 555 Capitol Mall, Suite 1500
5 Sacramento, California 95814-4603
6 (916) 321-4444

7 **QUILLING, SELANDER, LOWNDS, WINSLETT & MOSER, P.C.**

8 Michael J. Quilling (Tex. Bar No. 16432300) – Admitted Pro Hac Vice
9 Brent J. Rodine (Tex. Bar No. 24048770) – Admitted Pro Hac Vice
10 2001 Bryan Street, Suite 1800
11 Dallas, Texas 75201
12 Telephone: (214) 871-2100
13 Facsimile: (214) 871-2111

14 Attorneys for Michael J. Quilling
15 Receiver of Defendants Secure Investment Services, Inc.,
16 American Financial Services, Inc., and Lyndon Group, Inc.

17 UNITED STATES DISTRICT COURT
18 EASTERN DISTRICT OF CALIFORNIA
19 SACRAMENTO DIVISION

20 SECURITIES AND EXCHANGE COMMISSION,

21 Plaintiff,

22 v.

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

27 Defendants.

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

**NOTICE OF MOTION FOR
AUTHORIZATION TO ABANDON
THE BIE-F&L POLICY**

Date: February 7, 2011

Time: 9:00 a.m.

Courtroom: 10

28 TO ALL PARTIES AND COUNSEL OF RECORD:

On February 7, 2011, at 9:00 a.m., or as soon thereafter as the matter may be heard before the Honorable Garland E. Burrell, Jr., at the U.S. District Court for the Eastern District of California, 501 I Street, Department 10, Sacramento, California, Michael J. Quilling, the Receiver appointed in these

1 proceedings ("Receiver"), will move this Court for an Order authorizing Receiver to abandon the
2 receivership estate's ownership interest in the BIE-F&L policy.

3 The motion will be based upon this Notice, Receiver's Motion for Authorization to Abandon
4 the BIE-F&L and Declaration of Michael J. Quilling in support of the motion, on the papers on file in
5 this matter and the evidence, testimony or argument received by the Court during the hearing on the
6 motion. A proposed order is submitted contemporaneously with this motion.
7

8 Dated: January 6, 2011.

9 Respectfully submitted,

10 **BOUTIN JONES INC.**

11
12 By: /s/ Maralee MacDonald
13 Maralee MacDonald

14
15 **QUILLING, SELANDER, LOWNDS**
WINSLETT & MOSER, P.C.

16 Michael J. Quilling (Tex. Bar No. 16432300)
17 Brent J. Rodine (Tex. Bar No. 24048770)

18 Attorneys for Receiver of Defendants Secure Investment
19 Services, Inc., American Financial Services, Inc., and
20 Lyndon Group, Inc.

21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on the 6th day of January, 2011, a copy of this Notice was served on all
23 interested parties through the Court's electronic filing system. In addition, a copy of this motion was
24 served on the following other persons by First Class U.S. Mail:

25 Ernest Jeremias
26 5022 17th Avenue, Apt. 1
27 Brooklyn, NY 11204

Bazzle John Wilson
1291 Nunneley Road
Paradise, CA 95969

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/s/ Maralee MacDonald
Maralee MacDonald

BOUTIN JONES INC.

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Telephone: (214) 871-2100
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Attorneys for Michael J. Quilling
Receiver of Defendants Secure Investment Services, Inc.,
American Financial Services, Inc., and Lyndon Group, Inc.

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

**RECEIVER'S MOTION FOR
AUTHORITY TO ABANDON BIE-
F&L POLICY**

Date: February 7, 2011
Time: 9:00 a.m.
Department: 10

TO THE HONORABLE GARLAND E. BURRELL, JR., UNITED STATES DISTRICT
JUDGE:

Michael J. Quilling ("Receiver") submits this Motion for Authority to Abandon BIE-F&L
Policy and in support of such would show the Court as follows:

1 1. On May 30, 2008, the Receiver filed a Motion to Abandon the BIE-F&L¹ policy
2 (Dkt. 155), seeking permission to abandon the policy because the Receiver owned a 1.25%
3 fractional percentage of the policy but was paying 100% of the premiums. On July 28, 2008, the
4 Court entered an Order (Dkt. 254) authorizing the Receiver to abandon the BIE-F&L policy, “at
5 his discretion, at such time as the estate is required to expend additional funds to pay premiums.”
6 Since the entry of that Order, 100% of the fractional ownership in the BIE-F&L policy has
7 transferred to the receivership estate. The Receiver now seeks court permission to abandon the
8 BIE-F&L policy for the reason that the cost of premiums and expenses has significantly
9 increased and has become a financial burden on the receivership estate.

10 2. On July 2, 2010, the Receiver filed a Motion (Dkt. 753) and on July 28, 2010, the
11 Court entered an Order (Dkt. 767) authorizing the Receiver to abandon the PER-T&E and MAN-
12 S policies on grounds similar to those sought in this Motion.

13 3. The BIE-F&L is what is commonly known as a second-to-die policy in that both
14 insureds must die before there is any payment of a death benefit. The BIE-F&L policy was
15 issued in June of 1990 by American General Insurance Company with a face amount of \$4
16 million. The current death benefit is \$4,023,949.00.

17 4. The male insured under the BIE-F&L policy is currently 84 years old. Before the
18 Receiver was appointed, two other life expectancy estimates (“LE”) were obtained: the first LE
19 obtained in August 2001 gave the male insured an LE of four years; and the second LE obtained
20 in March 2006 gave the male insured an LE of approximately 8.83 years. Based upon a life
21 expectancy estimate obtained by the Receiver in May of 2009, he has between 7 and 10.75 years
22 from the filing of this Motion before he is projected to die. The female insured is currently 83
23 years old and two LEs were obtained before the Receiver was appointed: the first LE obtained in
24 August 2001 stated that the female insured had an LE of 4.3 years; and the second LE obtained
25 in July 2006 stated that she had an LE of almost 12 years. In May 2009, the Receiver obtained a
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28 ¹ In order to protect the identity of the insureds from those who may be interested in their early death, an identifier is used that is comprised of the first three letters of the last name and the first letter of the first name of the insureds.

1 new LE which gave her an LE between 10.5 and 15.8 years from the filing of this Motion before
2 she is projected to die.

3 5. The current year premiums on the BIE-F&L policy are \$63,000.00 per quarter, or
4 \$252,000.00 on an annual basis. To date, the receivership has expended \$657,000.00 in
5 premiums on the BIE-F&L policy.

6 6. Based upon extensive discussion with the experts retained in this case by the
7 Receiver with Court approval, National Viatical, Inc. ("NVI"), it is the Receiver's
8 recommendation that the BIE-F&L policy be abandoned due to the extremely high cost of
9 premiums to the estate and the fact that both insureds have to die before there will be any
10 payment, the current medical condition of the insureds, and the projected length of time that the
11 Receiver will likely have to pay premiums.

12 7. Assuming that the LEs obtained on the BIE-F&L policy by the Receiver are
13 reasonably accurate, the out-of-pocket cost to the receivership over the remaining life of the
14 female insured on the BIE-F&L policy would be between \$2.6 million and \$4 million. These
15 out-of-pocket cost estimates assume no increase in premiums which will certainly not be the
16 case. Although this policy is very large (currently the largest in the receivership estate) and
17 could result in a substantial financial benefit to the estate, the financial burden of the premium
18 payments (even assuming the Receiver can figure out a financing vehicle to do so) would
19 virtually negate the death benefit proceeds.

20 8. The limited amount of funds available to the estate is also problematic. The
21 Receiver has a \$4 million line of credit. There is currently an outstanding principal balance of
22 approximately \$1.8 million on the line of credit. Thus far, death benefits received on other
23 policies where the insured has died has allowed the Receiver to make reductions on the balance
24 of the line, however, there is no assurance as to when death benefits will be received in the
25 future. The bottom line is that the Receiver has to make the \$4 million line of credit last for as
26 long as he can. Using 6% of it every year to pay just the premium on the BIE-F&L policy does
27 not make financial sense under the given circumstances.

28

1 9. Right now, the annual premium cost for all the policies is approximately \$1.1
2 million, all of which has to be borrowed on the line-of-credit. By not paying one year's worth of
3 premiums for the BIE-F&L policy, the saved dollars could pay for the annual premiums of
4 nearly one-third of the other policies for a year. By not paying the premiums on BIE-F&L for
5 the insureds entire LEs, the saved dollars would pay for ALL policies for nearly five years. In
6 short, the cost of maintaining the BIE-F&L policy is threatening to "sink the boat." Although the
7 Receiver very much regrets having to abandon what could be a significant asset if there were to
8 be an immediate event which caused the death of both of the insureds, it is his best business
9 judgment that such a thing is unlikely and that the costs outweigh the potential benefits.

10 10. Accordingly, it is the recommendation of the Receiver that the Court authorize the
11 Receiver to abandon the BIE-F&L policy and cease making any payments of premiums. A
12 premium payment on the BIE-F&L policy of \$63,000.00 is currently due by the Receiver and
13 unless paid within the month of January 2011, the BIE-F&L policy will completely terminate on
14 or about March 29, 2011. Accordingly, time is of the essence in connection with a decision on
15 these policies.

16 11. The Receiver has also discussed with NVI the possibility of a sale of the BIE-
17 F&L policy, but given the current market conditions, the scarcity of buyers and the multiple
18 problems associated with these policies, both NVI and the Receiver believe the prospect of a sale
19 is extremely unlikely. Nonetheless, the Receiver will continue to contact potential buyers
20 between now and the date the BIE-F&L policy is scheduled to lapse.

21 Submitted this 6th day of January, 2011.

22 Respectfully submitted,

23
24 /s/ Michael J. Quilling
25 MICHAEL J. QUILLING (Tex. Bar No. 16432300)
BRENT J. RODINE (Tex. Bar No. 24048770)

26 QUILLING, SELANDER, LOWNDS,
27 WINSLETT & MOSER, P.C.
28

Chris Gibson, SBN 073353
Maralee MacDonald, SBN 208699
BOUTIN JONES INC.

Attorneys for Receiver

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 2011, 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 U.S. Mail:

Ernest Jeremias
5022 17th Avenue, Apt. 1
Brooklyn, NY 11204

Bazzle John Wilson
1291 Nunneley Road
Paradise, CA 95969

/s/ Maralee MacDonald
Maralee MacDonald

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

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

15 SECURITIES AND EXCHANGE COMMISSION,

16 Plaintiff,

17 v.

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

20 Defendants.

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

DECLARATION OF RECEIVER
MICHAEL J. QUILLING IN SUPPORT
OF MOTION FOR AUTHORIZATION
TO ABANDON THE BIE-F&L
POLICY

Hearing Date: February 7, 2011

Time: 9:00 a.m.

Judge: Hon. Garland E. Burrell, Jr.

21 Michael J. Quilling, the Receiver appointed in these proceedings, respectfully submits the
22 following Declaration in support of the Motion for Authorization to Abandon the BIE-F&L
23 Policy, and declares:

24 1. I am an attorney at law and a shareholder of Quilling, Selander, Lownds, Winslett &
25 Moser, P.C. I am the Court appointed receiver and admitted *pro hac vice* in this matter. I make
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1 this declaration based on my own personal knowledge and could competently testify regarding
2 the facts below if called to do so.

3 2. One of the assets over which I assumed control as Receiver is life insurance policy
4 number B10090447L in the face amount of \$4 million issued by American General Insurance
5 Company insuring the lives of BIE-F&L. The BIE-F&L policy is what is commonly known as a
6 second-to-die policy in that both insureds must die before there is any payment of a death
7 benefit. The current death benefit of the BIE-F&L policy is \$4,023,949.00.

8 3. The asset described in paragraph 2 is sometimes referred to in this Declaration as
9 "Policy". In order to protect the identity of the insureds from those who may be interested in
10 their early death, I use an identifier comprised of the first three letters of the last name and the
11 first letter of the first name of the insureds.

12 4. The male insured under the BIE-F&L policy is currently 84 years old. Before my
13 appointment as Receiver, two other life expectancy estimates ("LE") were obtained. The first
14 LE was obtained in August 2001 and gave the male insured an LE of four years; and the second
15 LE was obtained in March 2006 and gave the male insured an LE of approximately 8.83 years.
16 Based upon a life expectancy estimate that I obtained in May of 2009, he has between 7 and
17 10.75 years from today before he is projected to die. The female insured is currently 83 years
18 old and before my appointment as Receiver, two LEs were obtained. The first LE was obtained
19 in August 2001 and stated that the female insured had an LE of 4.3 years; and the second LE was
20 obtained in July 2006 and stated that she had an LE of almost 12 years. Based upon a life
21 expectancy estimate that I obtained in May 2009, she has an LE between 10.5 and 15.8 years
22 from today before she is projected to die.

23 5. The current year premiums on the BIE-F&L policy are \$63,000.00 per quarter, or
24 \$252,000.00 on an annual basis. To date, the receivership estate has expended \$657,000.00 in
25 premiums on the BIE-F&L policy.

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1 6. Based upon my consultation with National Viatical, Inc. ("NVI"), an expert retained by
2 me in this case with Court approval, it is my recommendation that the BIE-F&L policy be
3 abandoned due to the extremely high cost of premiums to the estate, and the fact that both
4 insureds have to die before there will be any payment, their current medical condition, and the
5 projected length of time that the receivership estate will likely have to pay premiums.

6 7. Assuming that the most recent LEs obtained on the BIE-F&L policy by me are
7 reasonably accurate, the out-of-pocket cost to the receivership over the remaining life of the
8 female insured on the Policy would be between \$2.6 million and \$4 million. This out-of-pocket
9 cost estimate assumes no increase in premiums which will certainly not be the case. Although
10 this policy is very large (currently the largest in the receivership estate) and could result in a
11 substantial financial benefit to the estate, the financial burden of the premium payments (even
12 assuming I can figure out a financing vehicle to do so) would virtually negate the death benefit
13 proceeds.

14 8. If the receivership were to continue to pay premiums on the policy, the premiums would
15 be funded by the receivership's line of credit, and the limited amount of funds available to the
16 estate is also problematic. Through Court Orders, I have been able to obtain a \$4 million line of
17 credit that is secured by my ownership of all of the life insurance policies as Receiver. There is
18 currently an outstanding balance of approximately \$1.8 million on the line of credit. Thus far,
19 death benefits received on other policies where the insured has died has allowed me to make
20 reductions on the balance of the line, however, there is no assurance as to when death benefits
21 will be received in the future. The bottom line is that I have to make the \$4 million line of credit
22 last for as long as possible and using 6% of it every year to pay just the premium on the BIE-
23 F&L policy does not make financial sense under the given circumstances.

24 9. Right now, the annual premium cost for all the policies is approximately \$1.1 million, all
25 of which has to be borrowed on the line-of-credit. By not paying one year's worth of premiums
26 for the BIE-F&L policy, the saved dollars could pay for the annual premiums of one-third of the
27
28

1 other policies for a year. By not paying the premiums for the entire LEs of the insureds on BIE-
2 F&L policy for its entire LEs, the saved dollars would pay for ALL policies for nearly five
3 years. In short, the cost of maintaining the BIE-F&L policy is threatening to "sink the boat."
4 Although I very much regret having to abandon what could be a significant asset if there were to
5 be an immediate event which caused the death of both of the insureds, it is my best business
6 judgment that such a thing is unlikely and that the cost outweighs the potential benefit.

7 10. Given all of the above, it is my recommendation that the Court authorize me to abandon
8 the BIE-F&L policy and cease making any further payment of premium. A premium payment
9 on the BIE-F&L policy of \$63,000.00 is currently due and unless paid within the month of
10 January 2011, the BIE-F&L policy will lapse on or about March 29, 2011. Accordingly, time is
11 of the essence in connection with a decision on this policy.

12 11. I have also discussed with NVI the possibility of a sale of the BIE-F&L policy, but given
13 the current market conditions, the scarcity of buyers and the multiple problems associated with
14 this policy, NVI believes, and I concur, that the prospect of a sale is extremely unlikely.
15 Nonetheless, I will continue to contact potential buyers between now and the date the BIE-F&L
16 policy is scheduled to lapse.

17 12. Although not required to do so, on January 6, 2011, by U.S. First Class Mail, postage pre-
18 paid, I am giving notice to all investors who have filed "A" Claims of my recommendation to
19 abandon this policy and notice of the February 7, 2011 hearing. A copy of the Notice that I am
20 sending is attached hereto and marked Exhibit "1."

21 I declare under penalty of perjury that the foregoing is true and correct of my own
22 personal knowledge except those matters stated on information and belief, and as to them, I
23 believe them to be true.

24 Executed on January 6, 2011, at Dallas, Texas.

25
26 
Michael J. Quilling

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 2011, a copy of this Declaration 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 U.S. Mail:

Ernest Jeremias
5022 17th Avenue, Apt. 1
Brooklyn, NY 11204

Bazzle John Wilson
1291 Nunneley Road
Paradise, CA 95969

/s/ Maralee MacDonald

Maralee MacDonald

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EXHIBIT 1

1 **BOUTIN JONES INC.**
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2 Maralee MacDonald, SBN 208699
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11 Receiver of Defendants Secure Investment Services, Inc.,
American Financial Services, Inc., and Lyndon Group, Inc.

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

16 SECURITIES AND EXCHANGE COMMISSION,

17 Plaintiff,

18 v.

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

22 Defendants.

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

**NOTICE OF MOTION FOR
AUTHORIZATION TO ABANDON
THE BIE-F&L POLICY**

Date: February 7, 2011

Time: 9:00 a.m.

Courtroom: 10

23
24 TO ALL INVESTORS WHO HAVE FILED "A" CLAIMS:

25 On February 7, 2011, at 9:00 a.m., or as soon thereafter as the matter may be heard before the
26 Honorable Garland E. Burrell, Jr., at the U.S. District Court for the Eastern District of California, 501 I
27 Street, Department 10, Sacramento, California, Michael J. Quilling, the Receiver appointed in these
28

1 proceedings ("Receiver"), will move this Court for an Order authorizing Receiver to abandon the
2 receivership estate's ownership interest in the BIE-F&L Policy.

3 Based upon extensive discussion with National Viatical, Inc. ("NVI"), the experts retained in
4 this case by the Receiver with Court approval, the Receiver is recommending that the BIE-F&L policy
5 be abandoned due to the extremely high cost of premiums to the estate, the fact that both insureds have
6 to die before there will be any payment, the insureds' current medical condition, and the projected
7 length of time that the Receiver will likely have to pay premiums.

9 The Receiver has filed a Motion for Authorization to Abandon the BIE-F&L Policy, and a
10 Declaration in support of the motion, with the Court in this litigation. A copy of the Motion,
11 Declaration, and proposed Order can be reviewed and printed from the Receiver's website at
12 www.secreceiver.com/sis.

13 Dated: January 6, 2011.

14 Respectfully submitted,

15 **QUILLING, SELANDER, LOWNDS,**
16 **WINSLETT & MOSER, P.C.**

17 By: /s/ Michael J. Quilling
18 MICHAEL J. QUILLING (Texas Bar No. 16432300)
19 BRENT J. RODINE (Texas Bar No. 24048770)

20 Chris Gibson, SBN 073353
21 Maralee MacDonald, SBN 208699
22 BOUTIN JONES INC.

23 Attorneys for Receiver of Defendants Secure Investment
24 Services, Inc., American Financial Services, Inc., and
25 Lyndon Group, Inc.

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

4 SECURITIES AND EXCHANGE COMMISSION,

Case No. 2:07-cv-001724 GEB CMK

5 Plaintiff,

**[PROPOSED] ORDER
AUTHORIZING ABANDONMENT
OF THE BIE-F&L POLICY**

6 v.

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

10 Defendants.

11 The matter having come before the Court on Receiver Michael J. Quilling's Motion for
12 Authorization to Abandon the BIE-F&L Policy, the Court, having considered the motion, the
13 attached exhibits, the pleadings on file and evidence, testimony and argument received by the
14 Court during the hearing on the motion, and the Court finding good cause therefore,
15

16 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Receiver's
17 motion is GRANTED and the Receiver is authorized, in his discretion, at such time as the
18 receivership estate is required to expend additional funds to pay premiums, to abandon the
19 receivership estate's interest in the life insurance policy number B10090447L in the face amount
20 of \$4 million issued by American General Insurance Company, referred to in Receiver's Motion
21 as the BIE-F&L Policy.
22

23 SIGNED this ____ day of _____, 2011.

24
25 _____
26 UNITED STATES DISTRICT JUDGE
27 HONORABLE GARLAND E. BURRELL, JR.
28

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of January, 2011, a copy of this [proposed] Order 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 U.S. Mail:

Ernest Jeremias
5022 17th Avenue, Apt. 1
Brooklyn, NY 11204

Bazzle John Wilson
1291 Nunneley Road
Paradise, CA 95969

/s/ Maralee MacDonald

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