

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SECURITIES AND EXCHANGE COMMISSION, )  
)  
Plaintiff, )  
)  
v. ) Case No. 07-cv-10712-RGS  
)  
LYDIA CAPITAL, LLC; )  
GLENN MANTERFIELD, and )  
EVAN ANDERSEN, )  
)  
Defendants. )

**RECEIVER’S SEVENTH REPORT TO THE COURT  
FOR THE PERIOD AUGUST 1, 2008 – OCTOBER 31, 2008<sup>1</sup>**

Pursuant to the Court’s June 1, 2007, Order for Appointment of Receiver (“Order for Appointment”) [Doc. No. 28], H. Thomas Moran, II, Court-Appointed Receiver for Defendant Lydia Capital, LLC (“Lydia”), submits his seventh periodic Report to the Court, “summarizing his activities, providing an accounting of the funds, assets and property in his possession, and reporting on the status of any legal claims” for the period August 1, 2008 to October 31, 2008. [Doc. No. 28, p. 8, ¶ XIII.] As further ordered, this Report also contains “an application to the Court for an order approving the payment of all reasonable fees and expenses” for both the Receiver and the Receiver’s legal counsel. [*Id.*] Accordingly, the Receiver submits his Seventh Report to the Court.

**I. BACKGROUND.**

On April 12, 2007, the United States Securities and Exchange Commission (“S.E.C.”) filed this action against Defendants Lydia, Evan Anderson (“Anderson”) and Glenn Manterfield

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<sup>1</sup> This Seventh Report includes the Receiver’s activities for the months of August, September and October of 2008 and financial information for the second quarter (July, August and September) of 2008.

(“Manterfield”). [Doc. No. 1.] On the same date the S.E.C. sought and, on April 13, 2007, secured a temporary restraining order freezing certain of the Defendants’ assets. [Electronic Order, dated April 13, 2007.] The temporary restraining order was modified on April 17, 2007. [Electronic Order, dated April 17, 2007.] On May 3, 2007, the Court entered two unopposed preliminary injunction orders freezing certain assets of Defendants Lydia, Manterfield and Anderson. [Doc. Nos. 20, 21 and 22.]

On May 23, 2007, the S.E.C. filed a motion seeking the appointment of a receiver for Lydia as well as a brief in support of the motion. [Doc. Nos. 25 and 26.] The Defendants did not oppose the S.E.C.’s motion. [Doc. No. 25, p. 2.] On June 1, 2007, the Court granted the S.E.C.’s request and appointed Mr. Moran as Receiver for Lydia.<sup>2</sup> [Doc. No. 28.] In the June 1, 2007, Order for Appointment of Receiver (“Order”), the Court directed the Receiver to:

A. take and retain immediate possession, custody and control of the funds, assets, monies, securities, contracts, notes, bank accounts, safe deposit boxes, negotiable and non-negotiable instruments or documents of title, choses in action and properties, real, if any, and personal, tangible and intangible, of whatever kind and description, wherever situated, of Lydia, and of all other entities which Lydia either owned, controlled or benefited from (including, but not limited to, Lydia Capital Alternative Investment Fund LP) including without limitation, the accounts established by Lydia on behalf its investors (the “Lydia Client Accounts”), as well as all property of whatsoever nature, whether real or personal, tangible or intangible, which has been acquired with or through funds or proceeds of Lydia (hereinafter “Receivership Assets”);

B. take all steps the Receiver deems necessary to conduct an inventory of the assets and liabilities of Lydia and Lydia Capital Alternative Investment Fund LP;

C. take all steps the Receiver deems necessary to reconstruct the histories of the Lydia Client Accounts to determine whether and how client funds have been dissipated;

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<sup>2</sup> An Electronic Order was entered on May 23, 2007, granting the S.E.C.’s motion to appoint a receiver. [Electronic Order dated May 23, 2007.] However, it was an additional ten days (June 1, 2007) before an order was docketed which set forth the name of the Receiver and delineated the scope of the Receiver’s duties. [Doc. No. 28.]

D. take all steps the Receiver deems necessary to secure and protect the Receivership Assets, including all assets and property of Lydia and Lydia Capital Alternative Investment Fund LP;

E. promptly provide written notice of this Order to all current and former clients of Lydia ("Lydia Clients"). Service of a copy of this Order shall be deemed sufficient notice;

F. have access to and take control of all books, records, papers and other documents of Lydia and Lydia Capital Alternative Investment Fund LP, including all computers, computer files, on-site and off-site backup files, backup disks, other electronic storage material and websites;

G. have control of, and be added as an authorized signatory for, all accounts of Lydia and Lydia Capital Alternative Investment Fund LP at any bank, brokerage firm, insurance company or financial institution having possession, custody or control of any assets, accounts or funds of Lydia and Lydia Capital Alternative Investment Fund LP, wherever situated;

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J. receive and collect any and all sums of money due and/or owing to Lydia or Lydia Capital Alternative Investment Fund LP and make or authorize such payments and disbursements from the funds and assets taken into control or thereafter received by the Receiver, engage in or authorize such transactions, incur or authorize the incurrence of such expenses, and make or authorize the making of such agreements, as the Receiver deems necessary and appropriate to carry out the Receiver's mandate pursuant to this Order;

K. In connection with the exercise of these powers, liquidation of any, or all, of the assets of Lydia or the Lydia Capital Investment Fund LP shall be undertaken, if at all, with due regard for the best long-term interests of investors in the Fund;

L. engage and employ persons in his discretion and in consultation with the Boston Regional Office of the Commission to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, attorneys, accountants and appraisers;

M. have access to, including rights to receive, open and review all mail of Lydia and Lydia Capital Alternative Investment Fund LP; and

N. file on a timely basis all relevant federal, state, and local tax returns and take any and all other steps required by such taxing authorities.

[Doc. No. 28, pp. 1-4, ¶¶ II.A-G and II. J-N.]

## II. SUMMARY OF THE RECEIVER'S ACTIVITIES.<sup>3</sup>

### A. General Background

The Receiver was notified of his appointment on Friday, June 1, 2007. Since that date and the date of the Receiver's last report to the Court, the Receiver and his staff have continued to diligently work to preserve the receivership assets and the policies comprising the portfolio. During this reporting period, the Receiver and his counsel also continued to devote significant time and attention to defending the nine declaratory judgment lawsuits pending against the Receiver. See discussion of Pending Litigation, *infra*.

### B. Investor Communications

On September 10, 2008, the Receiver participated in a teleconference with certain Lydia investors. Prior to the teleconference, the Receiver corresponded with all of the investors and posted a notice on the Lydia website to communicate the date and time of the conference as well as providing the necessary information for their participation. During the teleconference, the Receiver and his counsel updated the investors and answered investors' questions regarding: (1) the state of the assets including the status of the nine pending lawsuits; (2) the continuing settlement negotiations with various litigants; (3) the financial condition of the receivership estate; (4) the court-approved sale of five Lydia policies; (5) long-term options for the portfolio; and, (6) plans for a teleconference to take place during the next reporting period.

### C. Pending Litigation

During this period, the Receiver continued to defend the nine lawsuits filed by The Lincoln National Life Insurance Company ("Lincoln"), AXA Equitable Life Insurance Company

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<sup>3</sup> The activities of the Receiver, his staff, accountants and attorneys are briefly summarized herein. For a more complete statement of the activities of the Receiver, his staff and attorneys, please refer to the itemized statements attached to the motions for payment of fees and expenses of the Receiver and his counsel.

("AXA") and Sun Life Assurance Company of Canada seeking to void or rescind certain policies owned by Lydia. In addition to the nine lawsuits filed in various federal jurisdictions throughout the country, the Court has also granted AXA and another insurance company leave to file four declaratory judgment lawsuits, which would seek to void or rescind four additional Lydia policies. The Receiver anticipates that these lawsuits, which involve similar facts and issues, will be filed if a settlement cannot be reached between the parties. The Receiver has been, and continues to be, very actively engaged in conducting discovery in each of the pending lawsuits. The Receiver has devoted considerable time during this reporting period to researching the applicable laws of the many jurisdictions where these lawsuits have been, or may be, filed. Further, the Receiver has filed Third-Party Complaints in several of the pending lawsuits against various individuals involved in the sale and purchase of the subject life insurance policies, including agents, brokers, insureds, beneficiaries and trustees.

Finally, the Receiver has been actively engaged in settlement discussions with AXA regarding seven policies issued by AXA and owned by Lydia. Four of the policies are in litigation and three may be the subject of litigation if a settlement cannot be reached. The Receiver and his counsel met with an AXA representative and its counsel on September 4, 2008, in Oklahoma City to discuss a possible settlement. The Receiver and AXA have been engaged in ongoing discussions regarding a tentative settlement proposal. The Receiver has also been actively negotiating a settlement agreement with the former AXA agent who sold two of the AXA policies and one of the Lincoln policies. The Receiver has made written demand of other various individuals and entities who were involved in, and received compensation from, the sale of the contested policies to indemnify or otherwise compensate the Receivership for any losses or damages in connection with these policies.

A summary of each lawsuit follows:

	<b>DATE FILED</b>	<b>PLAINTIFF/INSURED</b>	<b>STATUS</b>	<b>COURT/ CASE NO.</b>
1	12/21/2007	The Lincoln National Life Ins. Company/ Vandebush	Scheduling Order in place. Written discovery has been issued and answered by both parties. Subpoenas duces tecum have been issued to third-parties, who have responded with document production. Receiver has made written demand on parties involved in the sale of the policy to indemnify and otherwise compensate the receivership for its losses and damages. Receiver has filed his Motion for Leave to File Third-Party Complaint and will file the Third-Party Complaint upon the obtaining leave of court.	E.D. Wis. 07-C-1140
2	12/26/2007	The Lincoln Life & Annuity Company of New York/ Gisonni	Scheduling Order in place. Plaintiff filed Second Amended Complaint and Answer has been filed. Written discovery has been issued and answered by both parties. Subpoenas duces tecum have been issued to third-parties, who have responded and/or have produced the requested documents. Receiver has made written demand on parties involved in the sale of the policy to indemnify and otherwise compensate the receivership for its losses and damages. Depositions of the insured and beneficiary have been taken. Receiver has filed a Third-Party Complaint against individuals involved in the sale and purchase of the subject insurance policy.	E.D.N.Y CV-08-699
3	01/09/2008	The Lincoln National Life Ins. Company/ Black	Scheduling Order in place. Written discovery has been issued and answered by both parties. Subpoenas duces tecum have been issued to third-parties; most have responded and/or have produced the requested documents. Receiver has made written demand on parties involved in the sale of the policy to indemnify and otherwise compensate the receivership for its losses and damages. Receiver has requested, and has been granted, leave to file a Third-Party Complaint against the individuals involved in the sale and purchase of the insurance policy. The Court has allowed the Receiver until October 27 to file his Third-Party Complaint.	S. D. Cal. 08-CV-0023-IEG-NLS
4	03/17/2008	AXA Equitable Life Ins. Company/ Lancet	Case has not yet matured to the point of discovery under Federal Rules. Receiver is currently engaged in settlement discussions with AXA as well as potential third-party defendants who were involved in the sale and purchase of the policy. Receiver has made written demand on parties involved in the sale of the policy to indemnify and otherwise compensate the receivership for its losses and damages. The parties have requested an extension of time for Defendants to answer the Complaint to allow sufficient opportunity to explore settlement. Answer date is currently set for November 14, 2008.	S. D. Cal. 08-CV-497-H-JMA
5	03/17/2008	AXA Equitable Life Ins. Company/ Williamson	Receiver has filed his Answer. Receiver has also filed his Cross Claim and Third-Party Complaint against individuals involved in the sale and purchase of the insurance policy. Receiver is currently engaged in settlement discussions with AXA as well as potential third party defendants who were involved in the sale and purchase of the policy. Receiver has made written demand on parties involved in the sale of the policy to indemnify and otherwise compensate the receivership for its losses and damages.	S. D. Cal. 08-CV-498-H-LSP

