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MICHAEL W. DORRIS  
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

07C 0347

\_\_\_\_\_  
SECURITIES AND EXCHANGE COMMISSION, )

Plaintiff, )

v. )

JOHN M. FIFE and )  
CLARION MANAGEMENT, LLC, )

Defendants. )  
\_\_\_\_\_ )

Civil Action No.

JUDGE KENNELLY

MAGISTRATE JUDGE COLE

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission ("SEC"), alleges the following:

NATURE OF THE ACTION

1. In 2002 and 2003, defendants John M. Fife ("Fife") and Clarion Management, LLC ("Clarion Management") (collectively, "Defendants") engaged in a fraudulent scheme to purchase variable annuity contracts issued by the Lincoln National Life Insurance Company ("Lincoln") in order to engage in "market timing" in mutual funds for the benefit of Clarion Capital, LP ("Clarion Capital"). Clarion Capital was a Chicago-based hedge fund formed by Fife for the express purpose of engaging in market timing through the purchase of variable annuity contracts. Fife controlled Clarion Capital and carried out the scheme through Clarion Management, the hedge fund's general partner and unregistered investment adviser.

2. Knowing that Lincoln's variable annuity contracts were not intended for professional market timers and that Lincoln monitored activity in these contracts to restrict

excessive trading and took steps to prevent professional market timers from obtaining contracts, Defendants engaged in a deceptive scheme using nominee trusts and other deceptive tactics to purchase dozens of contracts and engage in hundreds of market timing trades for the benefit of Clarion Capital.

3. To accomplish their scheme, Defendants first created dozens of phony family trusts that were in fact wholly owned by and for the benefit of Clarion Capital and controlled by Clarion Capital through its adviser, Clarion Management. Defendants then purchased the variable annuity contracts, which were both funded by and for the benefit of Clarion Capital, in the names of these nominee trusts to hide Clarion Capital's financial interest in all of the contracts.

4. After obtaining each contract, Defendants engaged in market timing activity in the mutual funds offered through the variable annuity contracts until they exceeded the level of transfer activity permitted by Lincoln for individual contracts, at which time Lincoln restricted Defendants from further market timing activity in each such contract by requiring them to submit future transfer requests in such contract by U.S. Mail. Lincoln's general practice was to restrict contracts that exceeded 24 transfers (12 round-trips) per year.

5. By August 2002, when Lincoln began restricting some of these contracts due to excessive transfer activity, Defendants had invested more than \$10 million of Clarion Capital's funds for market timing activity at Lincoln through 17 separate contracts held in the name of different family trusts.

6. When Lincoln restricted a particular contract purchased by Defendant for Clarion Capital through a nominee trust, Defendants engaged in further deceptive conduct to put Clarion Capital's money back to work, circumventing Lincoln's efforts to restrict market timing by

withdrawing most or all of the funds in such contract, and then using different nominee trusts to purchase more contracts and engage in more market timing, again using Clarion Capital funds and again for the benefit of Clarion Capital.

7. On or around November 25, 2002, after Lincoln detected some common patterns in Defendants' market timing scheme, including the fact that all of the trusts through which Defendants were purchasing the contracts designated Clarion Management as their trustee, Lincoln informed Defendants that it would block the purchase of any new contracts where, among other things, Clarion Management was the trustee.

8. Rather than ceasing their market timing activities, Defendants applied additional layers of deception to evade Lincoln's restrictions. After receiving the November 25 letter, Defendants again purchased a dozen additional contracts for the benefit of Clarion Capital in the name of new nominee trusts owned and controlled by Clarion Capital. In addition, in order to circumvent Lincoln's additional restriction concerning Clarion Management, Defendants created and used new nominee trustees, wholly owned and controlled by Clarion Management, in connection with the purchase of additional contracts, in order to conceal Clarion Management's control over the new trusts and continuing role in the scheme.

9. During the scheme, Defendants engaged in numerous additional deceptive practices in connection with the purchase of variable annuity contracts from Lincoln in order to conceal Clarion Capital's common ownership of and interest in the annuity contracts and its professional market timing activities through these contracts. These additional deceptive practices included, among other things: (a) obtaining and providing to Lincoln separate tax identification numbers for each trust to suggest, falsely, that the annuity contracts really were for the benefit of separate, unrelated family trusts; (b) using seven different brokers through whom