

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

CASE NO. 04-60573-CIV-MORENO/STRAUSS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP., *et al*,

Defendants.

TRUSTEE’S DECEMBER 2021 STATUS REPORT REGARDING WIND DOWN

Barry Mukamal, as Trustee (“Trustee”) of the Mutual Benefits Keep Policy Trust (“Trust”), submits this Status Report in accordance with the Court’s *Report and Recommendation on Motion by Acheron Capital, Ltd. for Order Directing (A) the Wind Down and End of the Mutual Benefits Keep Policy Trust and (B) Disbursement of Certain Assets to the Non-Acheron Related Investors in Keep Policies (“Acheron’s Wind Down Motion”) (DE 2593) and on Trustee’s Amended Motion to Authorize the Initiation of Trust Wind Down and Termination (“Trustee’s Amended Wind Down Motion”) (DE 2640) [D.E. 2723]*, and the Court’s *Order Adopting Magistrate Judge’s Report and Recommendation and Denying Acheron’s Wind Down Motion and Granting the Trustee’s Amended Motion to Authorize Initiation of Trust Wind Down and Termination [D.E. 2825]* (collectively, the “Wind Down Order”).

Attached hereto as Exhibit “A” is an updated report of the information provided to the Court in accordance with the Wind Down Order since the Trustee’s last Status Report was filed on November 15, 2021 [D.E. 3018]. In addition, as directed by the Court in its *Order of Instructions for November 19, 2021 Status Conference [D.E. 3010]*, the report also includes as

Exhibit “B” historical information for categories 3a-3f of the report from June 2020 through the month of the report.

Progress on Wind Down Steps

The Trustee advises of the following steps taken in furtherance of the wind down of the Trust since the last Status Report:

- The Trustee has continued to receive and respond to inquiries through the MBKPT investor portal, email, or phone from Keep Policy Investors. The communications during the past month generally fall into the following groups: (a) inquiries about the estimated value of the policies upon sale; (b) inquiries about options for retention of policies that are 100% owned by a single investor; (c) inquiries about payment of premiums; (d) inquiries about policies for which no additional premium payments are due; and (e) inquiries about the process and timing of the sale of the Trust portfolio.
- The Trustee has considered and evaluated the Court’s comments at the last status conference regarding the transfer of a policy to an investor who owns 100% of the beneficial interests in the policy in connection with Trust liquidation. The Trustee has prepared and is in process of sending to the applicable investors a notice affording them the opportunity to exercise the option of having the policy transferred to them subject to the terms and conditions determined by the Trustee to be appropriate, which include that they: (a) agree that the Trustee has not provided any advice, recommendation, or representations regarding the acquisition of the policy, which is being conveyed “as is”; (b) agree that the investor has been advised to obtain its own legal, accounting and tax advice with respect to the policy; (c) acknowledge the substantial risks of investing in a viaticated insurance policy, and in attempting to maintain such an investment on their own

behalf; (d) acknowledge that they are accepting the policy in satisfaction of any claims and rights they may have with regard to the Trust and Trustee, which they agree to release and discharge; (e) agree to maintain as confidential any personally identifiable information and protected health information in connection with the policy; (f) agree to engage a third-party servicer satisfactory to the Trustee to perform all servicing with respect to the policy; (g) agree to not make any direct contact with the insured, relatives, friends or providers and that all acts and communications with regard to the policy shall be through the servicer; and (h) agree that the insured will be a third-party beneficiary of their agreement, with the right to sue if there is any breach by the investor. The investor will be required to provide a fully executed servicing agreement with a bona fide third-party servicer reasonably acceptable to the Trustee; the Trustee has already negotiated proposed servicing agreements with Q Capital Strategies LLC and Litai Assets LLC which will be provided upon request. The investor will also be required to pay a \$250 processing fee for processing and completing the requested change of ownership. The Notice will provide thirty (30) days for the Keep Policy Investor to make their election and satisfy the foregoing requirements, absent which the policy will be included in the sale of the Trust portfolio upon liquidation. The Trustee will be filing a motion to the process contemplated by the notice, but intends to initiate the delivery of the notice and advise investors that the process proposed is subject to Court approval.

- The Trustee is in process of negotiating one final issue on the Securities Intermediary Agreement with Wilmington Trust to facilitate the transfer of title to the policies upon a bulk sale, and expects that to be completed this week.

- The Trustee continues to expect to make the “Data Room” available to prospective purchasers for due diligence by December 31, 2021, despite the challenges presented by the condition of the Trust Data and Policy Files provided by the Trust’s servicer, Litai Assets.
- The Trustee will be filing by December 31, 2021 a motion to approve sale and bidding procedures for the sale of the Trust portfolio in connection with Trust liquidation, which will address (a) the identification of “tranches” for submission of bids; (b) the Trustee’s proposed process for parties to qualify to submit a bid; (c) the manner in which bidding will proceed at auction; and (d) the contractual rights of Acheron Capital. Though a “stalking horse” bidder will not have been selected by that time, any required modifications of the proposed procedures will be addressed by supplementation of the motion.

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Attorneys for Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on December 15, 2021 on counsel for all the parties by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ David L. Rosendorf
David L. Rosendorf

Mutual Benefits Keep Policy Trust

As of December 1, 2021 ^[1]

3a The amount of Overpayment Balance account ^[2] 560,599

3b Amount of funds currently available to pay expenses ^[3]
 Cash / Money Market Accounts 560,599
 Total Overpayment Funds 560,599

3c The most recent total amount of monthly operating expenses paid 229,149

3d Estimated average run-rate of monthly Trust operating expenses

	Dec 2021	Jan 2022
Operating Expenses	47,400	47,400
Enhanced Oversight	29,000	29,000
Subtotal	76,400	76,400
Litigation	120,000	100,000
Estimated Average Monthly Run-Rate	<u>196,400</u>	<u>176,400</u>

3e Total amount of money owed to Trustee and other professionals ^[4] 503,921

3f Estimated minimum number of policy interests needed to rationalize costs for those interests 150 - 300

The current number of policies and policy interests the Trust is servicing:			
Current # of policies the Trust is servicing			961
Total Face Value	MBC Victims	Acheron	Total
HIV	51,165,770	56,151,841	107,317,611
Non-HIV	25,001,439	60,075,572	85,077,011
Total	<u>76,167,209</u>	<u>116,227,413</u>	<u>192,394,622</u>
%	39.59%	60.41%	
Current number of policy interests the Trust is servicing			
	MBC Victims	Acheron	Total
	1,944	717	2,661

Mutual Benefits Keep Policy Trust

As of December 1, 2021 ^[1]

Notes:

- 1) Provided pursuant to the Court's Report and Recommendation dated July 27, 2020 (ECF #2723) affirmed and adopted by the Court November 16, 2020 (ECF #2825).
- 2) During the month of November, the Trust advanced approximately \$39,000 in contingency loans and recovered approximately \$40,000 contingency loans receivable. As of November 30, 2021 the Trust had a Contingency Loan Receivable balance of \$593,978 per Litai Assets, LLC ("Litai"). Consistent with the Trust's ongoing operations, the Trust anticipates collecting most, if not all, of this balance upon the sale of policy interests and policies.
- 3) The Trust anticipates funding trust operations with the \$400 Additional Administrative Fee per policy interest to occur upon confirmation from Litai that it has sent the applicable Additional Administrative Fee invoices to investors. Litai has advised those invoices will be mailed to investors imminently.
- 4) Professional fees presented in the current report include fees incurred for the reporting period as well as the cumulative 20% holdback, which as of December 1, 2021 approximates \$378,000.

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 12 2021

	As of 06/01/20	As of 07/01/20	As of 08/01/20	As of 09/01/20	As of 10/01/20	As of 11/01/20	As of 12/01/20	As of 01/01/21
3a. The amount of Overpayment Balance account	5,476,160	5,335,769	4,837,029	4,475,430	4,155,655	3,820,628	3,688,719	3,508,601
3b. Amount of funds currently available to pay expenses								
Cash / Money Market Accounts	900,020	863,916	383,842	881,352	767,966	664,369	663,109	482,991
Fixed Income Investments	4,576,140	4,471,853	4,453,187	3,594,078	3,387,689	3,156,259	3,025,610	3,025,610
<i>Total Overpayment Funds</i>	5,476,160	5,335,769	4,837,029	4,475,430	4,155,655	3,820,628	3,688,719	3,508,601
3c. The most recent total amount of monthly operating expenses	179,223	303,825	325,110	292,028	259,814	353,203	373,369	320,255
3d. Estimated average run-rate of monthly Trust operating expenses [1]								
Operating Expenses	72,385	72,385	72,385	72,385	72,385	72,385	67,400	67,400
Enhanced Oversight	29,167	29,167	29,167	29,167	29,167	29,167	29,000	29,000
Investor Subsidy [2]	29,816	29,816	29,816	29,816	29,816	29,816	51,800	51,400
Acheron Subsidy [3]	-	-	-	-	-	-	-	-
<i>Subtotal</i>	131,368	131,368	131,368	131,368	131,368	131,368	148,200	147,800
Litigation	97,500	97,500	97,500	97,500	97,500	97,500	97,500	97,500
Litai Extension Fee for 2020 Only [4]	125,000	125,000	125,000	125,000	125,000	125,000	125,000	-
<i>Estimated Average Monthly Run-Rate</i>	353,868	353,868	353,868	353,868	353,868	353,868	370,700	245,300
3e. Total amount of money owed to Trustee and other professionals [5]	305,939	203,417	287,598	241,162	174,445	248,369	133,851	141,434

Notes:

- 1) Reflects the estimate for the current month of the monthly status reports filed with the Court. The July - November 2020 amounts are based on the June 2020 amounts as the Court did not require monthly status reports to commence until December 2020.
- 2) Effective May 2021, the Investor Subsidy for all Keep Policy Investors has been funded from the MBC Restitution Funds account.
- 3) The subsidy for Acheron policy interests was discontinued by August 2021.
- 4) This amount was not reflected on the prior Historical Trust Cash and Expenditures as of 11 2021 for the months of July to December 2020.
- 5) Effective with the September 2021 Status Report, this amount includes fees incurred for the reporting period as well as the cumulative 20% holdback from prior months.

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 12 2021

	As of 02/01/21	As of 03/01/21	As of 04/01/21	As of 05/01/21	As of 06/01/21	As of 07/01/21	As of 08/01/21	As of 09/01/21
3a. The amount of Overpayment Balance account	3,105,708	2,880,629	2,097,393	2,185,654	1,922,775	1,562,939	1,314,085	1,193,205
3b. Amount of funds currently available to pay expenses								
Cash / Money Market Accounts	412,509	1,224,620	993,494	1,282,847	1,420,745	1,061,654	813,460	1,193,205
Fixed Income Investments	2,693,199	1,656,009	1,103,899	902,807	502,030	501,285	500,625	-
<i>Total Overpayment Funds</i>	3,105,708	2,880,629	2,097,393	2,185,654	1,922,775	1,562,939	1,314,085	1,193,205
3c. The most recent total amount of monthly operating expenses	239,566	343,928	294,144	225,706	260,493	315,742	286,192	234,958
3d. Estimated average run-rate of monthly Trust operating expenses [1]								
Operating Expenses	67,400	67,400	67,400	67,400	67,400	167,400	47,400	47,400
Enhanced Oversight	29,000	29,000	29,000	29,000	29,000	29,000	29,000	29,000
Investor Subsidy [2]	50,500	49,200	18,000	-	-	-	-	-
Acheron Subsidy [3]	-	-	-	18,000	13,500	12,100	6,050	-
<i>Subtotal</i>	146,900	145,600	114,400	114,400	109,900	208,500	82,450	76,400
Litigation	97,500	97,500	48,750	48,750	97,500	95,000	125,000	165,000
Litai Extension Fee for 2020 Only [4]	-	-	-	-	-	-	-	-
<i>Estimated Average Monthly Run-Rate</i>	244,400	243,100	163,150	163,150	207,400	303,500	207,450	241,400
3e. Total amount of money owed to Trustee and other professionals [5]	236,578	265,403	205,064	168,355	216,814	267,127	232,953	412,987

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 12 2021

	As of 10/01/21	As of 11/01/21	As of 12/01/21
3a. The amount of Overpayment Balance account	852,529	777,763	560,599
3b. Amount of funds currently available to pay expenses			
Cash / Money Market Accounts	852,529	777,763	560,599
Fixed Income Investments	-	-	-
<i>Total Overpayment Funds</i>	852,529	777,763	560,599
3c. The most recent total amount of monthly operating expenses	216,634	207,062	229,149
3d. Estimated average run-rate of monthly Trust operating expenses [1]			
Operating Expenses	47,400	47,400	47,400
Enhanced Oversight	29,000	29,000	29,000
Investor Subsidy [2]	-	-	-
Acheron Subsidy [3]	-	-	-
<i>Subtotal</i>	76,400	76,400	76,400
Litigation	125,000	165,000	125,000
Litai Extension Fee for 2020 Only [4]	-	-	-
<i>Estimated Average Monthly Run-Rate</i>	201,400	241,400	201,400
3e. Total amount of money owed to Trustee and other professionals [5]	496,642	585,709	503,921

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 12 2021

	As of 06/01/20	As of 07/01/20	As of 08/01/20	As of 09/01/20
Number of Policies the Trust is Servicing	1,334	1,329	1,327	1,319
Face Value				
MBC Victims				
HIV	55,342,910	55,009,470	54,880,095	54,621,535
Non-Hiv	34,869,728	34,795,054	34,718,088	34,152,523
<i>Total MBC Victims Face Value</i>	<u>90,212,638</u> 33.45%	<u>89,804,524</u> 33.32%	<u>89,598,184</u> 33.30%	<u>88,774,058</u> 33.72%
Acheron				
HIV	79,900,526	80,081,430	79,767,441	79,343,431
Non-Hiv	99,559,113	99,633,802	99,710,764	95,153,342
<i>Total Acheron Face Value</i>	<u>179,459,639</u> 66.55%	<u>179,715,232</u> 66.68%	<u>179,478,205</u> 66.70%	<u>174,496,773</u> 66.28%
<i>Total Face Value</i>	<u><u>269,672,277</u></u> 100.00%	<u><u>269,519,755</u></u> 100.00%	<u><u>269,076,389</u></u> 100.00%	<u><u>263,270,831</u></u> 100.00%
Number of Policy Interests the Trust is Servicing				
Current				
MBC Victims	2,310	2,265	2,259	2,238
Acheron	1,587	1,568	1,525	1,453
<i>Total</i>	<u><u>3,897</u></u>	<u><u>3,833</u></u>	<u><u>3,784</u></u>	<u><u>3,691</u></u>

The June 2021 Report also reflected estimated policy interests after the merger of Acheron-owned policy interests. This estimated post-merger amount was not separately reported on subsequent reports to the Court as the merging of the Acheron-owned interests had commenced and was ongoing when the monthly reporting to the Court commenced with the December 2020 report.

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 12 2021

	As of 10/01/20	As of 11/01/20	As of 12/01/20	As of 01/01/21
Number of Policies the Trust is Servicing	1,316	1,313	1,307	1,306
Face Value				
MBC Victims				
HIV	54,470,413	54,337,043	53,590,504	53,507,470
Non-Hiv	33,828,866	33,569,375	32,649,946	32,179,750
<i>Total MBC Victims Face Value</i>	<u>88,299,279</u> 33.91%	<u>87,906,418</u> 33.83%	<u>86,240,450</u> 33.29%	<u>85,687,220</u> 33.24%
Acheron				
HIV	79,394,557	79,417,930	79,394,129	79,412,325
Non-Hiv	92,677,052	92,532,216	93,451,663	92,671,866
<i>Total Acheron Face Value</i>	<u>172,071,608</u> 66.09%	<u>171,950,146</u> 66.17%	<u>172,845,792</u> 66.71%	<u>172,084,191</u> 66.76%
<i>Total Face Value</i>	<u><u>260,370,888</u></u> 100.00%	<u><u>259,856,564</u></u> 100.00%	<u><u>259,086,242</u></u> 100.00%	<u><u>257,771,411</u></u> 100.00%
Number of Policy Interests the Trust is Servicing				
Current				
MBC Victims	2,212	2,207	2,188	2,183
Acheron	1,414	1,350	1,279	1,260
<i>Total</i>	<u><u>3,626</u></u>	<u><u>3,557</u></u>	<u><u>3,467</u></u>	<u><u>3,443</u></u>

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 12 2021

	As of 02/01/21	As of 03/01/21	As of 04/01/21	As of 05/01/21
Number of Policies the Trust is Servicing	1,304	1,294	1,289	1,254
Face Value				
MBC Victims				
HIV	53,504,016	53,400,402	52,986,094	52,726,399
Non-Hiv	32,064,940	29,436,321	28,866,985	28,788,985
<i>Total MBC Victims Face Value</i>	<u>85,568,956</u> 34.00%	<u>82,836,723</u> 34.72%	<u>81,853,079</u> 34.54%	<u>81,515,384</u> 34.76%
Acheron				
HIV	79,335,863	78,981,114	79,545,911	77,516,143
Non-Hiv	86,770,820	76,799,508	75,584,654	75,507,657
<i>Total Acheron Face Value</i>	<u>166,106,683</u> 66.00%	<u>155,780,622</u> 65.28%	<u>155,130,565</u> 65.46%	<u>153,023,800</u> 65.24%
<i>Total Face Value</i>	<u><u>251,675,639</u></u> 100.00%	<u><u>238,617,345</u></u> 100.00%	<u><u>236,983,644</u></u> 100.00%	<u><u>234,539,184</u></u> 100.00%
Number of Policy Interests the Trust is Servicing				
Current				
MBC Victims	2,175	2,138	2,089	2,083
Acheron	1,210	1,080	1,064	1,006
<i>Total</i>	<u><u>3,385</u></u>	<u><u>3,218</u></u>	<u><u>3,153</u></u>	<u><u>3,089</u></u>

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 12 2021

	As of 06/01/21	As of 07/01/21	As of 08/01/21	As of 09/01/21
Number of Policies the Trust is Servicing	1,065	982	982	974
Face Value				
MBC Victims				
HIV	52,131,891	51,992,253	51,992,253	51,633,015
Non-Hiv	28,187,699	27,339,789	27,399,789	26,661,997
<i>Total MBC Victims Face Value</i>	<u>80,319,590</u> 37.83%	<u>79,332,042</u> 39.26%	<u>79,392,042</u> 39.27%	<u>78,295,012</u> 39.86%
Acheron				
HIV	62,539,623	56,868,992	56,868,992	56,280,354
Non-Hiv	69,447,340	65,892,260	65,892,260	61,835,609
<i>Total Acheron Face Value</i>	<u>131,986,963</u> 62.17%	<u>122,761,252</u> 60.74%	<u>122,761,252</u> 60.73%	<u>118,115,963</u> 60.14%
<i>Total Face Value</i>	<u><u>212,306,553</u></u> 100.00%	<u><u>202,093,294</u></u> 100.00%	<u><u>202,153,294</u></u> 100.00%	<u><u>196,410,975</u></u> 100.00%
Number of Policy Interests the Trust is Servicing				
Current				
MBC Victims	2,055	2,024	2,024	1,990
Acheron	815	731	731	724
<i>Total</i>	<u><u>2,870</u></u>	<u><u>2,755</u></u>	<u><u>2,755</u></u>	<u><u>2,714</u></u>

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 12 2021

	As of 10/01/21	As of 11/01/21	As of 12/01/21
Number of Policies the Trust is Servicing	969	964	961
Face Value			
MBC Victims			
HIV	51,336,208	51,187,176	51,165,770
Non-Hiv	25,151,939	25,026,939	25,001,439
<i>Total MBC Victims Face Value</i>	<u>76,488,147</u> 39.61%	<u>76,214,115</u> 39.60%	<u>76,167,209</u> 39.59%
Acheron			
HIV	56,519,441	56,152,441	56,151,841
Non-Hiv	60,095,667	60,095,667	60,075,572
<i>Total Acheron Face Value</i>	<u>116,615,108</u> 60.39%	<u>116,248,108</u> 60.40%	<u>116,227,413</u> 60.41%
<i>Total Face Value</i>	<u><u>193,103,255</u></u> 100.00%	<u><u>192,462,223</u></u> 100.00%	<u><u>192,394,622</u></u> 100.00%
Number of Policy Interests the Trust is Servicing			
Current			
MBC Victims	1,967	1,947	1,944
Acheron	721	718	717
<i>Total</i>	<u><u>2,688</u></u>	<u><u>2,665</u></u>	<u><u>2,661</u></u>