

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 FEBRUARY 2022 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 January 18, 2021 [D.E. 3061]. 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 filed a *Motion to Approve Procedures for Sale of Policies in Connection with Trust Termination* (“Sale Procedures Motion”) [D.E. 3065] on January 21, 2022. Notice of the Sale Procedures Motion was sent by mail to Keep Policy Investors upon its filing and posted on the MBKPT website. The deadline for objections to the Sale Procedures Motion is February 21, 2022. The Court has scheduled a hearing for March 16, 2022 to consider the Sale Procedures Motion and any objections.
- In accordance with the Sale Procedures Motion, the Trustee has invited Acheron Capital to submit an Acheron Initial Bid in accordance with the procedures set forth in the Sale Procedures Motion. Acheron Capital recently advised the Trustee that it objects to the Sale Procedures Motion, to the invitation to Acheron Capital to submit an Acheron Initial Bid, and to the Trustee’s intended requirements for execution of a Confidentiality and Non-Disclosure Agreement, Declaration of Non-Affiliation and Non-Collusion Affidavit as conditions of being provided access to the “Data Room”. The Trustee will address those issues in due course.
- The Court has entered an Order [D.E. 3074] approving the *Trustee’s Motion to Approve Procedures for Removal of Policies in Which a Single Investor Holds 100% of the Investor Interests* (“100% Investor Motion”) [D.E. 3056] In accordance with the 100% Investor Motion, the Trustee provided notice by mail to the Keep Policy Investors who hold 100%

of the investment interests in a Keep Policy (“100% Investors”) of the opportunity, subject to certain terms and conditions, to request to have the policy transferred to them. The 100% Investor Motion proposed a 30-day deadline for 100% Investors to satisfy the conditions for transfer of a policy; the Trustee extended that deadline for parties who have so requested and were in the process of completing the conditions for transfer, but at this point no additional policy transfers are expected. Thirty (out of a total of 190) 100% Investors have requested the transfer of a policy and completed the documents to effectuate it. With the Court’s entry of an Order approving the 100% Investor Motion, the Trustee will begin commencing the steps for implementation of the requested transfers.

- The process of transferring policy ownership to the Securities Intermediary, Wilmington Trust, as nominee for the Trust, has commenced in a two-step process beginning with the Change of Ownership forms followed a few days later by the submission of Third-Party Authorization forms which give carriers the authority to communicate regarding the policies with personnel from Litai, the Trust, as well as Longevity Asset Advisors. Policy ownership change confirmation forms are being received back from carriers. Litai continues to have the same interaction and access to information from carriers as it has always enjoyed.
- As part of the policy ownership change process, carriers are instructed to continue to recognize Litai as the servicer and Litai is fully capable of continuing to perform its servicing obligations. Despite this fact and as otherwise indicated in the Trustee’s recently filed *Urgent Motion to Confirm Authority to Employ Selected Securities Intermediary’s Document Distribution System* [D.E. 3077], Litai has advised the Trustee that it does not intend to utilize Wilmington’s document delivery system. The Trustee has advised Litai

that “If Litai elects not to accept and use the policy documents provided in fulfilling its contractual rights, the Trust will view that as a breach and seek to hold your company liable for the potentially millions of dollars in damages that would arise from that irreversible breach of the servicing agreement.”

- The Trustee has conferred with four potential lenders and received term sheets from three such potential lenders. The Trustee anticipates finalizing negotiations with a lender in the next seven days to be followed by a loan facility agreement to be executed by March 31, 2022.
- 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 process and timing of the sale of the Trust portfolio of policies; and (b) inquiries about the Trustee’s notice to 100% Investors.

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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 February 15, 2022 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

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
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CASE NO. 04-60573-CIV-MORENO/STRAUSS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MUTUAL BENEFITS CORP., *et al*,

Defendants.

**TRUSTEE’S NOTICE OF RE-FILING OF EXHIBITS TO
FEBRUARY 2022 STATUS REPORT REGARDING WIND DOWN**

Barry Mukamal, as Trustee (“Trustee”) of the Mutual Benefits Keep Policy Trust (“Trust”), gives notice of the re-filing of Exhibits A and B to his February 2022 Status Report Regarding Wind Down [D.E. 3079].

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on February 16, 2022 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

EXHIBIT A

EXHIBIT A - Monthly Trust Metrics

Mutual Benefits Keep Policy Trust

As of February 1, 2022 ^[1]

3a The amount of Overpayment Balance account ^[2] 449,961

3b Amount of funds currently available to pay expenses ^[3]

Overpayment Balance	449,961
Total Overpayment Funds	449,961

3c The most recent total amount of monthly operating expenses paid ^[4] 173,217

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

	Feb 2022	March 2022
Operating Expenses	41,300	41,300
Enhanced Oversight	17,400	17,400
Subtotal	58,700	58,700
Litigation	72,000	60,000
Estimated Average Monthly Run-Rate	130,700	118,700

3e Total amount of money owed to Trustee and other professionals ^[5] 583,644

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			951
Total Face Value	MBC Victims	Acheron	Total
HIV	50,721,534	55,887,958	106,609,492
Non-HIV	23,825,714	61,051,297	84,877,011
Total	74,547,248	116,939,255	191,486,503
%	38.93%	61.07%	
Current number of policy interests the Trust is servicing			
	MBC Victims	Acheron	Total
	1,922	707	2,629

Mutual Benefits Keep Policy Trust

As of February 1, 2022 ^[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 January, the Trust advanced approximately \$33,500 in contingency loans and recovered approximately \$226,000 contingency loans receivable. As of December 31, 2021 the Trust had a Contingency Loan Receivable balance of \$411,706 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) Funds collected from the \$400 Additional Administrative Fee per policy interest totalling \$1,051,600 were deposited into a new account established for the purpose of holding such funds on February 8, 2022. These funds will be included as a component of the "Amount of funds currently available to pay expenses" above beginning with the Status Report to be filed in March 2022.
- 4) Trust December expense disbursements in the amount of \$98,050 are included in the "Most recent total amount of monthly operating expenses paid" line item reflected above.
- 5) Professional fees presented in the current report include fees incurred for the reporting period as well as the cumulative fees holdback. As of January 1, 2022 such professional fee holdbacks were increased from 20% to 40%. Cumulative holdbacks total approximately \$489,000 as of this filing.

EXHIBIT B

EXHIBIT B - Historical Trust Metrics

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 02 2022

	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	29,816	29,816	29,816	29,816	29,816	29,816	51,800	51,400
Acheron Subsidy	-	-	-	-	-	-	-	-
<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	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. As of January 1, 2022 such professional fee holdbacks were increased from 20% to 40%.

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 02 2022

	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	50,500	49,200	18,000	-	-	-	-	-
Acheron Subsidy	-	-	-	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	-	-	-	-	-	-	-	-
<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 02 2022

	As of 10/01/21	As of 11/01/21	As of 12/01/21	As of 01/01/22	As of 02/01/22
3a. The amount of Overpayment Balance account	852,529	777,763	560,599	504,663	449,961
3b. Amount of funds currently available to pay expenses					
Cash / Money Market Accounts	852,529	777,763	560,599	504,663	449,961
Fixed Income Investments	-	-	-	-	-
<i>Total Overpayment Funds</i>	852,529	777,763	560,599	504,663	449,961
3c. The most recent total amount of monthly operating expenses	216,634	207,062	229,149	6,658	173,217
3d. Estimated average run-rate of monthly Trust operating expenses ⁽¹⁾					
Operating Expenses	47,400	47,400	47,400	41,300	41,300
Enhanced Oversight	29,000	29,000	29,000	17,400	17,400
Investor Subsidy	-	-	-	-	-
Acheron Subsidy	-	-	-	-	-
<i>Subtotal</i>	76,400	76,400	76,400	58,700	58,700
Litigation	125,000	165,000	125,000	72,000	72,000
Litai Extension Fee for 2020 Only	-	-	-	-	-
<i>Estimated Average Monthly Run-Rate</i>	201,400	241,400	201,400	130,700	130,700
3e. Total amount of money owed to Trustee and other professionals ⁽⁵⁾	496,642	585,709	503,921	514,571	583,644

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 02 2022

Number of Policies the Trust is Servicing		As of 06/01/20	As of 07/01/20	As of 08/01/20	As of 09/01/20
Face Value		1,334	1,329	1,327	1,319
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
Total MBC Victims Face Value		90,212,638	89,804,524	89,598,184	88,774,058
			33.45%	33.32%	33.30%
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
Total Acheron Face Value		179,459,639	179,715,232	179,478,205	174,496,773
			66.55%	66.68%	66.70%
Total Face Value		269,672,277	269,519,755	269,076,389	263,270,831
			100.00%	100.00%	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
Total		3,897	3,833	3,784	3,691

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 02 2022

Number of Policies the Trust is Servicing		As of 10/01/20	As of 11/01/20	As of 12/01/20	As of 01/01/21
Face Value		1,316	1,313	1,307	1,306
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
Total MBC Victims Face Value		88,299,279	87,906,418	86,240,450	85,687,220
		33.91%	33.83%	33.29%	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
Total Acheron Face Value		172,071,608	171,950,146	172,845,792	172,084,191
		66.09%	66.17%	66.71%	66.76%
Total Face Value		260,370,888	259,856,564	259,086,242	257,771,411
		100.00%	100.00%	100.00%	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
Total		3,626	3,557	3,467	3,443

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 02 2022

Number of Policies the Trust is Servicing		As of 02/01/21	As of 03/01/21	As of 04/01/21	As of 05/01/21
Face Value		1,304	1,294	1,289	1,254
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
Total MBC Victims Face Value		85,568,956	82,836,723	81,853,079	81,515,384
		34.00%	34.72%	34.54%	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
Total Acheron Face Value		166,106,683	155,780,622	155,130,565	153,023,800
		66.00%	65.28%	65.46%	65.24%
Total Face Value		251,675,639	238,617,345	236,983,644	234,539,184
		100.00%	100.00%	100.00%	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
Total		3,385	3,218	3,153	3,089

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 02 2022

		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>	<u>79,332,042</u>	<u>79,392,042</u>	<u>78,295,012</u>
		37.83%	39.26%	39.27%	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>	<u>122,761,252</u>	<u>122,761,252</u>	<u>118,115,963</u>
		62.17%	60.74%	60.73%	60.14%
<i>Total Face Value</i>		<u>212,306,553</u>	<u>202,093,294</u>	<u>202,153,294</u>	<u>196,410,975</u>
		100.00%	100.00%	100.00%	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>2,870</u>	<u>2,755</u>	<u>2,755</u>	<u>2,714</u>

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 02 2022

Number of Policies the Trust is Servicing		As of 10/01/21	As of 11/01/21	As of 12/01/21	As of 01/01/22
Face Value		969	964	961	955
MBC Victims					
HIV		51,336,208	51,187,176	51,165,770	50,929,989
Non-Hiv		25,151,939	25,026,939	25,001,439	23,978,288
Total MBC Victims Face Value		76,488,147	76,214,115	76,167,209	74,908,277
Acheron					
HIV		56,519,441	56,152,441	56,151,841	56,028,725
Non-Hiv		60,095,667	60,095,667	60,075,572	60,894,318
Total Acheron Face Value		116,615,108	116,248,108	116,227,413	116,923,043
Total Face Value		193,103,255	192,462,223	192,394,622	191,831,320
		100.00%	100.00%	100.00%	100.00%

Number of Policy Interests the Trust is Servicing

Current					
MBC Victims		1,967	1,947	1,944	1,931
Acheron		721	718	717	712
Total		2,688	2,665	2,661	2,643

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 02 2022

As of 02/01/22			
Number of Policies the Trust is Servicing		951	
Face Value			
MBC Victims			
HIV		50,721,534	
Non-Hiv		23,825,714	
Total MBC Victims Face Value		74,547,248	38.93%
Acheron			
HIV		55,887,958	
Non-Hiv		61,051,297	
Total Acheron Face Value		116,939,255	61.07%
Total Face Value		191,486,503	100.00%

Number of Policy Interests the Trust is Servicing

Current	
MBC Victims	1,922
Acheron	707
Total	2,629