

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 NOVEMBER 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 October 15, 2021 [D.E. 2994]. 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 historical information for categories 3a-3f of the report from June 2020 through the month of the report.

Updated Wind-Down Timeline

Per the Order of Instructions, the Trustee provides the following updated timeline regarding the wind-down and sale of the Trust portfolio:

Action	Time to Completion
Notify all KPI's of portfolio sale and establish channels of communication with KPI's	Completed
Consideration of obtaining medical and health status of insureds	Completed
Obtain policy data and documentation from Servicer to be provided to prospective purchasers	In Process
Continue obtaining life expectancy reports for selected policies	In Process
Assemble, organize and prepare all policy documentation in data room for review by prospective purchasers	December 31, 2021
Transfer policies to securities intermediary	December 31, 2021
Determine sale process budget	December 31, 2021
Auction process narrative and checklists	January 15, 2022
Determine bid solicitation format	January 15, 2022
Prepare legal documents	January 31, 2022
Stalking horse bidder consideration and negotiation	January 31, 2022
Motion to Approve Sale	January 31, 2022
Portfolio auction	March 31, 2022
Actuarial allocation of sale proceeds, if applicable	April 15, 2022
Distribute sale proceeds to investors	To Be Completed Post-Sale

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 participating in the auction sale of the policies; (b) inquiries about options for retention of policies that are

100% owned by a single investor; (c) inquiries about options for retention of fractionally owned policies; (d) inquiries about policies for which no additional premium payments are due; (e) inquiries about the process and timing of the sale of the Trust portfolio; (f) inquiries about the reporting of the Trust's expenses; and (g) inquiries and complaints about Litai's performance of its obligations as servicer.

- The Trustee has prepared and will be filing shortly a motion to amend the Trust Agreement to provide a mechanism for investors to opt to retain policies that are 100% owned by a single investor upon Trust termination, subject to the investors (a) providing appropriate acknowledgment of their understanding of the risks associated with the investment; (b) entering into an appropriate servicing agreement with a third-party servicer to maintain and manage the policy on the investor's behalf; and (c) agreeing that any contact with, or in connection with, an insured under a policy may only be initiated by the third-party servicer, and otherwise agreeing to comply with all confidentiality and privacy restrictions applicable to any information in connection with a policy or an insured.
- The Trustee expects to finalize and implement in very short order a Securities Intermediary Agreement with Wilmington Trust to facilitate the transfer of title to the policies upon a bulk sale.
- The Trustee, with the assistance of his advisors, has continued to review and process the data and document deliveries provided by the Trust's servicer, Litai Assets, LLC ("Litai") after the Trustee filed and pursued a motion for injunctive relief to compel Litai to provide the Trustee with all of the Trust Data and Policy Documents relating to the Keep Policies in a state court action originally filed by Litai. The Trustee and his advisors are continuing the process of assembling, reviewing, sorting and organizing the available data and

documents on the Keep Policies to be placed into a “data room” to be made available to prospective purchasers for due diligence, and then supplementing and enhancing the available information as it changes over time. The process of assembling the “data room” has taken longer than anticipated due to the condition of the Trust Data and Policy Documents received from Litai.

- Consistent with the Orders entered by the Court regarding access to policy information from insureds, insurers, and providers, the Trust’s advisors have been in the process of supplementing the information that will be available in the “data room” (including updated illustrations, annual statements, forms and other information) as well as continuing to obtain forms to facilitate the transfer of ownership of policies upon completion of a sale.
- The Trustee, with the assistance of his advisors, has also been requesting updated policy illustrations from carriers suitable for prospective buyers of the portfolio, which Litai did not have in the policy files or has not provided to the Trust. This process has been aided by the Court’s entry of the “policy information” orders requested by the Trustee.
- The Trustee and his advisors have continued to seek prospective “stalking horse” purchaser candidates for the Trust portfolio, and will, subject to appropriate confidentiality and non-disclosure agreements, share the data room when available (anticipated to be December 31, 2021), engage in substantive discussion and negotiations with prospective purchasers, and select and move forward with approval of a stalking horse proposal.
- The Trustee has communicated with several investors who have interests in policies for which no further premium payments are due (for instance, on some policies no further premiums are due after the insured turns 100 years old). Although this is a very small number of policies among the entire portfolio, they are somewhat uniquely situated. The

Trustee anticipates selling such policies as a separate “tranche” in recognition of their somewhat unique circumstances.

- Due to Litai’s refusal to undertake processes to reduce remittances to carriers as necessary to keep policies in force through the first quarter of 202 and thereby facilitate the refund of amounts collected from investors not necessary to be paid to the carriers, The Trustee, with the assistance of his advisors, has been engaged in the process of making premium mode changes for 178 policies in order to conserve premium funds for potential refund upon the completion of a sale.
- As reflected in the updated timeline above, the Trustee anticipates making the “data room” available by year-end, and will continue to supplement the information supplied to prospective bidders until an auction sale is concluded. The Trustee anticipates selecting a “stalking horse” bidder and filing a motion to approve sale by January 31, 2022, with the anticipation of conducting an auction sale by March 31, 2022.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on November 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 November 1, 2021 ^[1]

3a The amount of Overpayment Balance account ^[2] 777,763

3b Amount of funds currently available to pay expenses
 Cash / Money Market Accounts 777,763
 Total Overpayment Funds 777,763

3c The most recent total amount of monthly operating expenses paid 207,062

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

	Nov 2021	Dec 2021
Operating Expenses	47,400	47,400
Enhanced Oversight	29,000	29,000
Subtotal	76,400	76,400
Litigation	165,000	125,000
Estimated Average Monthly Run-Rate	<u>241,400</u>	<u>201,400</u>

3e Total amount of money owed to Trustee and other professionals ^[3] 585,709

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 ^[4]			964
Total Face Value	MBC Victims	Acheron	Total
HIV	51,187,176	56,152,441	107,339,617
Non-HIV	25,026,939	60,095,667	85,122,606
Total	<u>76,214,115</u>	<u>116,248,108</u>	<u>192,462,223</u>
%	39.60%	60.40%	
Current number of policy interests the Trust is servicing	MBC Victims	Acheron	Total
	1,947	718	2,665

Mutual Benefits Keep Policy Trust

As of November 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 October, the Trust advanced approximately \$5,000 in contingency loans and recovered approximately \$10,000 contingency loans receivable. As of October 31, 2021 the Trust had a Contingency Loan Receivable balance of \$595,627 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) Professional fees presented in the current report include fees incurred for the reporting period as well as the cumulative 20% holdback, which as of October 31, 2021 approximates \$344,000.
- 4) The number of policies, policy interests and break-down between MBC Victims and Acheron amounts are all as of November 5, 2021.

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 11 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
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
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
Fixed Income Investments	4,576,140	4,471,853	4,453,187	3,594,078	3,387,689	3,156,259
<i>Total Overpayment Funds</i>	5,476,160	5,335,769	4,837,029	4,475,430	4,155,655	3,820,628
3c. The most recent total amount of monthly operating expenses	179,223	303,825	325,110	292,028	259,814	353,203
3d. Estimated average run-rate of monthly Trust operating expenses						
Operating Expenses	72,385	72,385	72,385	72,385	72,385	72,385
Enhanced Oversight	29,167	29,167	29,167	29,167	29,167	29,167
Investor Subsidy	29,816	29,816	29,816	29,816	29,816	29,816
Acheron Subsidy	-	-	-	-	-	-
<i>Subtotal</i>	131,368	131,368	131,368	131,368	131,368	131,368
Litigation	97,500	97,500	97,500	97,500	97,500	97,500
Litai Extension Fee for 2020 Only	125,000	-	-	-	-	-
<i>Estimated Average Monthly Run-Rate</i>	353,868	228,868	228,868	228,868	228,868	228,868
3e. Total amount of money owed to Trustee and other professionals	305,939	203,417	287,598	241,162	174,445	248,369

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 11 2021

	As of 12/01/20	As of 01/01/21	As of 02/01/21	As of 03/01/21	As of 04/01/21	As of 05/01/21
3a. The amount of Overpayment Balance account	3,688,719	3,508,601	3,105,708	2,880,629	2,097,393	2,185,654
3b. Amount of funds currently available to pay expenses						
Cash / Money Market Accounts	663,109	482,991	412,509	1,224,620	993,494	1,282,847
Fixed Income Investments	3,025,610	3,025,610	2,693,199	1,656,009	1,103,899	902,807
<i>Total Overpayment Funds</i>	3,688,719	3,508,601	3,105,708	2,880,629	2,097,393	2,185,654
3c. The most recent total amount of monthly operating expenses	373,369	320,255	239,566	343,928	294,144	225,706
3d. Estimated average run-rate of monthly Trust operating expenses						
Operating Expenses	67,400	67,400	67,400	67,400	67,400	67,400
Enhanced Oversight	29,000	29,000	29,000	29,000	29,000	29,000
Investor Subsidy	51,800	51,400	50,500	49,200	18,000	-
Acheron Subsidy	-	-	-	-	-	18,000
<i>Subtotal</i>	148,200	147,800	146,900	145,600	114,400	114,400
Litigation	97,500	97,500	97,500	97,500	48,750	48,750
Litai Extension Fee for 2020 Only	-	-	-	-	-	-
<i>Estimated Average Monthly Run-Rate</i>	245,700	245,300	244,400	243,100	163,150	163,150
3e. Total amount of money owed to Trustee and other professionals	133,851	141,434	236,578	265,403	205,064	168,355

Mutual Benefits Keep Policy Trust

Historical Trust Cash and Expenditures as of 11 2021

	As of 06/01/21	As of 07/01/21	As of 08/01/21	As of 09/01/21	As of 10/01/21	As of 11/01/21
3a. The amount of Overpayment Balance account	1,922,775	1,562,939	1,314,085	1,193,205	852,529	777,763
3b. Amount of funds currently available to pay expenses						
Cash / Money Market Accounts	1,420,745	1,061,654	813,460	1,193,205	852,529	777,763
Fixed Income Investments	502,030	501,285	500,625	-	-	-
<i>Total Overpayment Funds</i>	1,922,775	1,562,939	1,314,085	1,193,205	852,529	777,763
3c. The most recent total amount of monthly operating expenses	260,493	315,742	286,192	234,958	216,634	207,062
3d. Estimated average run-rate of monthly Trust operating expenses						
Operating Expenses	67,400	167,400	47,400	47,400	47,400	47,400
Enhanced Oversight	29,000	29,000	29,000	29,000	29,000	29,000
Investor Subsidy	-	-	-	-	-	-
Acheron Subsidy	13,500	12,100	6,050	-	-	-
<i>Subtotal</i>	109,900	208,500	82,450	76,400	76,400	76,400
Litigation	97,500	95,000	125,000	165,000	125,000	165,000
Litai Extension Fee for 2020 Only	-	-	-	-	-	-
<i>Estimated Average Monthly Run-Rate</i>	207,400	303,500	207,450	241,400	201,400	241,400
3e. Total amount of money owed to Trustee and other professionals	216,814	267,127	232,953	412,987	496,642	585,709

Mutual Benefits Keep Policy Trust

Historical Policies and Interests as of 11 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
Total MBC Victims Face Value	<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
Total Acheron Face Value	<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%
Total Face Value	<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
Total	<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 11 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 11 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 11 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 11 2021**

	As of 10/01/21		As of 11/01/21	
Number of Policies the Trust is Servicing	969		964	
Face Value				
MBC Victims				
HIV	51,336,208		51,187,176	
Non-Hiv	25,151,939		25,026,939	
<i>Total MBC Victims Face Value</i>	76,488,147	39.61%	76,214,115	39.60%
Acheron				
HIV	56,519,441		56,152,441	
Non-Hiv	60,095,667		60,095,667	
<i>Total Acheron Face Value</i>	116,615,108	60.39%	116,248,108	60.40%
<i>Total Face Value</i>	193,103,255	100.00%	192,462,223	100.00%
Number of Policy Interests the Trust is Servicing				
Current				
MBC Victims	1,967		1,947	
Acheron	721		718	
<i>Total</i>	2,688		2,665	