

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

GWG Holdings, Inc., *et al.*¹

Debtors.

Chapter 11

Case No. 22-90032 (MI)

(Jointly Administered)

**JOINT STATUS REPORT OF THE WIND DOWN TRUST AND
THE LITIGATION TRUST FOR THE QUARTER ENDING SEPTEMBER 30, 2024**

On April 20, 2022, GWG Holdings, Inc. and several affiliates filed voluntary bankruptcy petitions under chapter 11 of the Bankruptcy Code. On October 31, 2022, the DLP Debtors filed their own chapter 11 cases. On June 20, 2023 (the “Confirmation Date”), the Court confirmed the Debtors’ joint Plan (the “Plan”)^{2,3} by entering its Findings of Fact, Conclusions of Law, and Order Confirming Debtors’ Further Modified Second Amended Joint Chapter 11 Plan (ECF. No 1952) (the “Confirmation Order”). The Plan went effective on August 1, 2023 (the “Plan Effective Date”). The Wind Down Trust and the Litigation Trust were created pursuant to the Plan. Michael I. Goldberg was appointed as the trustee of the Litigation Trust (the “Litigation Trustee”). Elizabeth C. Freeman was appointed as the trustee of the Wind Down Trust (the “WDT Trustee”). The Trusts are governed by the Plan, Confirmation Order, the GWG Wind Down Trust Agreement (the “WDT Agreement”), and the Litigation Trust Agreement.

The Litigation Trust received all of the Debtors’ interest in the D&O Liability Insurance Policies (as defined in the Plan) and all of the Debtors’ litigation claims. The net amount recovered from the pursuit or settlement of the litigation claims will be distributed by the Litigation Trust to the Wind Down Trust. The Wind Down Trust was vested with the reversionary and beneficial interest in the Litigation Trust plus all of the Debtors’ non-litigation assets.

The Trustees previously filed a Joint Status Report for the quarter ending September 30, 2023, on November 14, 2023 [ECF No. 2301], on February 15, 2024, for the year ending December 31,

¹ The Debtors in these chapter 11 cases (these “Chapter 11 Cases”), along with the last four digits of each Debtor’s federal tax identification number, were: GWG Holdings, Inc. (2607); GWG Life, LLC (6955); GWG Life USA, LLC (5538); GWG DLP Funding IV, LLC (2589); GWG DLP Funding VI, LLC (none); and GWG DLP Funding Holdings VI, LLC (none). Further information regarding the Debtors and these chapter 11 cases is available at the website of the Debtors’ claims and noticing agent: <https://donlinrecano.com/gwg>.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

2023 [ECF No. 2381], on May 15, 2024, for the quarter ending March 31, 2024 [ECF No. 2454], and on August 15, 2024, for the quarter ending June 30, 2024 [ECF No. 2475]. The Litigation Trustee filed an additional status report on March 1, 2024 [ECF No. 2391].

The WDT Trustee is charged with liquidating the Wind Down Trust assets. As of the Plan Effective Date, the Debtors' approximately 26,000 L bondholders, as well as other stakeholders (including all other general unsecured creditors, preferred equity holders, and common equity holders), hold interests in the Wind Down Trust (collectively, the "WDT Interest holders"). To the extent available, WDT Interest holders will receive distributions from the Wind Down Trust in accordance with the Plan and WDT Agreement. The Wind Down Trust maintains a website to provide information to the WDT Interest holders at www.gwgholdingstrust.com.

The WDT Trustee provides the following summary of major events to date regarding her efforts to liquidate the Wind Down Trust assets:

The Policy Portfolio Sale

Following the Plan Effective Date, the WDT Trustee commenced a marketing process for the sale of the Policy Portfolio Equity Interests. After a thorough evaluation of available alternatives as well as an analysis of the ongoing costs to maintain the Policy Portfolio, the WDT Trustee elected to sell the Wind Down Trust's interests in the Policy Portfolio to Apex Longevity Fund LLC ("Apex"). The Bankruptcy Court approved the sale on October 3, 2023. The sale closed on October 13, 2023. In addition to assuming the secured debt obligation of approximately \$605 million, Apex paid the Wind Down Trust \$10 million in cash.

Sale of FOXO Technologies, Inc. Stock

On October 13, 2023, the Wind Down Trust sold its 4,646,698 shares of FOXO Stock. The Wind Down Trust realized net proceeds of \$586,942.

Fifth Season Litigation

Prior to the confirmation of the Plan, the Debtors commenced litigation with Fifth Season Investments, LLC ("Fifth Season"). The dispute centered around Fifth Season's demand for \$18.3 million dollars plus fees and costs (totaling over \$24 million) based on an asserted break-up fee. A trial was conducted on the matter on October 3rd and 4th, 2023. After the close of evidence, but before closing arguments, the Trust and Fifth Season reached a settlement. The agreement provided for Fifth Season to have a claim of \$8 million. On November 16, 2023, the Court entered an Order approving the compromise with Fifth Season [ECF No. 2305]. As of today's date, \$7,596,479 in cash has been paid to Fifth Season.

Beneficient Stock

On September 29, 2023, Beneficient's Registration Statement on Form S-1 (File No. 333-273322) (the "Registration Statement") was declared effective by the Securities and Exchange Commission. The Registration Statement registers the offer and sale of shares of Ben Stock, from time to time, by the Wind Down Trust. Following the effectiveness of the Registration Statement, the Wind Down Trust began selling a limited amount of shares of Ben Stock on the open market.

The Beneficient share price has dropped significantly since the Confirmation Date. On June 20, 2023, the share price closed at \$4.57. By the Effective Date, August 1, 2023, the share price closed at \$2.00. The shares began trading at less than \$0.10 a share in mid-March 2024. Beneficient's stockholders approved a reverse share split on March 21, 2024. The shares began trading on a split adjusted basis on April 18, 2024. On September 30, 2024, the share price closed at \$1.23, or \$0.015 on a pre-split basis.

The Trust is selling shares on the public market. The Trustee continues to focus on obtaining the maximum value for the Beneficient shares held by Trust.

The WDT Trustee received a number of inquiries from WDT Interest holders regarding the possibility of distributing Ben Stock directly to interest holders in lieu of monetizing the shares. The WDT Trustee engaged securities counsel and continues evaluating whether such a distribution of shares is feasible and in compliance with applicable law. The WDT Trustee and the Trust advisors were not able to find a feasible, compliant, cost-effective path to the distribution of the shares themselves.

Professional Fee Accommodations

After the Effective Date of the Plan, professionals retained during the bankruptcy case that were to be paid by the Debtors filed their applications for final approval of their pre-confirmation fees. The Trustee successfully negotiated accommodations with many professionals. After comments from the Court during a hearing regarding approval of those fees, several additional professionals agreed to accommodations akin to those reached with other professionals – a 5% reduction from the professional fees requested.

The amounts necessary to pay professional fees were reserved in escrow held by the Wind Down Trust. The savings from accommodations reached over \$4.5 million thus far. One additional fee application is pending and an additional accommodation is expected. The WDT benefits from the accommodations as any unused professional fee escrow funds belong to the Wind Down Trust.

Valuation as of the Effective Date

Pursuant to the Wind Down Trust Agreement, Section 5.4, the Trust was required to provide to the WDT Interest holders, a report of the valuation of the Wind Down Trust Assets as of the Effective Date, August 1, 2023. On January 31, 2024, the Wind Down Trust filed the GWG Wind Down Trust Good Faith Valuation of Trust Assets (the "Valuation Report"). (ECF No. 2339). The Valuation Report and information to assist WDT Interest Holders in determining their respective interests can be found at www.gwgholdingstrust.com/asset-values.

Taxes

Grantor Trust Letters were made available to WDT Interest holders holding direct interests. Information regarding obtaining the Grantor Trust Letters was posted on the Trust website under the Taxes/Financials tab. The Wind Down Trust published information for interest holders with indirect interests on the FIS Tax Information Reporting Suite (formerly Wall Street Concepts) and the LENS, (Legal Notice System) for Securities| DTCC Issuer Services.

The Litigation Trust

The Litigation Trustee has filed three adversary proceedings to date. The first adversary proceeding is styled *Goldberg v. Heppner, et al.*, Adv. Pro. No. 24-3090, and alleges claims and causes of action arising out of, among other things, the relationship between the Debtors and Beneficient. The defendants include Mr. Bradley K. Heppner, Beneficient, parties related to Mr. Heppner and/or Beneficient, and various former directors and officers of the Debtors. The complaint is available on the Trust's website: https://gwgholdingstrust.com/wp-content/uploads/2024/05/2024-04-19_Unsealed-Complaint.pdf. The defendants in that case have filed motions to dismiss the Litigation Trustee's claims. The Litigation Trustee's response to those motions are due on November 25, 2024, and the defendants' replies are due on December 16, 2024. A hearing on the motions to dismiss is currently set for December 16, 2024, at 10 a.m.

The second adversary proceeding is styled *Goldberg v. Sabes, et al.*, Adv. Pro. No. 24-03089, and asserts avoidance claims arising out of the Debtors' payment of a dividend to shareholders in September 2018. The defendants in that adversary proceeding include Jon R. Sabes, Steven F. Sabes, and various related parties (the "Sabes Defendants"). That complaint is available on the Trust's website: <https://gwgholdingstrust.com/wp-content/uploads/2024/05/2024-04-19-1-Complaint-re-Avoidance.pdf>. The Sabes Defendants have filed an answer to the Litigation Trustee's complaint. The parties have agreed to bifurcate the case into two phases, with the first phase covering issues related to whether GWG was insolvent under applicable law. A trial on the first phase of the case is currently set for June 9, 2025.

The third adversary proceeding is styled *Goldberg v. Foley & Lardner LLP*, Adv. Pro. No. 24-03199, and asserts claims for aiding and abetting/knowing participation in breach of fiduciary claims, professional negligence/legal malpractice, breach of fiduciary duty, and avoidance claims arising out of Foley & Lardner LLP's actions as counsel to a special committee of GWG's board of directors. That complaint is available on the Trust's website: <https://gwgholdingstrust.com/wp-content/uploads/2024/11/GWG-Litigation-Trust-v-Foley-Complaint.pdf>. Foley & Lardner LLP filed a motion to compel arbitration and stay the adversary proceeding on November 6, 2024. The Litigation Trustee's response is due on November 27, 2024, and a hearing on Foley & Lardner LLP's motion is currently set for December 16, 2024, at 9 a.m.

In addition, the Litigation Trust has initiated arbitration against one of GWG's former professionals. The Litigation Trust also has engaged in mediations with several parties in recent months, including with certain of the Debtors' former directors and officers, and additional pre-suit mediations are scheduled to occur before the end of the year. The Litigation Trust also has entered into tolling agreements with a number of parties and continues to investigate whether any additional claims may exist against those parties. The Litigation Trust may engage in pre-suit negotiations or mediations with those parties or pursue those claims. The Trustees encourage holders to review the information found on the Trust website www.gwgholdingstrust.com.

All communications to Mr. Goldberg should be related strictly to the litigation filed by the Litigation Trustee (see <https://gwgholdingstrust.com/litigation-trust/>). Mr. Goldberg cannot respond to questions pertaining to claims, Computershare, or other administrative matters.

**Please call or email Liz Freeman, Trustee of the GWG Wind Down Trust at 713-654-5150
or inquiry@gwgholdingstrust.com.**