

Q&A – D&O and Other Settlements

I received copies of documents from the Court. What does this mean to me as an interest holder of the GWG Wind Down Trust?

The GWG Litigation Trust reached settlements with a number of parties and is seeking the bankruptcy court's approval of those settlements. The GWG Litigation Trustee is seeking approval of settlements in the following lawsuits:

- **Heppner Adversary Proceeding:** The Litigation Trustee filed suit against Brad Heppner, Brad Heppner related entities, certain former GWG officers and directors, and Beneficient (the "Heppner Adversary Proceeding"). The proposed settlement provides for settlement with all Defendants except for trusts and other entities affiliated with Brad Heppner. The proposed settlement amount is \$50.5 million.
- **Whitley Penn Proceeding:** Whitley Penn was one of GWG's former auditors. The proposed settlement amount is \$8.5 million.
- **Sabes Adversary Proceeding:** GWG's former CEO Jon Sabes, his brother, and several entities associated with the Sabes. The proposed settlement amount is \$2.3 million.
- **Mayer Brown LLP:** Mayer Brown served as GWG's former counsel. Following a mediation that occurred prior to litigation being filed, the Litigation Trustee and Mayer Brown agreed to a settlement of \$30 million.

WDT Interest holders are receiving notice of the settlements so that they are informed about the settlements. If WDT Interest holders choose, they can file objections with the Court. Any objection to the settlement in the Heppner Adversary Proceeding must be filed with the Bankruptcy Court on or before **April 2, 2025**. Any objection to the other settlements must be filed with the Bankruptcy Court on or before **April 7, 2025**.

There are two hearing settings with regards to the settlement motions.

Heppner Adversary Proceeding - **April 11, 2025 at 10:00 a.m. CT,**

Whitley Penn, the Sabes Defendants, and Mayer Brown - **April 16, 2025 at 2:30 p.m. CT**

The hearings will take place in Judge Isgur's courtroom, Courtroom 404, 515 Rusk, Houston, Texas 77002. Parties may also observe or participate by telephone and video conference. The Court's system requires dialing in on the telephone for audio. You log in via video to watch the proceeding.

Sound - The Court's phone number is **832-917-1510**. Once connected, you will be asked to enter the conference room number. Judge Isgur's conference room number is **954554**.

Please note that this is a live line. Unless you are speaking to the Court, please put your phone on mute.

Video – The Court uses the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Isgur’s home page. The meeting code is “**Judgelsgur**.”

If the settlements receive court approval, the net settlement proceeds (after paying expenses, fees, and establishing a litigation reserve) will be given to the Wind Down Trust. The Wind Down Trust will then distribute those funds in accordance with GWG’s bankruptcy plan.

Why is this settlement the best outcome for the GWG Wind Down Trust and the underlying interest holders?

The Litigation Trustee’s position is described in the motions for settlement approval that you received and that are available on the Trust website. The Litigation Trustee believes that the proposed settlements are fair and in the best interest of the WDT Interest holders.

The Litigation Trustee stands strongly behind the claims that have been or could be asserted. However, the Trustee must balance the strength of the claims against legal and practical considerations. The claims are complicated and the facts are very complex. The Defendants have and would vigorously defend the claims. Litigating the claims would be expensive, time consuming, and prevailing at trial is not certain. It could take many years to litigate judgment and manage an appeal process that would likely follow. The Defendants would be spending resources that could be collected to pay WDT Interest holders. The Litigation Trustee also evaluated and considered the likelihood that the Litigation Trust could successfully collect a judgment against certain of the settling defendants, especially individual defendants.

The Litigation Trustee weighed these litigation and collection risks against the proposed settlements. In the Litigation Trustee’s judgment, these settlements are in the best interests of the WDT Interest holders because they allow for a distribution in short order. They also preserve claims against Heppner-affiliated entities and trusts (known and unknown) that received funds originating from GWG.

* The Litigation Trustee will continue pursuing claims against other defendants (such as the Reserved Trust Action Defendants, defined below, Foley & Lardner LLP and Holland & Knight LLP).

Who are the non-settling defendants parties remaining in the Heppner Adversary Proceeding?

The “Reserved Trust Action Defendants” include: The Bradley K. Heppner Family Trust; The Heppner Family Home Trust; The Highland Business Holdings Trust; The Highland Investment Holdings Trust; Beneficient Holdings, Inc.; Bradley Capital Company, L.L.C.; Elmwood Bradley Oaks, L.P.; The Highland Investment Holdings Trust; Timothy B. Harmon,

solely in his capacity as trustee of The Highland Investment Holdings Trust; HCLP Credit Company, L.L.C.; HCLP Nominees, L.L.C.; Highland Consolidated, L.P.; and Research Ranch Operating Company, L.L.C.

The Litigation Trustee believes the Reserved Trust Action Defendants received over \$140 million in funds traceable to GWG.

* The Litigation Trustee will continue pursuing claims against the Reserved Trust Action Defendants. Assets of these defendants include an interest in the Bradley Oaks Ranch.

Are there any more funds available under the D&O policies?

The D&O policies likely will be exhausted as a result of the settlement in the Heppner Adversary Proceeding. By early December 2024, only at most \$77–\$80 million in coverage remained on the D&O policies. If approved, \$50.5 million will be paid to the Litigation Trust as settlement consideration, with the balance set aside to pay defense costs for certain ongoing legal proceedings involving the settling defendants. If more than \$250,000 from the D&O policies remain after the conclusion of certain legal proceedings involving the settling defendants, the remaining amount will be paid to the Litigation Trust.

What is the total amount to be received from the settlements?

As set forth in the table below, the Litigation Trustee estimates that approximately \$59.8 million will be distributed from the Litigation Trust to the Wind Down Trust, if the settlements are approved. Other than the notice costs identified in the table below, no WDT expenses will be deducted from the amount prior to distribution to WDT Interest holders.

How much money will I receive from these settlement proceeds?

It is too soon to determine how much holders of WDT Interests will receive from these settlements. There are several potentially large claims against the Debtors that are not yet resolved, which could materially impact how proceeds from the settlements are distributed to WDT Interest Holders. Although the Wind Down Trust and Litigation Trust have made significant progress in the claims reconciliation process, that process is still ongoing.

The Wind Down Trust will post an update to this FAQ upon a determination of the distribution, including the anticipated distribution amount.

How soon will I receive distribution from these settlement proceeds?

We do not know yet when the WDT Interest holders will be paid. Several things need to occur before distributions are made. First, the Court will enter an order approving any settlement. Each of the settlement agreements has different terms that provide when the Litigation Trust will receive payment. The Heppner Adversary Proceeding also resolves the Class Action. Payment related to that settlement will follow approval of the settlement not only by the

Bankruptcy Court but also by the District Court where a Class Action is pending. The process for seeking approval by the District Court is underway.

The GWG Wind Down Trust will post an update to this FAQ after the Bankruptcy Court rules on the requests to approve the settlements. An update will also be provided regarding the District Court approval process. This update will include the anticipated date for payment to the WDT Interest holders

Settlement Amount	Trustee Counsel Contingency Fee	Class Counsel Fee (Maximum)¹	Class Counsel Expense (Maximum)³	Gross Distributable Amount (Estimated)
D&O Defendants \$ 50,500,000.00	\$ 8,928,400.00	\$ 8,484,000.00	\$ 500,000.00	\$ 33,087,600.00
Whitley Penn LLP \$ 8,500,000.00	\$ 2,125,000.00	\$ -	\$ -	\$ 6,375,000.00
Sabes Defendants \$ 2,300,000.00	\$ 782,000.00	\$ -	\$ -	\$ 1,518,000.00
Mayer Brown LLP \$ 30,000,000.00	\$ 7,500,000.00	\$ -	\$ -	\$ 22,500,000.00
Subtotal				\$ 63,480,600.00
Less: Litigation Trust Expense Reserve ²				\$ (2,500,000.00)
Notice Costs (Estimated)				\$ (350,000.00)
Litigation Trustee Success Fee (Est) ³				\$ (805,215.84)
Net Distribution to Wind Down Trust (Estimated)				\$ 59,825,384.16

¹ The proposed settlement of claims asserted in *Goldberg v. Heppner, et al.*, Adv. Pro. No. 24-03090, also resolves claims in a parallel putative securities class action pending in the U.S. District Court for the Northern District of Texas (the “District Court”), styled *In re GWG Holdings, Inc. Sec. Litig.*, No. 3:22-cv-00410 (the “Class Action”). Under the terms of that settlement agreement, Class Counsel will apply to the District Court for a fee payment in an amount not to exceed \$8,484,000 plus reimbursement of expenses in an amount not to exceed \$500,000. [Dkt No. 2533-1 at ¶ 22].

² This amount represents a reserve by GWG Litigation Trustee to fund reasonably anticipated expenses associated with multiple pending arbitrations and adversary proceedings, in accordance with the terms of the GWG Litigation Trust Agreement. See Dkt No. 1910 at §3.4.

³ The GWG Litigation Trustee’s compensation under the GWG Litigation Trust Agreement includes a success fee comprised of (a) 2% of the net amount available for distribution to the Wind Down Trust Beneficiaries plus (b) 2% of the amount of any fees and expenses paid to any experts and/or contingency counsel retained by the Litigation Trustee on behalf of the Litigation Trust (“Success Fee”). See Dkt No. 1910 at Schedule A. At the time a Success Fee is paid, 50% of all monthly compensation paid or payable to the Litigation Trustee is credited against any Success Fee. *Id.* Because this credit depends on when the Settlements are approved and ultimately fund, this amount is based on the Litigation Trustee’s best current estimate as to the timing of each and therefore may be subject to change. Further, for the settlement with the D&O Defendants [Dkt No. 2533], the Success Fee is calculated solely on the portion of the settlement allocated to the GWG Litigation Trust (52%), net of fees owed to the Litigation Trustee’s counsel; it excludes amounts allocated to settle the Class Action.