

United States Bankruptcy Court
Southern District of Texas

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

ENTERED

June 13, 2025

Nathan Ochsner, Clerk

In re:

GWG HOLDINGS, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 22-90032 (MI) (Jointly
Administered)

**ORDER APPROVING
SETTLEMENT AGREEMENT WITH WHITLEY PENN LLP**

Upon consideration of the Motion for Entry of an Order Approving a Settlement and Compromise Pursuant to Bankruptcy Rule 9019 (the “Motion”),² seeking approval of the Proposed Settlement dated as of February 5, 2025 between the Litigation Trust and Whitley Penn LLP, and attached hereto as Exhibit A (the “Proposed Settlement”); and upon consideration of the evidence admitted and all objections, if any, to the Motion having been withdrawn, resolved, or overruled on the merits; and this Court having considered the legal and factual bases for the relief requested in the Motion; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedures (the “Bankruptcy Rules”), made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: GWG Holdings, Inc. (2607); GWG Life, LLC (6955); GWG Life USA, LLC (5538); GWG DLP Funding IV, LLC (2589); GWG DLP Funding VI, LLC (6955); and GWG DLP Funding Holdings VI, LLC (6955). The location of Debtor GWG Holdings, Inc.’s principal place of business and the Debtors’ service address is 325 N. St. Paul Street, Suite 2650 Dallas, TX 75201. 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 Unless otherwise defined herein, all capitalized terms have the same meaning as used in the Motion.

such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

C. Venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. Proper, sufficient, and adequate notice of the Motion and the hearing on the Motion have been given in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Plan, and no other or further notice is necessary.

E. The Litigation Trustee has consulted with The Wind Down Trustee regarding the Proposed Settlement Pursuant to Article IV.E.2 of the Plan.

F. The Proposed Settlement includes releases for claims the Litigation Trustee has asserted against Whitley Penn, which are described in the Motion.

G. The Proposed Settlement and the transactions, compromises, and releases provided therein are reasonable and appropriate under the circumstances, and the Litigation Trust has demonstrated both (i) good, sufficient, and sound business purposes and justification for the Proposed Settlement and the transactions, compromises, and releases provided therein, and (ii) compelling circumstances for approval of the Proposed Settlement pursuant to Bankruptcy Rule 9019.

H. Based upon the evidence and arguments, this Court has weighed the probability of success in litigation, the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending to it. This Court has also taken into account the paramount interest of creditors and, based on all of the foregoing, has determined that the relief requested in the Motion is fair and equitable, in the best interests of the Litigation Trust, and should be approved in all respects.

I. In the absence of the Proposed Settlement, the Litigation Trust faces litigation expense, risk, and delay. Even if the Litigation Trust was successful in litigating its alleged claims, any recovery would not accrue to the benefit of the Litigation Trust for at least a year, if not longer. The Proposed Settlement resolves the disputes now without the need for additional and uncertain litigation.

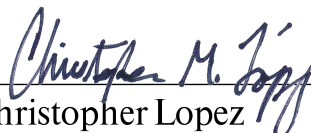
J. The terms of the Proposed Settlement and the transactions, compromises, and releases provided therein were negotiated and agreed to by the Litigation Trust and Whitley Penn, each of whom was represented by competent counsel, in good faith, without collusion, and as a result of arm's-length bargaining.

K. The Proposed Settlement was entered into by the Litigation Trust and Whitley Penn, each of whom was represented by competent counsel, in good faith, without collusion, and as a result of arm's-length bargaining.

Therefore, **IT IS HEREBY ORDERED, DETERMINED, ADJUDGED, AND DECREED THAT:**

1. The Proposed Settlement is approved.
2. The Litigation Trust, Whitley Penn, and its insurers are authorized to take such steps and actions as may be necessary or appropriate to implement the terms of the Proposed Settlement and this Order.
3. The terms and conditions of this Order shall be effective and enforceable upon its entry.
4. This Court retains jurisdiction with respect to all matters arising from or related to the Proposed Settlement or this Order.

Signed: June 13, 2025



Christopher Lopez
United States Bankruptcy Judge

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “**Agreement**”) is entered into by and among (a) Michael I. Goldberg, as Trustee (“**Trustee**”) of the GWG Litigation Trust (the “**GWG Litigation Trust**”), as successor-in-interest to certain causes of action of Debtors GWG Holdings, Inc., GWG Life, LLC, GWG Life USA, LLC, GWG DLP Funding IV, LLC, GWG DLP Funding Holdings VI, LLC, and GWG DLP Funding VI, LLC and (b) Whitley Penn LLP (“**Whitley Penn**”) and together with the Trustee, the “**Parties**”) as of February 5, 2025 (the “**Execution Date**”).

BACKGROUND

WHEREAS, on April 20, 2022, GWG Holdings, Inc., GWG Life, LLC and GWG Life USA, LLC (collectively, the “**Initial Debtors**”), and on October 31, 2022, GWG DLP Funding IV, LLC, GWG DLP Funding Holdings VI, LLC, and GWG DLP Funding VI, LLC (collectively, the “**DLP Entities**”, together with the Initial Debtors, the “**Debtors**”), commenced chapter 11 cases by filing voluntary petitions in the Bankruptcy Court for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”);

WHEREAS, on June 20, 2023, the Bankruptcy Court entered its Findings of Fact, Conclusions of Law, and Order Confirming Debtors’ Further Modified Second Amended Joint Chapter 11 Plan (Case No. 22-90032, Docket No. 1952) (the “**Confirmation Order**”), which confirmed the Debtors’ Further Modified Second Amended Joint Chapter 11 Plan, submitted by the Debtors, the Bondholder Committee, and L Bond Management, LLC as Co-Proponents (the “**Plan**”), and on August 1, 2023, the effective date of the Plan occurred;

WHEREAS, the Plan and Confirmation Order established the GWG Wind Down Trust (“**Wind Down Trust**”), appointing Elizabeth Freeman as trustee (the “**Wind Down Trustee**”), for the purpose of winding down the business affairs of the Debtors, liquidating the Wind Down Trust assets, and making distributions to the Wind Down Trust interest holders in accordance with the Plan;

WHEREAS, the Plan and Confirmation Order established the GWG Litigation Trust, appointing Michael I. Goldberg as trustee, for the purpose of prosecuting or settling the Retained Causes of Action, as that term is defined in the Plan, the proceeds of which are to be distributed to the Wind Down Trust, as sole beneficiary of the GWG Litigation Trust, for ultimate distribution by or at the direction of the Wind Down Trustee in accordance with Article VI.C of the Plan;

WHEREAS, the Trustee has asserted the GWG Litigation Trust may have various claims against Whitley Penn in relation to Whitley Penn’s professional services related to GWG Holdings, Inc. and related entities (collectively, “**GWG**”) and the Beneficient Company Group L.P. (and collectively with its affiliates “**BEN**”);

WHEREAS, Whitley Penn denies the Trustee’s allegations and claims;

WHEREAS, the Parties mediated the GWG Litigation Trust's potential claims against Whitley Penn with Miles Ruthberg of Phillips ADR Enterprises LLC on October 16, 2024, and continued to discuss a potential resolution of such claims throughout October, November, and December 2024;

WHEREAS, the Trustee has consulted with the Wind Down Trustee concerning this Agreement and the terms thereof, and the Wind Down Trustee supports the settlement reflected herein; and

WHEREAS, to avoid the uncertainties, annoyance, and expense of litigation, the Parties have agreed, without any party making any admission to any other party, to settle all disputes and claims between the Parties.

NOW THEREFORE, in consideration of the mutual promises and statements contained herein and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereby stipulate and agree as follows:

1. Bankruptcy Court Approval. The Agreement is contingent upon the approval of the Bankruptcy Court. Following the Execution Date, the Trustee shall file a motion (the "**Rule 9019 Motion**") in the Bankruptcy Court seeking entry of an order (the "**Approval Order**") authorizing or approving the Agreement, including under Federal Rule of Bankruptcy Procedure 9019. Whitley Penn agrees to cooperate with the Trustee in seeking approval of the Agreement. The Trustee shall present a draft of the Rule 9019 Motion to counsel for Whitley Penn at least ten (10) business days before filing for comments. The Rule 9019 Motion shall request that the Bankruptcy Court approve this Agreement as a good-faith, arm's-length compromise, and a fair and equitable resolution of the Trustee's potential claims against Whitley Penn. If the Bankruptcy Court should decline to enter the Approval Order, the Parties shall work in good faith to address the reasons for the Bankruptcy Court's denial.

2. Effective Date. The agreement shall be effective upon the satisfaction of the following conditions (the "**Effective Date**"): (i) each Party hereto has received a fully executed copy of this Agreement; and (ii) the Approval Order becomes a Final Order. As used herein, the term "**Final Order**" means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, as entered on the docket of such court, and as to which: (a) the time to appeal, or otherwise seek reargument or rehearing has expired and no appeal or other proceedings for reargument, or rehearing has been timely taken, or (b) as to which any appeal that has been taken has been withdrawn or resolved by the highest court to which the order or judgment was appealed or reargument or rehearing shall have been denied, resulted in no stay pending appeal of such order, or has otherwise been dismissed with prejudice; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure or Federal Rule of Bankruptcy Procedure 9024 may be filed with respect to such order shall not preclude such order from being a Final Order. The Trustee will provide prompt notice to Whitley Penn of when the Approval Order becomes a Final Order.

3. Payment Terms. Whitley Penn or its insurance carrier(s) will pay the Trustee the total sum of eight million five hundred thousand dollars (US\$8,500,000.00) (the "**Settlement Payment**") as provided herein. The Settlement Payment shall be paid by check or wire transfer as

soon as funds are available following the Effective Date, and shall be made no more than fifteen (15) business days after the Effective Date.

Payment by Whitley Penn may be made to the following escrow account controlled by Reid Collins & Tsai LLP as counsel for the GWG Litigation Trust:

Broadway National Bank
1177 Northeast Loop 410
San Antonio, Texas 78209
ABA No. 114021933
Credit Account No. 4100077126
F/B/O: Reid Collins & Tsai LLP IOLTA

4. Attorneys' Fees and Expenses. The Parties acknowledge and agree that they are solely responsible for paying any attorneys' fees and costs they incurred and that neither Party nor the Party's attorney(s) will seek any award of attorneys' fees or costs from the other Party, except as provided herein.

5. Mutual Release. Upon the Effective Date set forth in paragraph 2:

(a) The GWG Litigation Trust, for and on behalf of itself and Debtors, and to the fullest extent that has authority to do so, on behalf of Debtors' current and former creditors, subsidiaries, and affiliates and their respective directors, officers, managers, partners, employees, predecessors, successors, assigns, attorneys, consultants, representatives, licensees, accountants and auditors, insurers and agents (the "**Releasing Trustee Parties**") releases and forever discharges Whitley Penn and all of its past, present and future professionals, officers, directors, employees, trustees, agents, shareholders, affiliates, partners, principals, members, insurers, predecessors, successors, assigns, and agents (the "**Released Whitley Penn Parties**") from any and all claims, causes of action, proceedings, obligations, suits, debts, demands, agreements, promises, controversies, liabilities, and damages of any kind whatsoever, whether direct or derivative in nature, individual or on behalf of a class, whether based on federal, state, local, statutory or common law, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured, known or unknown which the Releasing Trustee Parties ever had, now have, claim to have, or may in the future have or claim to have, that arise from or relate to the Retained Causes of Action (collectively, the "**Released Trustee Claims**").

(b) Whitley Penn, for and on behalf of itself, and to the fullest extent that it has authority to do so, on behalf of its heirs and assigns, attorneys, consultants, representatives, accountants and auditors, insurers, and agents ("**Releasing Whitley Penn Parties**") release and forever discharge the GWG Litigation Trust, the Trustee, and Debtors (the "**Released Trustee Parties**"), from any and all claims, causes of action, proceedings, obligations, suits, debts, demands, agreements, promises, controversies, liabilities, and damages of any kind whatsoever, whether direct or derivative in nature, individual or on behalf of a class, whether based on federal, state, local, statutory or common law, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured,

known or unknown which the Releasing Whitley Penn Parties ever had, now have, claim to have, or may in the future have or claim to have (collectively, the “**Released Whitley Penn Claims**”).

6. No Admission of Liability. The Parties acknowledge that the Settlement Payment was agreed upon as a compromise and final settlement of disputed claims and that payment of the Settlement Payment is not, and may not be construed as, an admission of liability by Whitley Penn and is not to be construed as an admission that Whitley Penn engaged in any negligent, wrongful, tortious, or unlawful activity. Whitley Penn specifically disclaims and denies (a) any liability to the Trustee and (b) engaging in any negligent, wrongful, tortious, or unlawful activity.

7. Use of Whitley Penn Information: The Trustee shall use documents produced by Whitley Penn, including its working papers and emails related to its services (the “**Materials**”) solely in connection with judicial or other proceedings initiated by the Trustee, including but not limited to existing or potential litigation, arbitration proceedings, contested matters, or adversary proceedings, and not for any other purpose. The Trustee shall otherwise treat the Materials as confidential and not discuss or disclose them to anyone, except in response to a legally enforceable demand, subpoena or court order. If the Trustee is served with a subpoena or subject to an order from any litigation, regulatory or other proceeding that compels disclosure of any Materials produced by Whitley Penn, the Trustee shall promptly notify undersigned counsel for Whitley Penn. The Trustee also agrees to promptly notify the party who caused the subpoena or order to issue that the Materials covered by the subpoena or order are subject to this Agreement. The Parties shall cooperate in good faith to comply with all reasonable protections sought by Whitley Penn with regard to the Materials and to facilitate the Trustee’s compliance with the subpoena or order. The Trustee will discard in a secure manner or destroy Whitley Penn’s information and documents immediately following the conclusion of the last adversary proceeding, arbitration, mediation, or pre-suit negotiation related to Debtors.

8. No Disparagement. The Parties agree that they will not make any defamatory or disparaging remarks about the other Party. However, this provision shall not prevent the Trustee on behalf of the GWG Litigation Trust from fully investigating and litigating other actions or claims in which Whitley Penn’s work for BEN and/or GWG is at issue or raised in the course of such proceeding. The preceding provision shall not authorize statements by the Trustee outside of pending litigation, arbitration, or pre-litigation discussions, negotiation, and/or mediation with parties against whom the GWG Litigation Trust may have claims.

9. Waiver. The Trustee agrees to waive any potential conflict of interest related to Whitley Penn’s counsel’s, Gibson Dunn & Crutcher, LLP (“**Gibson Dunn**”), work for Debtors or Debtors’ special committee and will not seek to disqualify Gibson Dunn from its representation of Whitley Penn, or its professionals, in any other action or matter related to Whitley Penn’s work for Debtors or BEN.

10. Choice of Law; Settling Person; Settlement Allocation. This Agreement is governed by and construed in accordance with the laws of the State of Texas without regard to choice-of-law principles. It is the intent of the Parties that Whitley Penn is a “settling person” under Subchapter B of Chapter 33 of the Texas Civil Practice and Remedies Code and that the Settlement Payment resolves any and all claims held by the Trustee. The Trustee has alleged the

Debtors suffered multiple injuries in connection with Whitley Penn's work related to GWG and BEN's consolidated financial statements for the period ended December 31, 2019 and/or BEN's financial statements for the periods ended December 31, 2016, December 31, 2017, and May 31, 2018. The Trustee reserves any and all rights to present evidence in any future lawsuit, arbitration, or other proceeding as to the appropriate allocation of the Settlement Payment among such alleged injuries.

11. Enforcement. Nothing contained herein will be interpreted as preventing any Party from filing suit to enforce any portion of this Agreement.

12. Entire Agreement. The recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the subject matter hereof. Furthermore, no modification of this Agreement shall be binding unless in writing and signed by each of the parties hereto.

13. Interpretation. Should any provision of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby and said illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement. The headings within this Agreement are purely for convenience and are not to be used as an aid in interpretation. Moreover, this Agreement shall not be construed against either Party as the author or drafter of the Agreement.

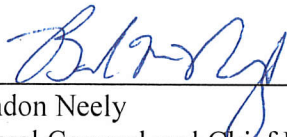
14. Reliance on Own Counsel. In entering into this Agreement, the Parties acknowledge that they have relied upon the legal advice of their respective attorneys, who are the attorneys of their own choosing, that such terms are fully understood and voluntarily accepted by them, and that, other than the consideration set forth herein, no promises or representations of any kind have been made to them by the other Party. The Parties represent and acknowledge that in executing this Agreement they did not rely, and have not relied, upon any representation or statement, whether oral or written, made by the other Party or by that other Party's agents, representatives, or attorneys with regard to the subject matter, basis, or effect of this Agreement or otherwise.

15. Counterparts. This Agreement may be executed in counterparts, and each counterpart, when executed, will have the efficacy of a signed original and may be delivered via mail, email (.pdf), or facsimile, any of which will be deemed an original, and such counterparts will together constitute but one Agreement. The Parties agree that this Agreement may be accepted, executed, or agreed to through the use of an electronic signature and will be binding on the Parties the same as if it were physically executed and the Parties hereby consent to the use of any third-party electronic signature capture service providers as may be chosen by any other Party.


16. Authority to Execute Agreement. By signing below, each Party warrants and represents that the person signing this Agreement on its behalf has authority to bind that Party and that the Party's execution of this Agreement is not in violation of any by-law, covenants, and/or other restrictions placed upon them by their respective entities.

(Signature page follows)

AGREED TO:

By: 

Brandon Neely
General Counsel and Chief Risk Officer
Whitley Penn LLP
640 Taylor Street, Suite 2200 Fort Worth, Texas 76102

By: 

Michael I. Goldberg (Feb 4, 2025 19:34 PST)
Michael I. Goldberg
201 East Las Olas Boulevard, Suite 1800
Fort Lauderdale, Florida 33301
michael.goldberg@akerman.com

Trustee, GWG Litigation Trust