

**IN THE MATTERS OF
FAIRFIELD SENTRY LIMITED
FAIRFIELD SIGMA LIMITED
FAIRFIELD LAMBDA LIMITED
(ALL IN LIQUIDATION)
(Collectively “the Funds”)**

CLAIM NUMBERS: 0136, 0139 AND 0074 OF 2009

**FIFTEENTH INTERIM REPORT OF THE LIQUIDATORS TO THE CREDITORS AND REGISTERED
SHAREHOLDERS**

31 AUGUST 2019

	<u>Table of Contents</u>	<u>Page number</u>
1.	Introduction	5
2.	Work performed during the period of the report	5-10
3.	Financial Position	10-11
4.	Conclusion	11
Appendix A	Receipts and Payments Account for the period 21 July 2009 to 31 July 2019	

GLOSSARY OF TERMS

Act	the Virgin Islands Insolvency Act, 2003 (as amended)
Bankruptcy Court	United States Bankruptcy Court for the Southern District of New York
BLMIS	Bernard L. Madoff Investment Securities LLC
BVI	British Virgin Islands
Citco	collectively the Funds' former Administrator, Custodian and Depository, respectively Citco Fund Services Europe B.V., Citco Global Custody and Citco Bank Nederland (B.V.) (Dublin Branch)
Committee	Sentry's ad-hoc Committee of representatives of three Registered Shareholders
Court	the High Court of Justice (Commercial Division) of the Eastern Caribbean Supreme Court (the BVI Court)
Court of Appeal	the Court of Appeal of the Eastern Caribbean Supreme Court (the BVI Court of Appeal)
FGG	Fairfield Greenwich Group, the group of companies that includes Fairfield Greenwich Bermuda and the marketer of the Funds
KRyS Global	the trading name of Krys & Associates (BVI) Limited
Lambda	Fairfield Lambda Limited – In Liquidation
Last Report	the Fourteenth Interim Report of the Liquidators, dated 31 August 2018
Liquidators	the current Liquidators of the Funds, Kenneth M. Krys and Greig Mitchell, and where appropriate this term is also used to collectively describe the acts of the former Liquidators
Non-BLMIS Investments	Investments made by Sentry into allegedly bona-fide investments, largely in "seedling" or start-up funds and non-SEC regulated entities
PwC	collectively the Funds' former Auditors, respectively PricewaterhouseCoopers LLP (a Canadian entity) ("PwC Canada") and PricewaterhouseCoopers N.V. (a Dutch entity) ("PwC Netherlands")
Registered Shareholders	those shareholders who pursuant to Articles 8 of the Funds' Articles of Association are recognized

Fairfield Sentry Limited, Fairfield Sigma Limited and Fairfield Lambda Limited (All In Liquidation)
15th Interim Report of the Liquidators
31 August 2019

Rules	the Virgin Islands Insolvency Rules, 2005 (as amended)
Sentry	Fairfield Sentry Limited – In Liquidation
Sigma	Fairfield Sigma Limited – In Liquidation
SIPA	(US) Securities Investor Protection Act 1970
US Trustee	Mr. Irving Picard, the trustee appointed by the US Federal Bankruptcy Court pursuant to the SIPA provisions, in the liquidation of BLMIS

1. INTRODUCTION

- 1.1 This Report provides an update to creditors and Registered Shareholders as to the status regarding the current position of the liquidations of the Funds and the work performed by the Liquidators since the Last Report.
- 1.2 There have been fourteen prior interim consolidated reports of the Liquidators, including the 14th Interim Report of the Liquidators dated 31 August 2018 (the “**Last Report**”), and these should be read in conjunction with this Report. These prior reports are available at www.fairfieldsentry.com, www.fairfieldsigma.com, www.fairfieldlambda.com. This Report adopts the terms, definitions and content of the previous fourteen reports. Specific attention is directed to the Restrictions and Qualifications in the previous reports, which are also adopted in this Report.

Change in Liquidators

- 1.3 On 8 July 2019, following notice of resignation from Mrs. Caulfield, the Court ordered that Mr. Greig Mitchell replace Mrs. Caulfield as Joint Liquidator, together with Mr. Kryz, of Sentry, Sigma, and Lambda.

2. WORK PERFORMED DURING THE PERIOD OF THE REPORT

Distributions to the Registered Shareholders

- 2.1 In the Last Report, the Liquidators reported that they obtained sanction from the Court to compromise the claims subsisting between Sentry, Sigma and Lambda. This had the effect of removing the obstacles preventing Sigma distributing assets to its creditors and Registered Shareholders and allowing Lambda to make similar distributions as and when it had sufficient assets to do so. The compromise agreement also enabled Sentry to make a third distribution to its Registered Shareholders.
- 2.2 On 23 October 2018, the Liquidators received the Court’s sanction to pay a third distribution of \$8.5 per share to the Registered Shareholders of Sentry, and a first distribution of \$10 per share to the Registered Shareholders of Sigma.
- 2.3 As at 17 November 2018, distributions totaling \$55.7 million were paid to Sentry Registered Shareholders and \$4.8 million was paid to Sigma Registered Shareholders.

Claims against the Funds' Redeeming Investors

- 2.4 One aspect of the Liquidators' asset recovery strategy has been the pursuit of proceedings in the US against Registered Shareholders and their underlying clients who redeemed from the Funds prior to the Funds going into liquidation. The Liquidators are pursuing 303 clawback actions, seeking a total of approximately \$6.3 billion in recoveries, against investors in the Funds. The Liquidators' claims are brought under various causes of action, including common law restitutionary claims, contractual claims and statutory avoidance claims pursuant to the Act. These claims have at all times been pursued with the sanction of the Court (or in some instances the Court of Appeal).
- 2.5 On 6 December 2018 the Bankruptcy Court held that the majority of the Liquidators' US claims (measured by recoveries sought) could proceed to the next stage of litigation briefing. However, the Court also granted the defendants' motions to dismiss as to certain other claims, in particular common law and contract claims asserted by the Liquidators against defendants not alleged to have had knowledge that the Funds' net asset values were incorrect.
- 2.6 The Liquidators are in the process of lodging appeals in the US District Court against the dismissals of the non-knowledge defendants' common law and contract claims. Also, consistent with the Bankruptcy Court's decision on 6 December, the Liquidators are in the process of filing amended claims against defendants in the ongoing (i.e., non-dismissed) adversary proceedings in the Bankruptcy Court. Once the amended claims are filed in the Bankruptcy Court, the defendants will have an opportunity to file further, limited motions to dismiss, following which the Bankruptcy Court will resolve such motions and determine the next steps in the litigation.
- 2.7 Following negotiation with the defendants, the Liquidators filed letter requests in the US District Court to (i) consolidate the US District Court appeals, and (ii) enter a consolidated briefing schedule, providing a stay of appellate briefing as to the safe harbor, extraterritorial and personal jurisdiction appellate issues. On 26 August 2019, the US District Court granted the Liquidators' request to consolidate the appeals. The order indicates that a separate order will be issued entering the proposed briefing schedule.
- 2.8 Under proposed US District Court briefing schedule, the opening appeal briefs will be due 90 days from entry of the schedule (i.e., early Dec. 2019 if the US District Court enters the schedule in early September). The Liquidators are undertaking initial work on the appellate arguments.

- 2.9 The Liquidators are also closely monitoring the US Trustee's subsequent transferee litigation (which include claims against the same defendants in the Funds clawback claims) and the pending application by defendants in that action to the US Supreme Court to permit an appeal of the US Court of Appeals for the Second Circuit's February 25, 2019 decision regarding the US Trustee's application of the US Bankruptcy Code to recover against non-U.S.-domiciled defendants, which decision was highly favorable to the US Trustee. If the application is declined, or the US Trustee is able to survive an appeal, the resulting improvement in the US Trustee's litigation position will be of benefit to the Liquidators, as a result of judgment-sharing provisions in the settlement between the US Trustee and the Liquidators, as well as increased litigation pressure imposed by the US Trustee on those defendants in the Liquidators' US actions that are also being sued by the US Trustee.
- 2.10 In the Liquidators' last report, it was also reported that the Court of Appeal heard the appeal against the Court's decision declining certain defendants' application pursuant to Section 273 of the Act and under the anti-suit jurisdiction to prevent the Liquidators from continuing to prosecute the US redeemer claims. These defendants lost that appeal, however one group of the appellants decided to appeal certain aspects of that decision to the Privy Council.
- 2.11 The central question on the appeal was the question of statutory interpretation, specifically whether section 249 of the Act either expressly or by necessary implication confers an exclusive jurisdiction on the High Court to make orders, under the statutory avoidance powers in the Act, to the exclusion of foreign courts.
- 2.12 In February 2019, the Privy Council heard the appeal and judgement was delivered on 20 May 2019. The Privy Council determined that section 249 of the Act contained no express prohibition on any foreign court exercising jurisdiction and it is a question for each foreign court from which a BVI office holder seeks assistance to determine whether it can use the statutory tools, which the BVI insolvency legislation has conferred (non-exclusively) on the BVI court. Furthermore the Privy Council found that the Liquidators' claims permitted to proceed against the defendants in the US under the Bankruptcy Court's 6 December 2018 decision are not in conflict with the Board's 2014 judgement in *Sentry v Migani*. More broadly the Privy Council did not find the Liquidators' conduct in issuing proceedings in the US was unjust, vexatious or oppressive. It concluded that an injunction against the Liquidators was not appropriate nor necessary in the circumstances. The Liquidators are now in the process of seeking recovery of costs ordered in their favour from the unsuccessful s273 applicants. A costs assessment application in respect of the first instance stage has been filed and a costs hearing has been listed to be heard in the Court in November 2019. The Privy Council costs will be addressed in a separate process.

Claims against the Funds' former Administrator, Custodian and Banker, Citco

- 2.13 The decision of the Bankruptcy Court on 6 December 2018 provided guidance as to the Bankruptcy Court's approach to potential liability of the Registered Shareholders and the imputation to the Funds of certain redeemers' knowledge of the Madoff fraud. With this decision in hand the Liquidators approached Citco again about the possibility of settling the claims against it in an attempt to avoid further litigation. The toll that the Liquidators had with Citco was extended until April 2019 to permit those discussions to continue.
- 2.14 Those efforts were unsuccessful. The Liquidators gave Citco notice and on 22 April 2019 the Liquidators filed a complaint against various Citco entities for similar causes of action being pursued against the other defendants in the US as discussed above. The complaint was initially filed together with a sealing motion regarding factual allegations of Citco's bad faith to be redacted per earlier agreement with Citco. Citco subsequently withdrew its position on confidentiality, permitting filing of an unredacted complaint.

Section 273 Application by FGG

- 2.15 In the Last Report, we reported that the Liquidators had rejected the indemnity claims made by FGG (including its predecessor entity), and those made by a former director, Walter Noel and former company secretary, Jeffrey Tucker. The decision of the Liquidators had been challenged pursuant to Section 273 of the Act.
- 2.16 We advised that the appeal in respect of the construction of the investment management agreement, which impacts on FGG's claims for all of the litigation (save for two specific US proceedings (a claim by Sentry that is to be assigned to Mr Picard, and a direct claim by Mr Picard)) was heard in July 2018. In October 2018 the Court of Appeal dismissed the appeal and ordered costs in favour of the Liquidators. FGG did not appeal this judgement.
- 2.17 We also advised that after the Court heard the preliminary issues in January 2018 its decision handed down in March 2018 found in the Liquidators' favour, save for one matter pertaining to *Morning Mist* in the US, (which the liquidators had accepted fell within the scope of the indemnity) where the amount at stake was approximately \$1 million. A hearing to fix the amount was scheduled to be heard on 10 December 2018. Prior to the hearing, the Liquidators agreed to settle the claim for \$575,000, which the Court sanctioned on 12 December 2018.
- 2.18 The matters that remained outstanding were therefore: (i) an appeal by the FGG parties in relation to the two specific US proceedings not addressed in the July 2018 decision; (ii) an appeal by Messrs Noel and Tucker in relation to their indemnity claim; (iii) the deferred fees claim.

- 2.19 A meeting between FGG attorneys and the Liquidators was held in March 2019 in an attempt to settle the remaining issues. Although there was some written correspondence after the meeting to find a possibility at resolving matters, nothing was agreed.
- 2.20 With regard to the first two outstanding items, a hearing took place at the Court of Appeal on 15 July 2019. The Court of Appeal reserved judgement and the Liquidators are awaiting judgement to be handed down.
- 2.21 As for the last item outstanding, in January 2019 FGG filed a counterclaim against Sentry for deferred fees per the relevant Deferred Fee Agreements (which are governed by New York law) in Fairfield Sentry Limited v. Fairfield Greenwich Group, et al., Adv. Pro. No. 10-03800 (SMB) (S.D.N.Y. Bank.). In April 2019, Sentry filed an answer and defenses to the FGG claim. In July 2019 FGG filed a motion for judgment on the pleadings for the deferred fees it alleged are payable to it. The Liquidators filed their response on 20 August 2019, and FGG's reply is due 5 September 2019.

Claims against the Funds' former auditors, PricewaterhouseCoopers ("PwC")

- 2.22 In the Canadian proceedings, we last reported that the Liquidators were considering whether there were merits to file an appeal. The Liquidators filed an application with the Supreme Court of Canada for leave to appeal on 19 October 2018.
- 2.23 In the Dutch proceedings, on 26 September 2018 the Dutch Court found against the Liquidators regarding their claims against the auditors. The Liquidators appealed this decision on 21 December 2018.
- 2.24 The Liquidators, mindful that there is inherent risk in successfully reversing decisions on appeal, and there are costs that come with such proceedings, approached PwC regarding the possibility of exploring a global settlement. On 12 April 2019, a settlement agreement with both PwC member firms was executed. The settlement had the support of the majority of the Liquidation Committee and was sanctioned by the BVI Court. The Liquidators are not in a position to share the details of the settlement as the terms are subject to confidentiality undertakings.

SIPA Distribution

- 2.25 In February 2019, the US Trustee declared a further distribution of 2.729% of allowed claims. Sentry has an allowed claim of \$230 million and accordingly received a further distribution of \$6,276,700, bringing the total received to \$154 million (66% of the allowed claim).

Ad-hoc Committee

- 2.26 The Liquidators consult with the Committee on recovery matters relating to Sentry and keep the Committee apprised as to their activities and strategies by way of written updates. Whilst the occasions when the Liquidators consult with the Committee has reduced over time, the Liquidators generally hold conference calls with the Committee every 3-6 months, as appropriate.
- 2.27 Some members of the Committee are conflicted from providing consultations on the redeemer claims, as they themselves are defendants to redeemer claims brought by the Liquidators. A sub-committee therefore exists which now consists of one Committee member who is not conflicted and with whom the Liquidators can have an open dialogue regarding the redeemer claims, settlements and other associated matters.
- 2.28 The Committee remains involved in reviewing and consulting on the Liquidators' fees and expenses in Sentry's liquidation and its views are brought to the attention of the Court when it reviews and approves these costs.

3. FINANCIAL POSITION

- 3.1 At this juncture in the liquidations of the Funds, all cash and assets are known and under the control of the Liquidators. The remaining assets to be monetized are a small portfolio of non-BLMIS investments, any future distribution on the SIPA claim in BLMIS (see discussion at 4.26) and recoveries on the Funds' claims against pre-appointment redeemers. Similarly, the Liquidators have paid or provided for all liabilities of Sentry and Sigma.
- 3.2 Appendix A details the cash receipts and disbursements since the commencement of the liquidations. The cash receipts and disbursements include the adjustments arising from the sanction of the compromise agreement. As at 31 July 2019 the Liquidators have achieved recoveries in Sentry, Sigma and Lambda of \$571 million compared with cash disbursements of \$143 million and Liquidators and legal fees of \$150 million. There are net recoveries of \$277 million, of which \$65 million has been distributed to creditors and Registered Shareholders, \$136 million is held in escrow for Registered Shareholders who the Liquidators are not in a position to distribute and \$76 million is set aside for disputed creditors or future costs.
- 3.3 Historically distributions due to Registered Shareholders who were either a US redeemer defendant, a Citco tolled party, or had not provided sufficient customer due diligence information were held in "escrow". These funds were held in the general liquidation estate accounts. The Liquidators sought direction of the Court on whether this was sufficient or whether it wanted additional safeguards put in place.

- 3.4 On 6 November 2018 the Court ordered that the Liquidators establish separate segregated escrow bank accounts for Sentry and Sigma and to place in those accounts any unpaid distributions due to those Registered Shareholders mentioned above. The Order also provided that any return earned on the investments of those escrow funds should be for the benefit of the whole of the general Liquidation estates and not just the Registered Shareholders whose distributions were placed in the escrow accounts. Any losses incurred in the holding of the distributions in the escrow accounts would be borne by those Registered Shareholders whose distributions were placed in those accounts. The Liquidators were also permitted to invest the funds concerned at their discretion to mitigate the risk of loss. Those distributions are now held in separate bank accounts and invested in compliance with the Court's direction.
- 3.5 The Liquidators provided Registered Shareholders with an estimate of potential outcomes in 2016. The Liquidators intend to prepare an updated estimate in October 2019.
- 3.6 The next fee application is scheduled to be heard by the Court on 14 October 2019, in respect of the fees and expenses generally incurred from 16 May 2019 to 31 August 2019. In accordance with the provisions of the Act, the Liquidators' remuneration is based upon their time costs.

4. CONCLUSION

- 4.1 Following the decision of 6 December 2018 issued by the Bankruptcy Court, the Liquidators' efforts are now directed to the proceedings in the US against Registered Shareholders and their underlying clients who redeemed from the Funds prior to the Funds going into liquidation. With the US Court permitting the Liquidators to proceed to the next stage of briefing with respect to a majority (by recoveries sought) of the 303 clawback actions for \$6.3 billion brought against foreign banks and investors in the Funds (and with appeals filed as to the remaining, dismissed claims), there is reason to be optimistic that this litigation will bring some significant recoveries into the estates. Recoveries arising from this litigation, and any further distributions on the SIPC claim, are likely to be the primary recoveries that will result in future distributions to Registered Shareholders.

Should you have any queries please do not hesitate to contact fairfieldsentry@KRyS-Global.com; fairfieldsigma@KRyS-Global.com; or fairfieldlambda@KRyS-Global.com, quoting your Holder and Account ID numbers.


Greig Mitchell
Joint Liquidator

31 August 2019

APPENDIX A

Fairfield Sentry Limited, Fairfield Sigma Limited and Fairfield Lambda Limited – All In Liquidation
Liquidators' cash receipts and disbursements statement
For the period to 31 July 2019

	SENTRY USD \$ 31-Jul-19	SIGMA USD \$ 31-Jul-19	LAMBDA USD \$ 31-Jul-19	TOTAL USD \$ 31-Jul-19
Cash Receipts				
Cash Held At Citco	70,099,114.70	62,411,835.00	-	132,510,949.70
Other Cash at Bank	-	260,264.82	-	260,264.82
Compromise Receipts	66,246,233.77	-	-	66,246,233.77
Non-BLMIS Investments	78,555,565.55	-	-	78,555,565.55
Pre-Liquidation Redemption Receipts	28,805,335.56	2,559,664.97	-	31,365,000.53
US Trustee Redemption Recovery Allocation	31,479,235.74	41,532,739.92	-	73,011,975.66
Distributions on SIPA Claim in BLMIS	153,755,900.00	-	-	153,755,900.00
Third Party Service Provider Actions	1,656,698.83	724,718.24	26,484.72	2,407,901.79
Recovery of retainers	-	316,952.00	-	316,952.00
Interest received	4,517,990.87	4,453,789.48	-	8,971,780.35
Other Income	1,120.02	-	-	1,120.02
Loan Receivable	-	113,551.38	-	113,551.38
Distribution from Sentry	-	22,066,554.90	1,046,122.90	23,112,677.80
	<u>435,117,195.04</u>	<u>134,440,070.71</u>	<u>1,072,607.62</u>	<u>570,629,873.37</u>
Cash Disbursements				
Payment Pursuant to Agreement	70,000,000.00	-	-	70,000,000.00
Payment Pursuant to Compromise	-	65,605,361.35	640,872.42	66,246,233.77
Allocation to Trustee of Redemption Receipts	2,689,608.96	292,608.00	-	2,982,216.96
Database & web fees	755,511.16	10,135.54	-	765,646.70
Office rental expenses	13,200.00	18,800.00	-	32,000.00
Petitioner's Costs	1,173,430.83	-	-	1,173,430.83
Interest Paid	-	1,678,574.97	58,261.97	1,736,836.94
Bank charges and other costs	305,643.67	77,491.50	-	383,135.17
	<u>74,937,394.62</u>	<u>67,682,971.36</u>	<u>699,134.39</u>	<u>143,319,500.37</u>
Net Cash Before Liquidators Fees and Expenses and Distributions	<u>360,179,800.42</u>	<u>66,757,099.35</u>	<u>373,473.23</u>	<u>427,310,373.00</u>
Legal fees and expenses				
Legal fees and expenses	81,152,971.20	13,208,468.76	414,122.45	94,775,562.41
Legal Contingency Fees	5,853,508.26	7,586,912.41	-	13,440,420.67
Liquidators fees and expenses	32,063,066.59	2,125,079.80	332,750.99	34,520,897.38
Adverse Costs	5,309,048.87	-	-	5,309,048.87
Other professional fees	1,018,004.45	47,210.01	-	1,065,214.46
Liquidation committee expenses	153,128.79	-	-	153,128.79
Legal Fees Paid on behalf of Lambda	40,649.22	-	(40,649.22)	-
Liquidators fees paid on behalf of Lambda	322,505.75	10,245.24	(332,750.99)	-
	<u>125,912,883.13</u>	<u>22,977,916.22</u>	<u>373,473.23</u>	<u>149,264,272.58</u>
Net Cash Before Distribution to Creditors and Shareholders	<u>234,266,917.29</u>	<u>43,779,183.13</u>	<u>-</u>	<u>278,046,100.42</u>
Distribution to Trade Creditors				
Distribution to Trade Creditors	752,312.81	60,950.00	617,887.68	1,431,150.49
Payment of Loan on Behalf of Lambda	617,887.68	-	(617,887.68)	-
Payments to Unpaid Redeemers	3,727,564.43	-	-	3,727,564.43
Distributions to Registered Shareholders	55,701,919.95	4,839,834.55	-	60,541,754.50
	<u>60,799,684.87</u>	<u>4,900,784.55</u>	<u>-</u>	<u>65,700,469.42</u>
Net Cash Position	<u>173,467,232.42</u>	<u>38,878,398.58</u>	<u>-</u>	<u>212,345,631.00</u>
Net Cash Position Consists of:				
Unencumbered Cash	62,458,830.30	13,578,944.61	-	76,037,774.91
Distributions Held in Escrow	111,008,402.12	25,299,453.97	-	136,307,856.09
	<u>173,467,232.42</u>	<u>38,878,398.58</u>	<u>-</u>	<u>212,345,631.00</u>
Closing Balance made up of:				
General Accounts	173,467,232.42	38,878,398.58	-	212,345,631.00
Cash Position as Per Bank	<u>173,467,232.42</u>	<u>38,878,398.58</u>	<u>-</u>	<u>212,345,631.00</u>

Notes

The receipts and disbursements account reflects cash transactions since the liquidation date as approved by the Court