

**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**

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

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**AS AT 31 AUGUST 2023**

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**1. INTRODUCTION**

- 1.1 This report provides an update to creditors and Registered Shareholders on 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 eighteen prior interim consolidated reports of the Liquidators, including the 18<sup>th</sup> Interim Report of the Liquidators dated 31 August 2022 (the “**Last Report**”), and these should be read in conjunction with this report. These prior reports are available at [www.fairfieldsentry.com](http://www.fairfieldsentry.com), [www.fairfieldsigma.com](http://www.fairfieldsigma.com), and [www.fairfieldlambda.com](http://www.fairfieldlambda.com). This report adopts the terms, definitions, and content of the previous eighteen reports. Specific attention is directed to the Restrictions and Qualifications in the previous reports, which are also adopted in this report.

**2. HIGHLIGHTS**

**Distributions to the Registered Shareholders**

- 2.1 Since the Last Report the Liquidators have not declared or paid any distributions to Registered Shareholders.
- 2.2 To date the following distributions have been declared to Registered Shareholders:

<b>Sentry Distributions</b>		
Date of Distribution	\$ per Share	Distributions Declared
31 August 2017	\$15.00	72,167,280.78
15 December 2017	\$15.00	68,671,722.78
15 November 2018	\$8.50	\$38,909,528.21
<b>Total</b>	<b>\$38.50</b>	<b>\$179,748,531.77</b>

<b>Sigma Distribution</b>		
Date of Distribution	\$ per Share	Distribution Declared
15 November 2018	<b>\$10.00</b>	<b>\$30,139,288.52</b>

- 2.3 Included in the above figures are sums held in escrow for Registered Shareholders who, either because they are defendants in the US litigation (discussed further below) or have not submitted the required anti-money laundering and other documentation to the Liquidators, cannot be paid their distribution at this time. The sums held in escrow are summarised below:

<b>Escrow as of 31 August 2022</b>	
Sentry	\$107,102,036.57
Sigma	\$23,357,972.49

- 2.4 During the period of this report, Registered Shareholders who either resolved the US litigation issues or submitted the necessary documentation to the satisfaction of the Liquidators, received \$642,041.65.
- 2.5 To date Lambda has not had sufficient funds to enable a distribution to be declared or made to its eligible Registered Shareholders.

### **US Litigation**

- 2.6 The Liquidators' primary and continuing asset recovery strategy is the pursuit of legal proceedings in the United States against Registered Shareholders and their underlying clients who redeemed from the Funds prior to the Funds going into liquidation.
- 2.7 There are in broad terms three different claims that the Liquidators are making against those who redeemed from the Funds prior to liquidations:
- a) BVI law common law claims for a period of six years prior to issuance of the claims,
  - b) BVI law statutory avoidance claims for a period of two years prior to the application for appointment of Fund liquidators, and
  - c) BVI law constructive trust claims, for redemption payments within a period of six years prior to issuance of the claims, against those who redeemed shares in bad faith, knowing or willfully blinding themselves to the risk that those shares were inflated through fraud at Madoff Investment Securities LLC ("**BLMIS**"). These defendants are referred to as "**Knowledge Defendants**".

### *Common Law Claims*

- 2.8 In its 6 December 2018 decision, the US Bankruptcy Court dismissed all common law claims other than for a constructive trust in the 18 proceedings involving Knowledge Defendants. The Liquidators appealed that decision. The District Court issued an opinion and order on 24 August 2022 ("**24 August Order**") affirming the Bankruptcy Court's decision. The Liquidators have appealed this decision to the US Court of Appeals for the Second Circuit, with oral argument expected to be scheduled on the appeal for the first half of 2024.

### *Statutory Avoidance Claims*

- 2.9 In a separate 14 December 2020 decision, the US Bankruptcy Court dismissed the statutory avoidance claims. As before, the Liquidators appealed that decision to the District Court. On 19 October 2021, the defendants (as Defendants-Appellees) filed their opposition brief to the appeal, and the Liquidators submitted their reply brief on 3 December 2021. The District Court affirmed in its same 24 August Order the US Bankruptcy Court's dismissal of the statutory avoidance claims.

As with the common law claims, the Liquidators have appealed this decision to the Second Circuit, with oral argument expected to be scheduled on the appeal for the first half of 2024.

*Knowledge Defendant Claims*

- 2.10 The US Bankruptcy Court denied the motion to dismiss the Knowledge Defendants' constructive trust claims based on the US Bankruptcy Code's section 546(e) safe harbor provisions. The Knowledge Defendants have appealed that ruling, and the Second Circuit has consolidated such appeal with the Second Circuit appeals referenced in paragraph 2.8 and 2.9 above. The Knowledge Defendants have not applied to stay the current proceedings in the US Bankruptcy Court. The first oral arguments in respect of the Motions to Dismiss based on personal jurisdiction proceedings are scheduled to be heard on 25 October 2023.
- 2.11 Since the Last Report, the Liquidators have prepared and submitted forty-one personal jurisdiction opposition briefs in response to the Knowledge Defendants motions to dismiss. In addition, the Liquidators obtained orders for spoliation of documents in the case of six Knowledge Defendants.
- 2.12 In addition, three Knowledge Defendants withdrew, without prejudice, their motions to dismiss. Lastly, the Liquidators settled with fifteen Knowledge Defendants during the period and decided, due to the amounts involved and/or the projected costs to trial, to dismiss claims against twelve Knowledge Defendants.
- 2.13 The consequence of the above is that there are forty-one Knowledge Defendants who will be making oral arguments and the US Bankruptcy Court will be rendering decisions in the forthcoming months.
- 2.14 In addition to the above there are two other developments in the U.S. redeemer litigation:
- (i) In July 2023 the US Bankruptcy Court judge responsible for hearing the Liquidators actions, Judge Morris, assigned all the Liquidators' redeemer actions to a new judge, Judge Mastando. This meant that the first personal jurisdiction oral arguments that were due to be heard on 19 July 2023 were delayed. At the first status conference held in person before the new judge these initial arguments were rescheduled for 25 October 2023. Further oral argument hearings are in the process of being scheduled with the Bankruptcy Court as the Court previously ordered that the Liquidators claims against each defendant should be separately argued.
  - (ii) Subsequent to preparing and filing the majority of the personal jurisdiction opposition briefs, detailed above, Selendy Gay Elsberg withdrew as legal counsel for the Liquidators. Brown Rudnick continue to act as sole legal counsel to the Liquidators.

### **Disputed Claim of FGG**

- 2.15 There is only one claim that remains outstanding and that claim concerns deferred management and performance fees due to Fairfield Greenwich Bermuda Limited (“**FGBL**”). This is being addressed as a counterclaim in legal proceedings in the United States that the SIPA Trustee brought against FGBL and other parties following an assignment from Sentry.
- 2.16 The parties are continuing with the discovery process previously ordered in these proceedings. This discovery process affects the Funds as documents produced during these proceedings are also sent to the Liquidators for review and therefore form part of Liquidators’ discovery review process. The SIPA Trustee has recently applied to the Bankruptcy Court to extend this discovery process by an additional 12 months.

### **BVI Litigation**

- 2.17 On 10 March 2022 the Liquidators received a decision from the ECCA regarding an application filed 8 years ago for sanction to appeal the decision of the District Court’s decision on the Farnum litigation. As a reminder, the Farnum litigation pertained to the contract to sell the SIPA claim in BLMIS to Farnum. The Second Circuit found in favor of the Liquidators and disapproved the transaction. The Liquidators have since collected \$163.1million from the U.S. Trustee in respect of that asset.
- 2.18 The Liquidators intend to appeal the decision and sought leave to appeal from the ECCA. The ECCA heard the motion for leave to appeal and has granted leave. The Liquidators are in the process of complying with the conditions of the ECCA’s order to progress the appeal to the Privy Council.

**3. FINANCIAL POSITION**

- 3.1. Appendix A details the cash receipts and disbursements since the commencement of the liquidations. As at 31 August 2023, the Liquidators have achieved recoveries in Sentry, Sigma and Lambda of \$606 million compared with cash disbursements of \$148million and Liquidators and legal fees of \$218million.
- 3.2. There has been to date net recoveries of \$240 million. Distributions of \$213 million has been declared, of which \$83 million has been distributed to creditors and Registered Shareholders and \$130 million is held in escrow for Registered Shareholders who are currently not eligible for distributions.
- 3.3. As referred to above the Liquidators have negotiated settlements with fifteen Knowledge Defendants has resulted in cash inflows of \$7,155,857 during the period of this report. The Liquidators and/or SIPA Trustee are either close to resolving or in advanced phases of negotiation on several settlements with defendants which subject to finalising terms, obtaining signatures, and in some instances BVI Court approval being granted, further cash inflows are anticipated.
- 3.4. Combined interest of \$6,900,585, gross of charges and fees, has also been realised, although of this total \$3,507,896 relates to prior periods following realisation of fixed term investment bonds.

**4. CONCLUSION**

- 4.1 The Liquidators' efforts continue to concentrate on progressing the U.S. litigation.
- 4.2 The Liquidators continue to be confident that the US Litigation will generate further recoveries for Registered Shareholders. Any future distributions to Registered Shareholders will be dependent on the amounts of future recoveries and result of the appeal to Privy Council on the Farnum matter.

Should you have any queries please do not hesitate to contact [fairfieldsentry@KRYS-Global.com](mailto:fairfieldsentry@KRYS-Global.com); [fairfieldsigma@KRYS-Global.com](mailto:fairfieldsigma@KRYS-Global.com); or [fairfieldlambda@KRYS-Global.com](mailto:fairfieldlambda@KRYS-Global.com), quoting your holder and account ID numbers.

**Greig Mitchell**  
**Joint Liquidator**  
30 September 2023



**Fairfield Sentry Limited, Fairfield Sigma Limited and Fairfield Lambda Limited – All In Liquidation**  
**Liquidators' cash receipts and disbursements statement**  
**For the period to 31 August 2023**

	SENTRY USD \$ 31-Aug-23	SIGMA USD \$ 31-Aug-23	LAMBDA USD \$ 31-Aug-23	TOTAL USD \$ 31-Aug-23
<b>Cash Receipts</b>				
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	69,282,134.02	-	-	69,282,134.02
Non-BLMIS Investments	78,555,565.55	-	-	78,555,565.55
Pre-Liquidation Redemption Receipts	39,549,987.04	3,037,388.21	-	42,587,375.25
US Trustee Redemption Recovery Allocation	33,043,895.94	41,532,739.92	-	74,576,635.86
Distributions on SIPA Claim in BLMIS	163,149,030.00	-	-	163,149,030.00
Third Party Service Provider Actions	2,091,531.07	724,718.24	26,484.72	2,842,734.03
Recovery of retainers	-	316,952.00	-	316,952.00
Interest received	12,933,807.03	6,213,958.53	-	19,147,765.56
Other Income	6,243.94	55.00	-	6,298.94
Loan Receivable	-	113,551.38	-	113,551.38
Distribution from Sentry	-	22,066,554.90	1,046,122.90	23,112,677.80
	<u>468,711,309.29</u>	<u>136,678,018.00</u>	<u>1,072,607.62</u>	<u>606,461,934.91</u>
<b>Cash Disbursements</b>				
Payment Pursuant to Agreement	70,000,000.00	-	-	70,000,000.00
Payment Pursuant to Compromise	-	67,605,361.35	1,014,345.65	68,619,707.00
Allocation to Trustee of Redemption Receipts	3,067,826.04	292,608.00	-	3,360,434.04
Database & web fees	1,657,938.48	280,190.14	964.48	1,939,093.10
Office rental expenses	13,200.00	18,800.00	-	32,000.00
Petitioner's Costs	185,666.68	-	-	185,666.68
Interest Paid	-	1,678,574.97	58,261.97	1,736,836.94
Bank charges and other costs	2,176,025.88	436,854.35	-	2,612,880.23
	<u>77,100,657.08</u>	<u>70,312,388.81</u>	<u>1,073,572.10</u>	<u>148,486,617.99</u>
Net Cash Before Liquidators Fees and Expenses and Distributions	<u>391,610,652.21</u>	<u>66,365,629.19</u>	<u>(964.48)</u>	<u>457,975,316.92</u>
Legal fees and expenses	117,192,502.89	16,688,124.93	694,903.99	134,575,531.81
Legal Contingency Fees	8,030,452.01	7,586,912.41	-	15,617,364.42
Liquidators fees and expenses	51,637,281.93	7,885,180.93	1,382,661.42	60,905,124.28
Adverse Costs (net of costs recovered)	5,380,318.95	-	-	5,380,318.95
Other professional fees	870,393.30	189,730.64	5,090.02	1,065,213.96
Liquidation committee expenses	153,128.79	-	-	153,128.79
Legal Fees Paid on behalf of Lambda	694,903.99	-	(694,903.99)	-
Liquidators Fees and Expenses paid on behalf of Lambda	1,378,470.68	10,245.24	(1,388,715.92)	-
	<u>185,337,452.54</u>	<u>32,360,194.15</u>	<u>(964.48)</u>	<u>217,696,682.21</u>
Net Cash Before Distribution to Creditors and Shareholders	<u>206,273,199.67</u>	<u>34,005,435.04</u>	<u>-</u>	<u>240,278,634.71</u>
Distribution to Trade Creditors	813,262.81	-	617,887.68	1,431,150.49
Due from Sigma	9,914.58	(9,914.58)	-	-
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	71,045,611.23	6,781,845.45	-	77,827,456.68
	<u>76,214,240.73</u>	<u>6,771,930.87</u>	<u>-</u>	<u>82,986,171.60</u>
<b>Net Cash Position</b>	<u>130,058,958.94</u>	<u>27,233,504.17</u>	<u>-</u>	<u>157,292,463.11</u>
<b>Net Cash Position Consists of:</b>				
Unencumbered Cash	22,956,922.37	3,875,531.68	-	26,832,454.05
Distributions Held Pending Litigation and KYC	107,102,036.57	23,357,972.49	-	130,460,009.06
	<u>130,058,958.94</u>	<u>27,233,504.17</u>	<u>-</u>	<u>157,292,463.11</u>
<b>Cash Position as Per Bank</b>	<u>130,058,958.94</u>	<u>27,233,504.17</u>	<u>-</u>	<u>157,292,463.11</u>

**Notes**

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