

LBR LIQUIDATING TRUST REPORT

Q3 2023

TRUST RECOVERIES, COSTS, EXPENSES, AND DISTRIBUTIONS

LIQUIDATING TRUST AGREEMENT, SECTIONS 4.08(ii), (iii), (iv), (v), (vi)

As of October 1, 2023, which is the approximate last date of the third quarter, the LBR Liquidating Trust has approximately \$2.2 million in total cash⁽¹⁾.

(\$ in thousands)

		Summary Cashflow						
		2022 Q2	2022 Q3	2022 Q4	2023 Q1	2023 Q2	2023 Q3	Total
Time Period	Notes	06/13 - 06/26	06/27 - 10/02	10/03 - 01/01	01/02 - 04/02	04/03 - 07/02	07/03 - 10/01	06/13 - 10/01
Cash Inflows								
Class A Inflows		\$ -	\$ 192	\$ 121	\$ 107	\$ 98	\$ 503	\$ 1,020
Class B Inflows		-	-	-	-	-	-	-
Class C Inflows		-	3	538	84	251	276	1,152
Other Misc		-	-	-	-	-	-	-
Total Cash Inflows		\$ -	\$ 195	\$ 659	\$ 191	\$ 348	\$ 779	\$ 2,172
Cash Outflows								
Province - Financial Advisor to the Trust		-	94	22	64	161	-	341
Mintz Levin - Counsel to the Trust		-	202	78	343	88	-	710
USVI Counsel		-	13	5	46	8	-	71
Trustee Fees		-	17	-	11	3	4	35
Terminals SSA		-	-	-	-	-	-	-
Port Hamilton SSA		-	-	-	-	-	-	-
Other Opex		-	18	25	21	-	-	64
Total Cash Outflows		\$ -	\$ 343	\$ 129	\$ 485	\$ 260	\$ 4	\$ 1,222
Beginning Cash - Trust Ops		500	500	160	569	168	33	500
(+) Inflows		-	3	538	84	125	-	750
(-) Outflows		-	(343)	(129)	(485)	(260)	(4)	(1,222)
Ending Cash - Trust Funding		\$ 500	\$ 160	\$ 569	\$ 168	\$ 33	\$ 28	\$ 28
Class A Balance		-	-	192	313	419	108	-
(+) Inflows		-	192	121	107	98	503	1,020
(-) Distributions		-	-	-	-	(409)	(32)	(441)
Class A Ending Balance		\$ -	\$ 192	\$ 313	\$ 419	\$ 108	\$ 579	\$ 579

Commentary:

- The LBR Liquidating Trust has collected approximately \$1.020 million in net proceeds from NRI's sale of prepetition collateral.
- The Revolver Adequate Protection claim has not been exceeded.

Commentary:

- As of the end of the third quarter, approximately \$1.152 million of Initial Class C Liquidating Trust Recoveries had been received; thus, the total amount of Initial Class C Liquidating Trust Recoveries has been reached.

Note: On the Effective Date, the Trust was funded with \$500,000 to pay Trust expenses. In addition, pursuant to the terms of the Liquidating Trust Agreement, Initial Class C Recoveries of up to \$750,000 may be used to pay Trust expenses. No Class A Liquidating Trust Recoveries have been used to pay trust expenses.

(1) This amount includes balances held in the Trust A Reserve, Admin & Priority Reserve, Class 4 Reserve, and certain other reserves.

STATUS OF CAUSES OF ACTION

LIQUIDATING TRUST AGREEMENT, SECTION 4.08(i)

Insurance Coverage Adversary Proceeding

- **On October 21, 2022, the Trust commenced an Adversary Proceeding (the “Coverage AP”) in the United States Bankruptcy Court for the Southern District of Texas against Brit Syndicate 2987, Chaucer Syndicate 1084, Euclid Environmental Underwriters, LLC dba Enviant, Hamilton Syndicate 3334, Liberty Syndicate 4472, and RenaissanceRe Syndicate 1458 (collectively, the “PLL Carriers”). A First Amended Complaint was filed in the Coverage AP on December 16, 2022.**
 - The Trust and its co-plaintiff, Limetree Bay Terminals, LLC dba Ocean Point Terminals (“LBT”) are jointly represented in the Coverage AP by Hunton Andrews Kurth LLP.
- **In the Coverage AP, the Trust and LBT seek, among other things:**
 - A declaratory judgment establishing that the PLL Carriers are obligated to defend and indemnify LBT and Limetree Bay Refining, LLC (“LBR”) under the pollution liability insurance policies issued to LBT/LBR by the PLL Carriers, against various pending lawsuits arising from alleged pollution incidents resulting in discharge of pollutants from the Limetree Refinery; and
 - Recovery of (x) amounts paid by LBR and LBT in excess of any retention under the policies, and (y) damages for breach of the policies and bad faith failure to provide defense and indemnity.
- **On December 30, 2022, the PLL Carriers filed *Defendants’ Motion (I) to Dismiss Adversary Proceeding Pursuant to Rules 12(b)(6) and 12(b)(7) of the Federal Rules of Civil Procedure; or (II) In the Alternative, to Require Plaintiffs to Join Necessary Parties Pursuant to Rule 19 of the Federal Rules of Civil Procedure and Defendants’ Motion to Withdraw the Reference.***
 - Plaintiffs opposed these motions on January 20, 2023.
- **On January 20, 2023, the Trust and LBT filed a motion for partial summary judgment that the “other insurance” clause in the PLL policies does not allow the PLL Carriers to avoid providing coverage to LBT and LBR now.**
- **On February 6, 2023, following the parties’ stipulation, the bankruptcy court entered its Report and Recommendations that the reference be withdrawn for trial only and that the district court assign all pre-trial matters (including the Plaintiffs’ pending motion for partial summary judgment) to the bankruptcy court.**
- **On July 26, 2023, the district court entered an order withdrawing the reference for the sole purpose of trial, with the bankruptcy court to handle all pre-trial matters.**
- **A hearing on the motion to dismiss and the motion for partial summary judgment was scheduled for November 14, 2023, but will be rescheduled following the reassignment of the case to Judge Lopez. These motions are fully briefed.**

STATUS OF CAUSES OF ACTION - CONTINUED

LIQUIDATING TRUST AGREEMENT, SECTION 4.08(i)

Investigation of Causes of Action

- In connection with the Trust's ongoing investigation of potential claims and causes of action, including against former insiders, affiliates and other persons associated with the LBR Debtors, on October 21, 2022, the Trust initiated formal discovery under Federal Rule of Bankruptcy Procedure 2004 and issued subpoenas to Deloitte Tax LLP and EIG Management Co. On November 10, 2022, the Trust initiated formal discovery under Federal Rule of Bankruptcy Procedure 2004 and issued subpoenas to Forgan McIntosh, Brian Lever, and ArcLight Capital Partners, LLC. On November 16, 2022, the Trust initiated formal discovery under Federal Rule of Bankruptcy Procedure 2004 and issued a subpoena to Jeffrey Rinker.

- The Trust received a substantial production of documents from each party on which a Rule 2004 subpoena was served.

- The Trust has entered into tolling agreements with certain parties following the investigation described above.

- The Trust's investigation remains ongoing, and further discovery requests may be served on other third parties in the near future.
 - The Trust is represented in its investigation and discovery efforts by Reid Collins & Tsai LLP.

STATUS OF CAUSES OF ACTION - CONTINUED

(\$ in actual USD)

Net Preference Actions	
Pre-Suit Demands: 32	As of 9/30/23
Settled Pre-Suit	8
Closed Pre-Suit	5
Active Pre-Suit	-
Post Demand	-
Temporary Hold for Subsequent Review	-
Suits Filed: 19	As of 9/30/23
Settled Post-Suit	8
Dismissed Post-Suit	-
Satisfied Judgments	-
Closed Judgments	1
Active Judgments	-
Open & Active (includes in default)	10
Total Collected by ASK LLP (6/10/22 - 9/30/23)	\$ 1,837,114
(+) Value of admin waivers obtained	-
Total Collected with Waivers (6/10/22 - 9/30/23)	\$ 1,837,114
(-) ASK LLP contingency fees and other costs	(496,113)
(-) Trustee success fee	(90,606)
Net Proceeds Collected by ASK LLP (6/10/22 - 9/30/23)	\$ 1,250,395
(-) Net Proceeds Wired by ASK LLP after Reporting Period	98,000
Total Preference Recoveries Received by Trust (6/10/22 - 9/30/23)	\$ 1,152,395
Total Gross Amount Cases Open & Active	\$ 5,511,786